SENATE—*Friday, March 12, 1971*

The Senate met at 10 a.m. and was called to order by Hon. HUBERT H. HUMPHREY, a Senator from the State of Minnesota.

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

O Lord of all truth, establish us in the knowledge of Thy will: That which we know not, reveal; that which is wanting, supply; and that which we believe, confirm; instructing us ever in the right way of worship and of service.

Keep us, O Lord from coldness of heart and indolence of spirit that we may pray as we work.

Take our own lives, cleansed and renewed, and use them as our first gift to the making of a better world. Strengthen us for every fresh adventure, equip us for every new task, and send us forth with Thy love and grace and truth in our hearts.

Through Jesus Christ our Lord. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

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

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. HUBERT H. HUMPHREY, a Senator from the State of Minnesota, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

Mr. MANSFIELD. Mr. President, first may I be permitted a personal word, to say how happy I am to see the distinguished Senator from Minnesota (Mr. HUMPHREY) back in the chair which he graced with such dignity, decorum, and understanding during the period when he was Vice President of the United States and the Presiding Officer of this body.

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

Mr. MANSFIELD. I am delighted to yield to the Senator from Rhode Island.

Mr. PASTORE. And he looks very much younger, too.

The ACTING PRESIDENT pro tempore (Mr. HUMPHREY). The Chair thanks the Senator from Rhode Island for his perception. [Laughter]

MESSAGES FROM THE PRESIDENT—APPROVAL OF JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on March 5, 1971, the President had approved and signed the joint resolution (S.J. Res. 31) extending the date for transmission to the Congress of the report of the Joint Economic Committee.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HUMPHREY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 11, 1971, be dispensed with.

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 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.

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

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

U.S. ARMY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The assistant legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE AIR FORCE, IN THE NAVY, AND IN THE MARINE CORPS

The assistant legislative clerk proceeded to read sundry nominations in the Air Force, in the Navy, and in the Marine Corps, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

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, 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.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is now recognized for not to exceed 30 minutes; to be followed by the Senator from California (Mr. CRANSTON) for not to exceed 15 minutes.

THE SST DEBATE: A POINT-BY-POINT REBUTTAL

Mr. PROXMIRE. Mr. President, it is time to set the record straight on the SST. In the past weeks and months, proponents of the SST have advanced a number of arguments in behalf of the program. As succinctly as I can, I would like to speak to each of these. My rebuttal employs neither hysteria nor ecological extremism. I invite Secretary Volpe, the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), Admiral Rickover, or anyone else, to reply, if they take issue with what I have to say.

The arguments advanced by the proponents of the SST are:

That 150,000 jobs will be lost if the SST program fails to go ahead. This is simply not true in any sense, as I am sure we can establish.

That the SST will be twice as productive as the 747 jumbo jets.

This is not true.

That there will be a market of 10 percent of the American population for the SST by 1985. This is not true.

That we have come this far on the SST program, so that we may as well finish.

This is not true.

That the SST's impact on the upper atmosphere is trivial and of little or no concern.

This is not true.

That the SST produces less emissions than any other form of transportation.

This is not true.

That the problem of sideline noise is now under control.

This is not established.

That there is going to be an SST anyway, so that we have no choice but to proceed with the program.

This is not true.

That the Government will recoup its money with a $1 billion profit on the SST.

This is not true.

That the SST prototypes should be built so that we can get the answers to the environmental questions.

This is not true or necessary.

JOBS AND THE SST

First, that 150,000 jobs will be lost if the SST program fails to go ahead. We have had testimony by the most eminent economists in America. Yesterday we heard Dr. Samuelson, who is a Nobel laureate in economics, and the first American ever to win that distinction.

Dr. Samuelson pointed out, as have Dr. Okun, and Dr. Heller and Dr. Friedman, eminent economists with different viewpoints on many elements of our economy, that the amount of money we would spend on the SST will provide no more jobs than if that amount of money were spent on any other Federal project.

The fact is, some 5,500 people are now employed at Boeing on the SST. Another 2,500 are employed at General Electric and several thousand more at subcontractors throughout the country. Nationally, some 13,000 people are working now on the SST.

Employment on the prototype program is scheduled to peak at 20,000 later this year; then fall off to just a handful of jobs by the mid-1970's.

The SST production stage, in the late 1970's or early 1980's, is expected to employ about 50,000 persons nationwide. This is 8 to 10 years away, and depends not only on a go-ahead decision in 1974–75 but also on a marketplace demand for the construction of 500 SST's.

The 150,000 jobs figure, cited so often by SST proponents as jobs that will be lost, has no basis whatsoever in fact. It is a figure that is arrived at by taking the speculative figure for 50,000 SST jobs 8 to 10 years from now, and arbitrarily tripling it. This multiplier effect is designed to encompass not only those working directly on the SST, but also all supporting services for those working directly on the SST. In other words, the 150,000 figure includes not only the engineer, the draftsman, and the riveter, but also the barber who cuts the engineer's hair, the maid who launders the draftsman's shirt, and the busdriver who takes the riveter to work.

This Senator is as concerned about the loss of any man's job as any Member of the Senate. But let us keep the jobs issue in perspective. Some 13,000 people are currently employed on the SST program nationwide. That is a far cry from saying 150,000 jobs will be lost if we do not go ahead.

Mr. President, as I indicated at the beginning of this section, I challenged Mr. Magruder in the hearings before the Appropriations Committee to name a single economist—one—in the entire country who would say that the SST program will produce a single job that would not be produced by the same amount of money spent on any other program, and he could not come up with one—not one.

There are very few economists, less than 5 percent, who support the SST, but even that minority support is not for this reason. They agree that the SST will be no more productive in providing jobs than any other Federal program with this amount of money involved.

In this connection, I would like to call attention to a letter from the Oil, Chemical, and Atomic Workers International Union urging Members of Congress to vote against the SST. The letter acknowledges the importance of jobs, but cogently points out that it is more important "to use the proposed SST work force on constructive pursuits." The OCAW also points out that:

The unemployment situation will even be more pronounced if a decision to build the plane is reached and then it turns out that the environmental doubt we possess turns out to be true.

Mr. President, I ask unanimous consent that the letter from the OCAW Union be printed in the RECORD.

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

OIL CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION,
Washington, D.C., March 5, 1971.

TO ALL MEMBERS OF CONGRESS: I am writing to urge you to vote against the Supersonic Transport appropriations. The environmental arguments for and against the construction of the plane have been made by eminent scientists. You may recall the environmental controversy some years ago about fall-out from nuclear weapons testing. Then, as now, eminent scientists lined up on both sides of the question. Time ultimately resolved who was right in that controversy. However, the harm that we now know occurred is irreversible.

Our experience with that environmental controversy demonstrated the validity of the observation of the eminent French physiologist, Claude Bernard, who said, "True science teaches us to doubt and in ignorance to refrain." Bernard's admonition is especially valid in the case of the SST.

As a labor union, we are extremely concerned over the possible loss of jobs if the decision is made not to construct the SST. In this instance, Congress has a responsibility to enact legislation to provide funds for projects that will utilize the skills of the workers affected. It is unnecessary for me to detail these projects. We are all aware of the present state of our environment and the great unmet social needs of our society. There is much work to be done that will benefit man.

Let me point out that the unemployment situation will even be more pronounced if a decision to build the plane is reached and then it turns out that the environmental doubt we possess turns out to be true. Our nation must be turned around from its dead-end environmental direction. An opportunity exists now to use the proposed SST work force in constructive pursuits. We urgently hope that Congress chooses that direction.

Sincerely yours,

ANTHONY MAZZOCCHI,
Director, Citizenship-Legislative Department.

SST PRODUCTIVITY

Mr. PROXMIRE. Mr. President, second, that the SST will be twice as productive as the 747 jumbo jets.

The calculation works this way: the SST has two-thirds the number of seats in a 747. It is capable of flying three times as fast. Therefore, it is twice as productive—three times two-thirds equals 2.

To start with, when jets were first introduced in the 1950's, the 707 flew twice as fast and carried twice the passenger load as the DC–7, the last of the propeller-driven planes. Accordingly, the new jets of the 1950's were four times as productive as their predecessors. Thus, even if the DOT statement about productivity were correct, which it is not, the SST would represent only half as much of an advance as the step from the prop plane to the jets.

But consider DOT's claims of double productivity. It is an enormous oversimplification, and ignores a number of essential factors. It ignores the fact that the SST will cost at least twice what the 747 cost—$40 million versus $20 million—and many experts predict the SST will cost far more than double by the time it reaches the market. It ignores the fact that the SST's range—the distance it can fly without refueling—is more than 1,000 miles shorter than the 747. It ignores the far greater consumption of fuel for the SST—DOT recently confirmed that fuel usage by the SST fleet would approach nearly 5 percent of the world's oil reserve. And it ignores the fact that the 747 can fly anywhere in the world, while the SST because of its sonic boom, is restricted to over-water routes. The irony is that the SST is billed as a marvel for very long intercontinental routes, but its range is much less than the highly efficient jets we have in service now.

In addition, recent newspaper accounts report that BOAC, the British Overseas Airline, has found that the seat-mile operating costs of the Concorde will be twice the seat-mile operating cost of the 747. And although BOAC later reaffirmed its allegiance to the Concorde program—it has to because the British Government owns BOAC and will mandate it to fly the planes the British produce—it has not denied that seat-mile operating costs would be double the costs for the subsonic jets.

None of these factors have been accounted for in the DOT's oversimplified statement about productivity. The equation would yield a far different result if they were.

Yesterday we had testimony by Dr. Samuelson and Dr. Rathjens, two eminent economists. They are convinced

that the productivity of the SST would be less and that the plane would be an economic disaster.

THE JET-SET MARKET

Third, that there will be a market of 10 percent of the American population for the SST by 1985.

Even if the 10-percent figure were correct, this is far less than the number of people that would benefit if the SST money were spent for improved mass transit, for air pollution control, or for consumer protection. How many people use mass transit—or would use it if it were available—in commuting to work every day? How many would appreciate having cleaner air to breathe? How many would benefit from greater consumer protection?

This 10-percent argument is based on the premise that the 6 million passengers that flew internationally last year will grow to 25 million passengers by 1985. This reasoning has two inherent fallacies.

First, percent of passengers and percent of the population are far from being the same thing. Six million passengers flying overseas last year is not the same thing as 6 million people flying overseas. Consider David Frost, for instance, who flies back and forth between New York and London every week; he would make more than 100 trips back and forth in a year, and be counted as 100 passengers, even though he is just one person.

Thus, even if we were to have 25 million passengers flying internationally by 1985, this would be far from 10 percent of the American population—it might constitute only 2 or 3 percent.

The distinguished Senator from Minnesota (Mr. HUMPHREY) goes to Minnesota very often, and I go to Wisconsin very often. The Senator from Minnesota would be counted as 100, probably 200, or maybe 300 passengers because he flies as much as does the Senator from Wisconsin. However, he is one person. I wish he were more than one person, but he is just one person.

For that reason, if we are talking about the number of Americans who will fly overseas we are talking about a tiny fraction, a small fraction, which at the most will be 2 or 3 percent in the future, and it is now about one-half of 1 percent.

Second, it is essential to bear in mind the market for the SST. The SST will be a premium fare airplane; estimates range as high as 30 percent above current first-class fares for the SST. Because of these high fares, the 21-day economy-package traveler to Europe is hardly going to opt for the SST—he will choose the cheapest way of getting there. The relevant market for the SST is the regular overseas passenger—the businessman or the wealthy tourist—to whom the time saving might make a difference.

The Department of Transportation at last year's hearings supplied data on how many of the 6 million passengers who flew overseas last year could be regarded as regular passengers. The answer—about one in 10.

The relevant market, then, is currently about 600,000 passengers a year—10 percent of 6 million—or less than one-half of 1 percent of the public. I would calculate it at about one-twentieth of 1 percent of the public if we allow for repeated flights.

Even if this percentage increases by threefold or fourfold between now and 1985, we would still be far, far short of the 10-percent market anticipated by SST enthusiasts.

GOOD MONEY AFTER BAD

Fourth, it is said that we have come this far on the SST program, so we may as well finish. By the end of March 1971, we will have spent $864 million on the SST. Most of this was in competition and design, with the hardware work now just getting underway. The minimum DOT estimate for building the two prototypes is $1.342 billion.

Thus, we still have nearly $500 million to go. That is the minimum, and it assumes there is no inflation, no overrun, no hitches in the plan, and most important, no trouble getting private financing for the production of the SST.

What if private financing failed to materialize? Under Secretary of Transportation Beggs has indicated that if that happened the Government is prepared to make available an additional $1 billion in loan guarantees to keep the program going.

Incidentally, the original contract between Boeing and the Government called for Boeing to submit a financing plan for production by June 30, 1968. That date was later postponed to December 31, 1969. To date, no financing plan has been submitted. It is now promised in June 1972—a 4-year slippage.

Other estimates forecast still higher Federal costs. Gen. Elwood Quesada, the former FAA head who now serves as a director for American Airlines, predicted that the Government's cost on the SST program could eventually go to $3 to $5 billion.

The Senator from Illinois (Mr. PERCY) said, and I think there is much wisdom in this statement, that he talked to airline people who told him the cost could be $20 million if the Federal Government will have to bear the principal part of the production cost. There now seem to be developing reasons why this could be possible.

Dr. Richard Garwin, member of the Science Advisory Board under three administrations, agreed with this estimate. If these estimates come true, this would mean that we are not halfway through, not one-third through, but at a point one-sixth of the way along. If the Senator from Illinois (Mr. PERCY) is correct, we are not even 5 percent of the way along.

Mr. President, when this program got underway in 1963, President Kennedy told Congress that "in no event will the Government's share of the SST program go above $750 million."

We are already $100 million above that ceiling. And in all likelihood, the end is nowhere in sight. It is time to hold ourselves to the Kennedy limit. It is time to stop throwing good money after bad.

SST AND THE UPPER ATMOSPHERE

Fifth, it is said that the SST's impact on the upper atmosphere is trivial, and of little or no concern.

This argument is usually buttressed with statements like: "One SST carrying 300 passengers at 1,780 miles per hour will emit no more pollutants per mile than three autos traveling at 60 miles per hour;" or, "a total of 1,600 SST flights a day would put about as much water into the stratosphere as a single large thunderstorm."

Such comparisons are specious and misleading. The SST's will be flying in the stratosphere at 65,000 feet. They will fly there because the air is extremely thin and stable; the friction and heat generated by thicker atmosphere at lower altitudes would preclude flying at speeds like 1,800 miles per hour. The very fact that the air is so rare creates the problem. Any emissions ejected into such an environment stay there for many, many months, and interact chemically with substances that are present.

The most significant element that exists at these altitudes is ozone. Ozone is the element that absorbs the sun's potentially lethal ultraviolet rays, and prevents them from reaching the earth's surface. Without ozone, it would be impossible for life to exist on this planet.

Water vapor, it turns out, reacts chemically with ozone. Water vapor which is put into the stratosphere at 65,000 feet will deplete a portion of the ozone present there.

This is where the SST comes in. One SST flight, between New York and Paris, would deposit 382,000 pounds of water into the upper atmosphere.

That this will deplete the ozone is beyond dispute. Russell Train and Gordon MacDonald, the administration's experts on the atmosphere and the environment, told this to Congress last year. DOT indicated last year that maximum ozone depletion would be about 7 percent. Boeing says the figure is about 4 percent.

The question remains, to what extent would ozone depletion result in an increase in ultraviolet radiation reaching the earth's surface. Again, Train and MacDonald thought this to be a serious problem. DOT and Boeing say it is not. Last week another scientist, Dr. James E. McDonald, of the University of Arizona, expressed an opinion on this. Dr. McDonald is an atmospheric physicist, a member of the National Academy of Sciences, and was named by the Academy to look into this problem. His conclusion was that increased ultraviolet radiation could increase the incidence of skin cancer in the United States:

> It is my present estimate that operation of SSTs at the now-estimated fleet levels predicted for 1980–85 could so increase transmission of solar ultraviolet radiation as to cause something of the order of 5,000–10,000 additional skin cancer cases in just the United States alone.

Mr. President, I am in no position to say whether Dr. McDonald's prediction would come true or not. But it is clear there is a problem here, and it is far from trivial. Just about all scientists agree on the first link—that SST opera-

tions will deplete ozone to some degree. And eminent scientists like Russell Train, Gordon MacDonald, and James E. McDonald agree that the second link—that decreasing the ozone will significantly increase ultraviolet radiation—should be taken seriously.

Mr. President, this is a problem that should—indeed must—be resolved before we proceed with the SST. And the prototypes are not going to answer this question, because there is no way of determining what the cumulative effect would be of 500 SST's flying four flights a day with just two prototypes.

The chairman of the panel on the SST Environmental Advisory Committee, the group that will tell the Secretary of Transportation whether or not he should go ahead with the SST and whether or not it is an environmental hazard, made this statement on the SST. He is in charge of making the judgment after these tests have been conducted, as to whether it will pollute the environment:

> In the balance, I believe that the question of whether we should or should not have an SST must be decided on the basis of economics, with the environmental effects having a very small weight indeed. If the SST is going to be turned down, let's not turn it down for the wrong reasons.

Mr. President, that is the statement of the chairman of the panel of objective experts who are supposed to pass on this matter and referee it. That kind of statement by the chairman of the panel does not give me confidence in the objectivity and fairness that is going to be brought to this subject.

Will it increase skin cancer? We have the chairman of the panel saying yesterday in testimony before a congressional committee that the environmental effects have "a very small weight, indeed." That does not give me much confidence in his fairness and I do not know how it can give any other Senator much confidence that we will get a fair judgment.

The way to answer these questions is through independent research. This would include high-altitude balloons, laboratory testing, atmospheric sampling, and so forth. Dr. McDonald, in testifying before the House Appropriations Committee, said that we might have the answers to these questions in 3 to 4 years "if we are lucky." And Dr. Reginald Newell, appearing before the Senate, said it would take 10 years.

Mr. President, I ask unanimous consent that the complete testimony by Dr. James E. McDonald be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, it should be clear why it is pointless to compare the emissions of one SST with three automobiles traveling at 60 miles per hour. One travels in the dense and changing atmosphere at surface level; the other at a windless, rarified 65,000 feet. One presents no problems with the water vapor emissions; the other a very serious problem. Comparing SST emissions with automobile emissions is like comparing apples with oranges—it contributes nothing whatever to our understanding of the problem.

The argument comparing thunderstorms with SST water vapor is equally specious. Less than 1 percent of our thunderstorms ever reach stratospheric altitudes at all—above 45,000 feet. Nature has achieved a balance between the small amounts of water injected by natural causes and the ozone in the stratosphere. Water vapor emitted by the SST would be heaped on top of this natural balance, and would increase the average levels for water vapor in the SST flight corridors.

The thunderstorm argument is a little like trying to justify dumping mercury into our rivers on the ground that mercury is naturally present in small quantities and has not harmed anyone so far.

SST upper atmospheric pollution is far from trivial. Development of the plane should be postponed until these questions are resolved beyond all doubt.

SST EMISSIONS COMPARED WITH THE 707 AND 747

Sixth, that the SST produces less emissions than any other type of transportation.

The fact is, that the SST will produce more emissions than the 707 and the 747, the planes it is designed to supplant. It will produce more of each of the critical combustion byproducts—carbon dioxide, water, carbon monoxide, and nitrogen oxide.

The following table shows the emission figures. This data was supplied by DOT in response to a request by Congressman YATES at the House hearings for fiscal year 1971—see part III, page 890.

I ask unanimous consent that a table which was supplied to me by the Department of Transportation be printed in the RECORD at this point.

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

COMBUSTION PRODUCTS, IN POUNDS, NEW YORK-PARIS FLIGHT

	707	747	SST
CO_2	361,000	758,000	960,000
H_2O	144,000	313,000	382,000
CO	4,900	10,600	13,000
NO	(1)	(1)	2,000

[1] Negligible.

Mr. PROXMIRE. Mr. President, on a seat-mile comparison between the 747 and the SST, the SST would come out even worse, since the SST's higher emissions would be generated on a flight carrying only two-thirds as many passengers.

CONTROL OF SIDELINE NOISE

Seventh, that the problem of sideline noise is now under control.

There is good reason to believe that sideline noise cannot be reduced without a very substantial impairment of the plane's operating efficiency. Here are a couple of examples of the kinds of tradeoffs that could occur:

H. W. Withington, of Boeing, has indicated that each point of decibel reduction represents a lessening of 50 miles in the aircraft's range—the distance it can fly without refueling. Applying this test, reducing sideline noise from 124 decibels to 108 decibels could cost the SST some 800 miles in range. For a plane that did not have much to spare in range in the first place, the loss of 800 miles of range would represent a very serious infringement on operating efficiency.

Another example: according to Boeing, engine noise suppressors would add substantially to the plane's weight. If noise suppressors were to add 1,500 pounds per engine, say, this would increase the SST's overall weight by 6,000 pounds. If that were the case, the modified version of the SST might have its seating capacity reduced—possibly as much as 30 to 40 passengers—150 to 200 pounds per passenger—in order to get off the ground.

The point is, there must be tradeoffs involved—in terms of cost, efficiency, range, and/or payload. DOT has not told us what these are. And we ought to know exactly what the tradeoffs will be before we accept their assurances that sideline noise will be reduced. It is not much of an achievement to reduce noise if it means that the plane can no longer fly economically.

COMPETITION FROM ABROAD

Eighth, that there is going to be an SST anyway, so we have no choice but to proceed with our program.

This is not the first time we have heard this argument. Back in 1951, Senator Monroney introduced legislation to subsidize development of the first commercial jets. The Senate was told that the British and French were already underway with their programs, and would beat us out of the market if we failed to subsidize the American aircraft industry.

The Senate passed the Monroney bill, but the House wisely rejected it. It never passed.

Did we lose our leadership throughout the world? Not a bit. The private sector moved in and took over the U.S. aircraft industry, went on to become the greatest in the world—without direct Government subsidy. We now dominate commercial aviation. We supply 85 percent of all commercial jets throughout the world, because we did not have the Federal Government involved in it.

The SST represents the first time the Government is directly subsidizing development of a commercial aircraft. In my opinion, we would be far wiser to follow the precedent we set in 1951 and reject the subsidy.

As far as the British-French Concorde is concerned, it is far from becoming a genuine competitive threat. Testimony presented to the Joint Economic Committee last year demonstrated that the plane's payload had diminished almost to the break-even line, that its range is so marginal that transatlantic crossings without refueling are still uncertain, and that passenger comfort would be far from satisfactory.

Recent dispatches from London tend to confirm doubts about the Concorde. According to the dispatch, BOAC recently told the British Government that it sees no way of operating the Concorde economically. BOAC has calculated that it will cost twice as much per seat-mile to operate the Concorde as it costs to run the much larger Boeing 747.

The dispatch also reported that a comparison study had been completed by Air France, and given to French Transport Minister Jean Chamant. The Air France evaluation of Concorde was reportedly even worse than BOAC's.

Two days after these dispatches appeared in the press, BOAC reaffirmed its allegiance to the Concorde program. Significantly, though, there was no retraction of BOAC's calculation that the Concorde would cost twice as much to operate per seat-mile as the 747; and there was no retraction whatsoever by Air France.

Much has been said about the options on the Concorde held by a number of airlines. But no airline has yet to place a firm order for Concorde. And the deadline for exercising options has been extended.

The Soviet Union has also flown a prototype plane. But the Russians have never sold commercial aircraft to the West, and no Western airline has yet shown any interest in the TU–144. The problem of obtaining spare parts would be serious, indeed, if a Russian craft were purchased for use in the West.

Mr. President, it makes little sense to say that the SST's are here; that we have no choice but to go ahead. On the basis of all the evidence, it is highly doubtful that either the Concorde or the TU–144 will prove to be a serious competitive threat if we suspend our program.

GOVERNMENT'S RETURN ON THE SST

Ninth, that the Government will recoup its money with $1 billion profit on the SST.

The return of $1 billion—which assumes the sale of 500 planes—represents a return of only 4.3 percent on the Government's money. With the Government paying 6 percent to use its money, the return of $1 billion would represent an actual loss as far as the Government is concerned.

Uncle Sam is going to lose money no matter what happens. If it does not work out and if we do not sell 500 planes, we will lose all of our investment.

An analysis made by John Walgreen, former economist under Secretary McNamara, and now professor at Wheaton College, points out just how bad a deal this is for the taxpayer.

First, it is incredible that any arrangement under which the Government pays 90 percent and private investors pay 10 percent can be considered a fair sharing of the risk. But what about reward? Does the Government at least get the lion's share of the profits? Of course not. Walgreen's paper works out some likely returns, based on varying assumptions.

Walgreen's analysis makes certain assumptions—that travel by air grows at 10 percent a year, which is the historic experience; that passengers value time at a rate equal to hourly earnings; that the SST's will cost about $40 million each and will weigh 675,000 pounds. Based on these assumptions, Walgreen estimates the number of planes sold at 139. If that number is sold, the Government will lose $1.183 billion on the project. At the same time, however, the private manufacturers will make a profit of $150 million on the SST. They would make a profit while the Government lost on the SST. Is this a fair sharing of the reward when the Government puts up 90 percent of the money?

Walgreen uses other assumptions and arrives at 225 planes sold and 443 planes sold, respectively. If 225 are sold, the Government will lose $552 million, while manufacturers will come out ahead $1.689 billion.

Finally, if 443 planes are sold, the Government comes out $1.05 billion ahead; this is where the FAA gets its estimate. But while the Government is struggling to make its $1 billion, the manufacturers are raking in a cool $6.495 billion. Some sharing. This is a heads I win, tails you lose proposition, with the taxpayer getting the short end of the stick.

SST PROTOTYPES AND THE ENVIRONMENT

Tenth, that the SST prototypes should be built so that we can get the answers to the environmental questions.

The fact is, that not only are the prototypes not needed to get answers to the environmental questions, but in addition the prototypes will not answer the questions even if we build them.

As far as the sideline noise of the SST's engines are concerned, this can be tested with the model engines now being developed at GE. The engines can be placed on mounts and tested for noise; there is absolutely no reason why a prototype airframe must be built on which to mount the test engines.

Insofar as the problem of upper atmospheric pollution, there is no way that a cumulative impact of a fleet of 500 SST's can be simulated with the two prototypes. Such testing can only be achieved via an independent research program, and not with development of prototypes which serve as engineering models.

This was confirmed by the administration's chief environmental protectionist last week. Testifying before the House Appropriations Committee, Mr. William Ruckelshaus, Administrator of the Environmental Protection Agency, replied during the question-and-answer period with the committee:

Representative BOLAND. I take it from your statement, Mr. Administrator, that all the problems with respect to the environment can be solved without the production of two prototypes—not the problems but at least you can get the answers from the problems that the SST conjures up. Is this true?

Mr. RUCKELSHAUS. I think that's true.

Mr. President, the prototype program cannot be justified as essential to providing answers to the environmental questions. It simply is not designed to do that.

Mr. President, the SST will be voted upon within the next 2 weeks or so. I sincerely hope that Senators will pay heed to both sides of these arguments, and refrain from passing judgment on the issue until all the facts are in. If they do, I am confident that the only sensible conclusion they can reach is to vote against further appropriations for the SST.

Mr. President, my time is just about up, but I want to say that I shall return to the floor a number of times in the next few days, because there is a great deal of information that I want to bring before the Senate on this matter. There just is not any question that the case against the SST, which was strong last year, is much stronger this year and much better documented this year. This is our best chance by far to stop a very serious mistake, a very serious mistake for American citizens who might be exposed to pollution and for the taxpayers who will have to pay for it.

EXHIBIT 1

STATEMENT SUBMITTED FOR THE RECORD BY DR. JAMES E. MCDONALD, INSTITUTE OF ATMOSPHERIC PHYSICS, UNIVERSITY OF ARIZONA, TUCSON, ARIZ., AT HEARINGS BEFORE THE HOUSE SUBCOMMITTEE ON TRANSPORTATION APPROPRIATIONS, MARCH 2, 1971, CONCERNING THE SUPERSONIC TRANSPORT PROGRAM

(Note—This version contains the typographical corrections and minor changes of wording that were incorporated into the record copy inserted for publication in the printed hearings. The changes from the draft available on March 2, 1971, are all minor changes improving on the clarity of that draft—JEM)

BIOGRAPHICAL SUMMARY

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Miscellaneous:

Joined University of Arizona staff in 1954.

Research Physicist, Cloud Physics Project, University of Chicago, 1953–54.

Assistant Professor of Physics, Iowa State University, 1950–3.

Naval Intelligence World War II, 1942–45.

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Professional affiliations:

American Meterological Society.

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American Association for the Advancement of Science.

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Current professional activities:

Member, National Academy of Sciences' Panel on Weather and Climate Modification.

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Member, Evaluation & Goals Committee, University Committee on Atmospheric Research.

1. INTRODUCTION

Deliberations on the national decision as to whether to proceed now with an SST program have brought into public debate important questions concerning possible environmental effects of major SST fleet operations. I wish to summarize here some points which I think have been overlooked or underemphasized in recent discussions of the pros and cons of initiating a major air-transport technology in the stratosphere.

During the past several months, a substantial share of my time has been spent in assessing certain specific questions as to how SST fleet operations might affect the earth's atmosphere and thereby modify either climate, weather, or human activities contingent upon important atmospheric processes. Although my work was undertaken in connection with current studies of the Na-

tional Academy of Sciences' Panel on Weather and Climate Modification, I wish to make clear that I do not speak here for our Panel, but rather as an individual scientist. However, I wish at the same time to express my indebtedness to many other scientific colleagues in various parts of the country who have offered advice and critique in various phases of these analyses. Although some of my viewpoints and findings are still tentative, all have been laid before a substantial total number of workers in a variety of different fields in an effort to detect and eliminate gross errors, so I acknowledge the help and criticism reflected in what I shall say here.

Before examining in some detail one specific SST atmospheric effect and its consequences (ozone reduction and its effect on skin cancer incidence), I want to emphasize three principal generalizations that strike me as having strong bearing not only on the present SST decision but also on the feasibility of moving on even farther toward a still higher-altitude mode of air transport now under engineering study, namely the HST (hypersonic transport) technology (1,2).

To make clear certain points that will come up repeatedly below, it needs to be noted first that the present generation of *subsonic* jets, such as the 707, DC–8, 747, etc., which cruise at altitudes near 35,000 feet, are still operating within the *troposphere*, the lowest major subdivision of the atmosphere, separated by the thin *tropopause* layer from the next higher and quite different region, the *stratosphere*. For present purposes, we may take the mean altitude of the tropopause as about 40–45,000 feet over middle latitudes. SSTs and HSTs would, by contrast, operate well within the stratosphere. The proposed Boeing SST would cruise near 65,000 feet, while the HSTs, still only on drawing boards, would cruise at altitudes that might begin near 80,000 feet, working upwards as technology advanced to ultimate HST cruise levels perhaps near 150,000 feet (1,3).

Although there are military jets, such as our U–2 or our SR–71, which can cruise at stratospheric altitudes, and although a number of interceptors have short-duration altitude capabilities of well over 50,000 feet, the total number of flight-hours per year (or better, total tons of fuel burnt per year) logged by present and past military aircraft flying in the stratosphere are small (order of a few per cent as large), compared with the projected operational levels envisaged for U.S. and foreign commercial SSTs by the 1980–85 period. Hence we do *not* yet have experience with the environmental effects of *flying large numbers of very high powered aircraft in the stratosphere*, a point sometimes forgotten or even misrepresented in arguments over potential seriousness of SST atmospheric modification effects.

2. THREE IMPORTANT GENERALIZATIONS ON POTENTIAL ENVIRONMENTAL SIDE-EFFECTS OF HIGH-ALTITUDE AIR-TRANSPORT TECHNOLOGIES

I suggest that very careful attention should be paid to the following three points, as we weigh the pros and cons of the present SST decision:

(1) The stratosphere is *effectively about 100 times more sensitive* to technologic contamination than is the troposphere because its turnover-time averages about 100 times longer than that of the troposphere.

(2) The stratosphere is a region of *high chemical reactivity*, unlike the troposphere, in which our current air transport technology now operates.

(3) If we now start an SST transport technology and then later attempt to improve range-efficiencies by modifying engine or airframe designs to permit flying at still higher altitudes (or if we move on to an advanced HST technology), then we shall find that both of *the preceding difficulties grow even more serious* the higher we try to fly in the stratosphere.

The *first* of those three generalizations hinges on the important quantity known as the *mean turnover time* (also called the residence time, exchange time, or holdup time). In the troposphere, into which we emit essentially all of our present industrial and technologic pollution, the effective turnover time for the major pollutants averages only about a week, possibly rather less than that (4). Precipitation processes rapidly scavenge particulates and many gaseous pollutants from the troposphere, so that contaminants (even those from present-day jets flying in the upper troposphere) are fairly quickly washed out by rain. But the stratosphere enjoys no such efficient scavenging action; it has no cloud-and-rain washout mechanisms comparable to those that are effective in our troposphere. Instead, gases or particulates emitted into the stratosphere find themselves in an *extremely stable region* in which removal hinges upon slow transport and downward mixing to the tropopause, followed by "tropopause folding" or other leakout mechanisms that carry the pollutant down into the troposphere where rain scavenging can complete the removal process (5). For the lower stratosphere, where the proposed SSTs would fly, the average turnover time is now regarded as averaging about two years (5, 6, 7, 8), in contrast the the troposphere's 5–6 days. Hence, for any given pollution-rate, steady-state accumulations will run about 100 times greater in the stratosphere because contaminants take 100 times longer to be flushed out if inserted into the lower stratosphere. Actually that ratio of 100-fold should be set at an even higher figure, since the great stability of the stratosphere prevents the kind of deep mixing characteristic of the far more unstable troposphere, with the result that the mass-thickness of stratospheric air effectively available to dilute contaminants runs about 5 times smaller than for the troposphere. Without pursuing these matters into further detail, we may say that we shall probably be *underestimating* the seriousness of this point by here adapting the figure of 100-fold greater turnover time in the stratosphere, where the SSTs would be emitting various exhaust products.

The *second* point, concerning the far greater degree of chemical reactivity of the stratosphere, results from the presence there of the *ozone layer* (5), from the presence of small but chemically quite significant concentrations of reactive *free radicals* like hydroxyls and peroxyls, and from the presence of an *intense flux of solar ultraviolet radiation*, whose quanta have energy sufficiently high to drive many reactions that cannot occur in our lower atmosphere (because such energetic quanta are filtered out before they can get down into the troposphere, chiefly by the ozone layer itself).

The *third* generalization calls attention to the fact that if future aeronautical improvements in the SST should permit it to fly at higher altitudes (attractive for reasons of both fuel economics and sonic boom mitigation), this would only tend to exacerbate the foregoing two difficulties. Average turnover times increase as one goes to higher altitudes in the stratosphere (a trend well documented from nuclear bomb-test debris tracer studies) probably attaining values of the order of 10 years near 100,000 ft (4,5). This implies a tendency to build up still higher steady-state concentrations for any fixed rate of injection of aircraft contaminants, as we raise the injection level from the currently projected 65,000-ft cruise-level of the first SSTs now under consideration. This difficulty is further aggravated by the fact that the main peak of the ozone layer lies above the 65,000-ft level (ozone concentrations attain a broad maximum centered in about the 75,000–100,000-ft interval, the exact value depending somewhat on latitude and season). Relative concentrations of free radicals and also intensities of reaction-energizing solar ultraviolet quanta not only increase upward through the latter altitude zone, but go right on increasing to still greater heights, such as those now being talked about for HST operations. If there are (as I believe to be the case) some serious environmental consequences of starting an SST technology at 65,000-ft cruise-levels, those difficulties will get worse as efforts are made to push SST cruise-levels still higher. And, without going into the point in full detail, there will certainly be pressures to push for those higher altitudes, since considerations such as those underlying the Breguet range-efficiency formula show that one will be able to fly with steadily lower specific fuel consumption by going higher and faster. That will tend to put pressure on to push SST cruise altitudes upwards and later to follow them with even higher-flying HSTs. Then longer holdup times at these higher levels will tend towards higher and higher steady-state contaminant concentrations, and, at the same time, greater local abundances of reactive molecules and energetic quanta of solar ultraviolet radiation will tend to pose steadily more serious problems of environmental side effects. This point is not, I believe, widely appreciated in the aeronautical engineering world.

These three rather broad generalizations, I submit, need to be weighed very carefully in any major national decision to undertake an SST technology. Those three points have been ignored in a number of recent defenses of the SST program, with the result that SST exhaust contaminations have sometimes been made out as of quite minor concern, whereas the full implications of the long holdup time and high reactivity of the part of the atmosphere in which SSTs would operate have only begun to be explored. Some of the past casual playing-down of potential hazards that I have encountered reflects little appreciation of these complexities.

Furthermore, there is a *fourth* generalization one might well append to the above three: Increases in the concentrations of stratospheric particulate concentrations that will result from SST exhaust emissions and their reaction-products (sulfates, nitrates, soots, hydrocarbon products) will be introduced into a part of the atmosphere where it is quite possible that they can exert more climatically adverse effects than similar particulates would have in the lower atmosphere. This is a subtle point (and one entailing some still poorly known optical properties of possible particulates resulting from SST stratospheric operations, as well as some complex interactions with other atmospheric processes), so I shall mention it only in passing—but, at the same time, it is necessary to warn that long-term operation of new types of high-altitude air transport technologies might make this still poorly understood form of environmental disturbance as serious as or even more serious than any others now suspected.

3. SOME FALLACIES AND MISUNDERSTANDINGS ABOUT POTENTIAL SST ATMOSPHERIC EFFECTS

(1) *SSTs will cause persistent ice-crystal veils which will alter the earth's climate.* Fears that the extremely large volumes of water vapor emitted from SST fuel combustion will lead to contrail-formation and hence to development of long-persisting hazy stratospheric veils of slow-falling ice crystals do *not* appear to be well founded. I have reviewed again the arguments that led me and others who prepared the 1966 NAS report on weather and climate modification (9) to discount this problem and we have found no reason to alter our 1966 conclusions to the effect that this will not be a source of any significant climatic disturbance. SSTs will not only fly at altitudes too high to lead even to *formation* of contrails most of the time, but, still more to the point, they will be flying in a region where mean relative humidi-

ties due to naturally occurring water vapor average only about 5%, so that *persistence* of any contrails that do occasionally form is ruled out by such dryness. Only rarely, at high altitudes in the winter, or possibly occasionally at low altitudes, is it at all probable that contrails would form and persist. Serious climatic disturbance from these comparatively rare occasions does not appear likely.

(2) *Water vapor additions to the stratosphere will produce such tiny reductions of ozone that no biologically serious consequences will ensue.* This conclusion was reached in the SCEP Report (10), and it was also my own initial conclusion. However, a previously overlooked line of evidence now appears to lead to quite opposite conclusions. The possibility that ozone reduction resulting from chemical interactions with SST-exhaust water vapor will be large enough to yield serious increases in incidence of skin cancer over the estimated operating period of an SST technology is a good example of a subtle and initially unrecognized environmental hazard now calling for the most searching scrutiny. I shall take this example of a "hidden SST problem" below and use it to show how there may well be difficulties in high-altitude transport technologies that we have only barely begun to understand. Briefly, it is my present estimate that operation of SSTs at the now-estimated fleet levels predicted for 1980–85 could so increase transmission of solar ultraviolet radiation as to cause something of the order of 5–10,000 additional skin cancer cases per year in just the United States alone. I return to this point below.

(3) *Water vapor added to the stratosphere by SSTs is of only trivial significance, since thunderstorms put far more water into the stratosphere by entirely natural processes.* This argument has appeared in several places 12, 13). In one widely repeated form, it suggests that a single tropical thunderstorm can inject as much water vapor into the stratosphere as would the entire SST fleet in a single day. The argument then usually continues with the remark that, for the world as a whole, there may be something like 4000 thunderstorms per day, hence why worry about SST water vapor additions. The primary fallacy here is that any and all *natural* processes (including thunderstorms) accounting for the naturally occurring water vapor in the stratosphere are already fully allowed for as soon as one introduces into an analysis the present estimate of the *average* natural water vapor content of the stratosphere, now put at about 5 ppm by volume as a result of the work of many investigators, especially Mastenbrook. To the extent that tropical thunderstorms are a factor in natural vapor injections into the stratosphere, that effect is taken into account as soon as one uses the average figure of about 5 ppm by volume. I know of no analyses of potential SST environmental effects related to SST exhaust vapor contamination of the stratosphere that have not proceeded from just this basis; hence I can only regard the "thunderstorm argument" as inherently misleading because it, of course, makes the uninitiated think that SST vapor additions are somehow trivial when measured against wholly natural effects and has often been made in a context vaguely suggesting that critics of SST environmental hazards are ignoring such thunderstorm effects. That is unfair and misleading argumentation on the part of SST proponents.

Furthermore, the SST proponents who use the thunderstorm argument have, to my knowledge, never backed up their basic claims with good observational data as to (a) what fraction of the several thousand thunderstorms per day actually penetrate the tropopause and succeed in delivering any vapor to the dry stratosphere, and as to (b) just how much vapor is actually exchanged with the stratosphere, even in those cases where a thunderstorm does penetrate the lower stratosphere. I would suggest that only an extremely small percentage of all thunder heads (i.e., cumulonimbus clouds) build up into the stratosphere (in either middle or low latitudes) and that the thunderstorms of the world are actually a minor component of the overall meteorological machinery by which vapor moves up to the tropical stratosphere—most of it ascending slowly over an enormous area in the rising branch of the Hadley-cell circulation near the Equator. But, in any event, the all-important point that the non-meteorologist should realize in connection with this is that we are already taking into account any and all such effects when we start hazard-analyses (as in the skin cancer question below), with the *observed* average stratospheric water vapor content of about 5 ppm by volume. The "thunderstorm vapor injection" argument is about as misleading to public and to Congress as in the "ice crystal veil" argument, as I now see it.

(4) *SST pollution effects are unimportant, since they will constitute only about one per cent of the pollution from other technologies.* This argument (13) has several fallacies in it. First, it takes as "SST pollution" only the kind of particulate and gaseous pollutions that tend to cause pollution difficulties in the lower atmosphere (sulfur dioxide, hydrocarbons, soots), and it quite casually ignores the point that, in the stratosphere where these emissions have to be worried about, even such a seemingly harmless exhaust product as *water vapor* can lead to serious disturbances, yet is emitted in amounts about a thousand times greater. Secondly, it casually ignores the point stressed above, that the roughly 100-fold greater holdup time (turnover time) of the stratosphere, as contrasted with that of the troposphere where other present forms of atmospheric pollution are occurring, implies that if SSTs put out only about 1% as much pollution as all othe polluting technologies, then the 100-fold greater holdup time characteristic of the part of our atmosphere in which SSTs will cruise will just about cancel out that advantage. That is, storing up for a hundred times as long the emissions of an SST technology emitting only 1% as much pollution would just bring the SST pollution-levels up to about par with those of all other techniques. I would not wish to press that argument too far; but it serves to show how incomplete some of the existing argumentation is. Such incomplete argumentation can be a source of confusion, as exemplified in one recent statement made within the Senate, where it came out that three automobiles going down the highway at 60 mph would emit more water vapor than the entire fleet of SSTs, a multiply-garbled version in which several misunderstandings and errors became confounded.

(5) *If SSTs are going to pollute our atmosphere, it's better to have it polluted by U.S. SSTs than by the same number of foreign-produced SSTs.*

Sometimes it is suggested that it is pointless to debate the present SST decision because if we don't build those SSTs, somebody else will. I believe a sounder viewpoint is this: Whether we build and fly many hundreds of stratospheric commercial transports or whether some other country does, exactly the same careful scientific assessment of potential global (or hemispheric) environmental hazards has to be conducted. Entirely independent of who builds high-powered SSTs that will contaminate the sensitive and reactive stratosphere, the hazard-burdens will be much the same, since stratospheric winds will spread the effects over most of the (Northern) hemisphere. The real question at stake is thus the question of whether it is acceptable *to any and all nations* to have operating in the stratosphere a heavy air-transport technology which might impose any globally unacceptable environmental burdens affecting *any or all national interests*. The inherently international characteristic of the problem, when properly appreciated, requires that the United States or Russia view the Concorde program just as critically as the British or Russians must view the American program, etc. The basic question is whether the stratosphere is going to be just too sensitive to the kinds of transport technology now envisaged by aeronautical engineers who have made their impressive advances without fully examining environmental implications of the powerful and fast vehicles they have been designing with such skill.

(6) *The sensible and conclusive way to sort out all of these questions about SST environmental effects is to build several prototypes, fly them in the stratosphere, and make direct measurements to settle all of the uncertainties.* Although such a suggestion has a rather plausible ring to it, careful examination of where the really crucial environmental questions now lie shows rather conclusively that availability of a few flying SST prototypes will do almost nothing to settle these scientific controversies. There are far more scientific uncertainties than I shall be able to pinpoint here; but, with only a few exceptions, the kinds of research now needed to clarify these problems involve laboratory or computer work, or biological studies having no relation at all to the availability of prototype SSTs. Our difficulty is that we lack basic scientific understanding of a number of key questions raised by proposals to initiate high-altitude transport technology. As with all too many past examples, we have failed to conduct a broad and vigorous program of basic research, so that we just don't have all the answers at hand when technological change suddenly calls for assessing hazards. Flying models of the SST may be useful in checking engineering-feasibility questions but they will, unfortunately, be essentially useless in providing answers to most questions on environmental side-effects that have emerged from recent inquiries.

4. AN EXAMPLE OF AN OVERLOOKED SST ENVIRONMENTAL HAZARD: INCREASED INCIDENCE OF SKIN CANCER FROM ENHANCEMENT OF SOLAR ULTRAVIOLET EXPOSURE ACCOMPANYING DIMINUTION OF STRATOSPHERIC OZONE

Past experience with new technologies offers a number of historical examples of the general principle that entirely unanticipated environmental difficulties, often of a rather subtle nature, may ultimately come to light after years of operation with that new technology (pesticide technologies, release of mercury from seemingly harmless industrial processes, radiation hazards, lead tetraethyl gasoline additives, etc.). Certainly it must be agreed that, in trying to avoid many more such experiences, we need to find ways of assessing new technologies far more carefully than we have done in the past. A recent National Academy of Sciences report on technology assessment (14) has provided a penetrating analysis of these challenges, and has drawn particular attention to the need for detecting those potential side-effects of new technologies before the latter attain so advanced a state of development that too large an economic and social investment has been made to stop the new technology prior to its getting beyond a point-of-no-return. Surely all such considerations ought now to be brought to bear on the present national decision to initiate an entirely new form of high-altitude commercial transport technology that raises complex environmental questions of an unprecedented nature.

It was very much in that spirit that I have reexamined recently certain earlier conclusions that ozone-reductions due to water vapor added to the stratospheric ozone layer

would be too small to have discernible biological importance. Although the full argument that has led me to the view that SSTs might cause adverse effects large enough to be of public-health concern is too lengthy to be completely detailed here, I wish to outline its main features, since I believe the argument is strong enough that it must now be carefully weighed into the present decisions on the SST program.

(1) *Carcinogenic effects of solar ultraviolet radiation.*—That skin cancer, especially of the basal cell and squamous cell types, is caused chiefly by prolonged exposure to solar ultraviolet radiations has now been attested in so many ways as to be essentially beyond dispute (15, 16, 17). Among the items of evidence supporting this conclusion, those of particular concern relative to SST effects include the following: (a) In all parts of the world there is a systematic tendency for higher skin cancer incidence in regions characterized by low average ozone amounts overhead, by high percentage of clear skies, and by short airpath for incident solar rays. Briefly, all of these factors tend to imply higher UV (ultraviolet) dosage rates at low than at high latitudes, and skin cancer incidence is found to increase correspondingly as one moves from high to lower latitudes (18, 19). (b) In any given area, skin cancer incidence is known to run much higher among persons who spend a great deal of time out-of-doors (farmers, ranchers, construction workers, sportsmen, seamen, etc.) (c) Long-standing clinical experience shows that skin cancer lesions appear predominantly on exposed portions of the body; about 85–90% of all lesions, in fact, occur on head and neck areas which are least covered by clothing. (d) For the same reason, average incidence for males exceeds that of females, in essentially all parts of the world. (e) Light-complexioned persons exhibit markedly higher skin cancer incidence than do dark-skinned persons; persons of Celtic derivation seem particularly vulnerable according to many studies (15, 20), while Negroes exhibit much lower incidence than do Caucasians. (f) Albinos or persons homozygous relative to the autosomal recessive genetic disease xeroderma pigmentosum provide particularly dramatic evidence (albeit of very distinctly different nature in those two categories) of vulnerability to solar induction of skin cancer (21, 22, 23). (g) Laboratory irradiation experiments demonstrate induction of skin cancer at wavelengths near 3000 Angstroms. (h) Increasing incidence of skin cancer in recent years appears explainable in terms of changing recreational habits leading to greater average solar exposure and in terms of changing clothing habits, especially among women.

(2) *Critical role of the ozone layer in filtering solar UV (ultraviolet).*—Despite the seemingly small total amount of ozone in the stratosphere (equivalent in mass to a layer of sea-level air only about 3 millimeters thick), the strong absorptivity of ozone for wavelengths near 3000 Angstroms and below serves to filter out much of the solar UV; so that, for most purposes, it is accurate enough to say that the ozone produces a cutoff near 2900 Angstroms (24). It has long been known that this filtration effect is of critical biological importance to all forms of life, especially animal life; but, in just the past few years, there has emerged a still more impressive and still more fascinating series of indications that stratospheric ozone has, in fact, been a crucial limiting factor throughout most of the evolutionary history of terrestrial life. The evidence is now mounting very rapidly that various life-forms (ranging from microorganisms to humans) now survive in the face of existing solar UV exposures only because of having evolved astonishing and fascinating protective mechanisms or UV damage-repair mechanisms (at the cell-biological level). I cannot here do justice to this impressive body of biological evidence; suffice it to say that DNA damage (chiefly thymine dimerization that amounts to somatic mutation) results from UV irradiation, and the more so the shorter the active UV wavelengths, since DNA absorption peaks near 2600 Angstroms. Furthermore, mounting evidence implicates thymine dimerization in DNA as either a controlling or a contributing factor in UV induction of skin cancer, some of the most cogent evidence thereof having been turned up very recently in special studies dealing with xeroderma pigmentosum skin tissues (21, 22, 23).

(3) *Implications of the north-south gradient in skin cancer incidence.*—Various epidemiological studies (18, 19, 25) have revealed a north-to-south increase in average skin cancer incidence in the United States that amounts to about an eight-to-ten-fold higher incidence (measured in numbers of new cases detected per year per 100,000 total population, and ranging from around 25 per 100,000 per year averaged across the northern tier of states to around 200–250 per 100,000 for the southern tier of states). Strong corroboration of this kind of systematic latitudinal gradient of skin cancer comes from all parts of the world (e.g., 26, 27), and the gradient is marked enough that one can even detect it in data from within a single large state like Texas, or within rather small countries like England or Japan.

This north-south gradient of incidence results from the interaction of a number of factors, including average annual number of hours of outdoor exposure, cloudiness, solar elevation angles, and total overhead concentrations of stratospheric ozone. For fairly obvious reasons, annual dosages are dominated by *summertime* exposure; and when one examines data on cloudiness and effects of sun angle, he finds that these produce fairly small latitudinal effects in the U.S. A larger gradient effect is brought in by length of time per year in which temperatures are warm enough to permit appreciable amounts of out-of-doors work and recreation. Without reviewing all details, let me say that considering all of these factors has led me to assign no more than half the total dosage gradient to factors other than ozone differences. (I suspect this may be underestimating the relative importance of the ozone gradients.) Taking that value along with reported medical data on cancer incidence yields a rough, but I believe meaningful, calibration figure of a variation of about 6 percent of skin cancer incidence for every one percent of variation of columnar total ozone overhead. Unfortunately, laboratory studies using experimental animals have never been carried out in a way permitting direct cross-check on this "amplification factor" of around 6; but such data as are in the literature (17) are at least not incompatible with such a factor. There is urgent need (on grounds broader than mere SST concerns) to secure far more such data in the near future.

(4) *Reductions of stratospheric ozone by chemical interaction with SST water vapor.*—Beginning about five years ago, a series of investigations (28, 29, 30) has revealed that naturally occurring stratospheric water vapor interacts with ozone to reduce its average concentrations by a substantial amount. Still more recently the theory of these photochemical interactions has been employed (31, 32) to estimate the percentage reduction of average stratospheric ozone that one might expect to result from SST operations. These predictions depend, of course, on the assumed numbers of SSTs and on certain atmospheric parameters, such as turnover time, mixing effects, etc. Current estimates range from about 2 percent (31) to about 4 percent ozone reduction (32).

Assuming an ultimate global SST fleet totaling the equivalent of 800 American SSTs (500 American SSTs plus the fuel equivalent of 300 more operated by foreign countries), using a figure of 6 hours/day in cruise-mode at or near 65,000 ft, assuming a turnover time of 1.5 years and a vertical mixing depth of 150 millibars, and assuming uniform mixing over the entire Northern Hemisphere, my own present estimates yield an incremental water vapor concentration of about 0.6 ppmv (parts per million by volume). This SST increment would be superimposed upon the present natural background concentration of about 5 ppmv, a boost by about 12 percent, say.

Using the Leovy model (30), one then obtains a predicted decrease in columnar total ozone of about 4 percent from such a rise of water vapor, a figure similar to that obtained by Harrison of the Boeing Research (32). However, again in the interests of conservatism (and adding to what I believe to be several other conservative biases built into other parts of my overall estimates), I have taken only a 1 percent reduction for purposes of the rest of the argument.

(5) *Estimated increase of skin cancer incidence resulting from SST operations.*—Considering just the United States, where the present annual skin cancer incidence now runs about 120,000 new cases per year, the foregoing figure of a 1 percent ozone decrease, together with the previously discussed 6-fold amplification factor inferred from epidemiological data, would imply an SST effect on national skin cancer incidence amounting to perhaps 7000 new cases per year. If one used Harrison's 4 percent ozone reduction estimate, the corresponding rise of skin cancer incidence would be estimated at about 30,000 new cases per year. If other conservative factors that I have used elsewhere in the argument were dropped, this figure might be doubled again. Here I prefer a round-number estimate near 10,000 new cases per year.

(6) *The amplification factor.*—Because the literature on UV carcinogenesis was found to contain nothing like a well established mathematical model of skin cancer induction, and because the roughly 6-fold amplification factor which I obtained from considering epidemiology and related factors is rather crucial to these estimates, I have devoted a good deal of effort to finding a physical and biological basis for understanding whether such an amplification effect can be understood.Without here elaborating the point in detail, let me merely remark that there does appear to be an entirely plausible chain of reasoning, tied up with the marked non-linearity of absorption of the carcinogenic wavelengths, combined with the absorption properties of DNA. Briefly, I find that a 6-fold amplification is just about what one should expect if the peak of the UV carcinogenesis were narrow and fell near 2950 Angstroms. In reality, UV carcinogenesis almost certainly results from an appreciable range of wavelengths, but nothing in the biomedical literature is at all incompatible with an effective peak near the cited wavelength. This tends to give significant support to the overall argument, I believe.

(7) *Present conclusions on the SST skin cancer hazard.*—I can fully understand why some persons might, on hearing that there was fear being expressed that increases of skin cancer could result from operating SSTs in the stratosphere, think that such a suggestion sounded ridiculous. But though there may well be errors in my analyses of the various parts of this problem, the prediction is far from being unsupported. The evidence is now quite strong that modest variations of stratospheric water vapor concentrations could lead to just such modest ozone changes. And the evidence also is rather strong that modest reduction of stratospher.c ozone would be reflected in increased average incidence-rates for skin cancer. Finally, the purely biological and evolutionary evidence that we, as well as all other life forms, have evolved in ways leaving us only

marginally protected from highly adverse effects of ultraviolet radiation is essentially incontrovertible. One needs, perhaps, to reflect on other examples of inadvertent modifications of our natural environment as a result of new technologies, to be reminded that adverse effects have repeatedly unfolded as a consequence of casual chains that connect *seemingly* very distantly related events. In my own opinion, the present evidence points rather strongly to the conclusion that operating a major SST technology of the magnitude now under consideration here and abroad would, via the ozone-ultraviolet-carcinogenesis chain, lead to increased incidence of skin cancer of the order of 10 new cases per year within the United States alone. The world total would be somewhat greater, of course, but not greater by a large factor, since skin cancer is above all an affliction of Caucasians (rather than Negroes, Asiatics, or other pigmented ethnic stocks), so considerations of world geography and world climatology seem to imply that the brunt of the skin cancer burden, *regardless of who builds and flies them in the Northern Hemisphere,* would necessarily be borne by the Caucasian population of this country, with Europe bearing most of the remainder of the total burden.

My suggestion, based on analysis of just this one SST environmental hazard, is that this single side-effect poses by itself a difficulty of sufficient magnitude to postpone any immediate commitments which might tend toward subsequently irreversible pursuit of SST/HST high-altitude transport technologies. Until reliable answers can be obtained through appropriate research, I would have to suggest that these present estimates, albeit tentative, are much too disturbing to warrant further immediate moves toward SST/HST technologies. If careful research into all of the many factors underlying the above estimates should disclose that an estimate of some 104 new skin cancer cases per year is a gross overestimate, then this one of the several grounds for caution in the present SST decision will disappear. My present surmise, however, is that it will probably be found to be on the low side.

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

Mr. PROXMIRE. I yield.

Mr. MANSFIELD. The Senator is a member of the Appropriations Subcommittee, is he not, which is holding hearings on the SST?

Mr. PROXMIRE. The Senator is correct. The Appropriations Committee completed its hearings on the SST yesterday.

Mr. MANSFIELD. That was the full committee.

Mr. PROXMIRE. The Senator is correct. I understand that the committee will hold hearings on the 1972 appropriations probably within 2 or 3 months.

Mr. MANSFIELD. And the Senator is a member of that committee.

Mr. PROXMIRE. The Senator is correct.

Mr. MANSFIELD. Could the Senator tell us what the prospects are as to when, under the agreement reached in the closing days of the 91st Congress, the resolution of extension may be reported by the Appropriations Committee and thereby reach the floor of the Senate for consideration?

Mr. PROXMIRE. It is my understanding that the House is expected to act on the SST about the 18th or 20th of the month. The Senate then would have to act within the next 10 days.

The reason, as the Senator from Montana recalls, is that the present resolution expires March 30. We will be under the gun, and it will be necessary for us to complete this matter by March 30. I will be glad to agree with the majority leader on a time limitation for debate. I have no intention of delaying this. I would be happy to agree to any limitation, a day or so, for debate.

Mr. MANSFIELD. That is encouraging. I appreciate it. And I would assume that those who favor the SST would be just as considerate.

The Senator may recall that in the course of the debate last year the joint leadership expressed the hope that it would probably reach the floor of the Senate around the middle of March, around March 15; is that correct?

Mr. PROXMIRE. That was my understanding.

Mr. MANSFIELD. So that date now goes out the window, it would appear.

If the House passes it on the 19th, it will take a day or so, I feel certain, for the measure to reach the Senate. It would, therefore, not reach the Senate before the 22d of March at the earliest, and that is probably an optimistic assessment.

Certainly it should reach the Senate during that week.

On the basis of the offer made by the distinguished Senator from Wisconsin—and hopefully the offer will be reciprocated by other parties—the Senate ought to dispose of the matter at that time, give or take a day or two.

Mr. PROXMIRE. There is this problem involved. The Senator recalls that the House voted for the SST last year and that the Senate voted against it. The matter went to conference and came back. That could happen this year. I hope that it does not. However, if it does, it is my hope that the SST will be reported to the floor of the House and Senate in disagreement without any compromise in the conference.

If that is the case, there would be agreement to a unanimous-consent request certainly on my part. I would urge the others who are opposed to the SST to do likewise. If any disagreement on the SST were not reported to the House and Senate for an up-and-down vote I feel strongly that we would be in a very difficult position.

Mr. MANSFIELD. Mr. President, the Senator has anticipated my question and has made his position known so that his stand on this question, as always, is not open to question.

On the basis of this colloquy, it then appears, assuming that all things will be equal, that some time during the week of March 22, the Senate will have a chance to consider the extension of the resolution affecting the Department of Transportation.

We realize, of course, that if the other House approves it and the Senate disapproves and it goes to conference, another situation will develop.

I want to thank the Senator from Wisconsin for making his position clear at this time. May I say that this was the reason why we asked for 30 minutes, so that we could engage in this colloquy in relation to this subject at this particular time.

I thank the Senator.

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the Senator from California (Mr. CRANSTON).

IS THE UNITED STATES BLUNDERING INTO A MAJOR ASIAN WAR?

Mr. CRANSTON. Mr. President, is the United States blundering into a major Asian war?

Is the administration blinding itself to the omens that China may throw its forces into the Southeast Asia conflict?

Is President Nixon ignoring repeated warnings that, if the war is widened, China will strike?

Or is he dangerously discounting those warnings?

Is the administration caught in such a trap in Indochina that it must close its eyes and move ahead regardless of the potential cost in blood and dollars?

There are a series of unmistakable signs that China now regards American and South Vietnamese operations in Laos and Cambodia as increasingly dangerous to her own safety and security.

The history of Communist China, from the Korean war, through the fighting with Indian troops in the Himalayas, to the border skirmishes with Soviet forces, is one of extreme sensitivity to military operations which her leaders believe might endanger China.

In 1950, Gen. Douglas MacArthur disregarded Chinese warnings, which he termed bluff, and ordered troops under his command to drive north beyond the 38th parallel in Korea to destroy the enemy.

Our soldiers drove north with little or no opposition—into a trap.

Two Chinese divisions struck at Unsan.

They hit from the front, and moved around to cut off escape routes.

American troops were surrounded.

They ran out of ammunition.

Their vehicles were disabled.

They suffered great losses.

The warnings had been so explicit that in September, before the November attack by China, the Joint Chiefs of Staff ordered General MacArthur to make "special efforts" to find out if China would intervene.

On October 1, Chinese Premier Chou En-lai said China would not permit military operations in North Korea.

On October 3, the Chinese Foreign Minister told the Indian Ambassador that China would fight if our troops crossed the 38th parallel.

Intelligence told of heavy troop movements up to the border of North Korea.

On November 3, the Joint Chiefs of Staff cabled General MacArthur of their fear of "overt intervention . . . by Chinese Communist units."

He replied:

> There are many fundamental logical reasons against it.

And so the blow fell. Thousands of Americans died or were seriously wounded and taken prisoner.

Today, the signs are again ominous. While the State Department and the White House say all is well, these are the omens:

The Wall Street Journal says Western diplomats in Laos:

> Noted similarities between Red China's latest protests and warnings given Indian diplomats before China intervened in Korea.

The Washington Post reported on February 12 from Vientiane:

> Prince Souvanna Phouma, the Premier of Laos, is telling diplomats here in Vientiane that he believes it is highly possible that Communist Chinese troops will cross his borders if the South Vietnamese appear to be on the verge of cutting the Ho Chi Minh Trail.
>
> The Premier said he believes Chinese volunteers could begin entering Laos in force in the next few months and joining the Communist Pathet Lao in combat operations . . . the Prince's concern about the Chinese, diplomatic sources say, was increased after Chinese diplomats here quietly passed the word that Peking is unwilling to stand idly by if the South Vietnamese move into the Ho Chi Minh Trail.

Thailand's Prime Minister, Thanom Kittikachorn, a strong ally of the United States, in answer to a question at a February 11 press conference, told of Chinese troops massing on the border with North Vietnam.

A Bangkok radio broadcast stated:

> Asked if the report was true that Communist China had massed a large number of troops at the border with North Vietnam, the Prime Minister said it is, and added that Communist China has been massing troops in the area for a long time.

The London Financial Times writes:

> Unlike Cambodia, Laos has frontiers with both China and North Vietnam . . . and it would be too much to expect China to hold its hand indefinitely if South Vietnam showed no early sign of bringing its troops out of southern Laos.

The Official Peoples Daily of Peking states the Laos action:

> Definitely poses a threat to China and China will never allow U.S. imperialism to expand at will the war in Laos and the whole of Indochina.

The Manchester Guardian looks upon this and other recent warnings of China gravely.

It notes:

> In the past, the Chinese have always been cautious about predicting escalation in any kind of alarmist way which either might upset its own population or give the U.S. the impression that Peking was becoming panicky. If anything, China has underplayed each new move in the war.

Italian journalist Alberto Jacoviello, a Communist, recently wrote from Peking:

> The prospect of war is present in China . . . there is digging in front of houses to protect them or to build underground shelters. . . .

A Reuters dispatch states that China's Marshal Yeh Chin-Ying, vice-chairman of China's pentagon—the military commission of the Chinese Communist Party Central Committee—and a former commander of China's important Southern Region, returned to Peking after a secret visit to North Vietnam.

The Japanese Kyodo News Service says:

> The ambassador from an unidentified east European country was quoted as saying he was "confident" that China would send "volunteers" to Laos to fight in the not distant future. According to Japanese embassy sources, the ambassador made the statement at an informal meeting with the Japanese ambassador to Indonesia.

Within the last 4 weeks, rallies have been held throughout China in support of North Vietnam and its allies. Heroes of the Korean war are going from village to village attacking the "Paper Tiger" of "U.S. Imperialism."

One of America's foremost Asian scholars and a former State Department official, Prof. Allen S. Whiting of the University of Michigan, warns:

> Today it is fashionable to talk of "game plans" and "poker player's bluff." In 1950, Washington thought Peking was bluffing when it warned against our crossing the 38th parallel. Three months later thousands of dead and wounded United States Marines provided grim evidence to the contrary.

According to Professor Whiting, Chinese troops have already been stationed in North Vietnam. From 1965 to 1968, there were two Chinese anti-aircraft divisions "whose regular exchanges of fire with attacking American aircraft drew casualties on both sides. When our bombers stopped, the troops went back across the border. But they can return any time Hanoi and Peking find it necessary."

I pray that the administration does not repeat our terrible mistake of going too far in Laos and Vietnam and blundering into another collision with China.

China's Premier Chou En-lai was in Hanoi just last week. And this Monday, on the final day of his visit, he issued a joint communique with North Vietnamese Premier Pham Van Dong warning of the possibility of direct Chinese intervention if the war continues to expand in Indochina.

China called attention to the communique in an editorial in Peoples Daily warning the United States:

> We the Chinese people mean what we say. . . .

The American people, to use a common expression, are sick and tired of receiving bland assurances that all is well, followed by tragedy after tragedy.

Americans were promised an end to the war when Mr. Nixon campaigned in 1968; it is now 1971 and the war still goes on.

Americans were promised an end to the war with the Vietnamization program; Cambodia followed.

Americans were told that the Cambodia invasion had assured an early end of the war; Laos followed.

Now we are told that the Laos invasion will make certain the peace we all seek. But the President refuses to rule out American air support for a South Vietnamese invasion of North Veitnam which could bring the war to the very borders of China.

Meanwhile Secretary of State Rogers, as recently as Tuesday, dismissed talk of Chinese intervention as propaganda.

Though he admits that "you can never be sure."

The Secretary says he does not think China will intervene because "it's clear to the Chinese that we're withdrawing."

President Nixon told reporters on February 17, when he was asked whether the new Allied moves into Laos might provoke a Chinese countermove, "I do not believe that the Communist Chinese have any reason to interpret this as a threat."

But while the Chinese see us withdrawing some of our troops, they also see us widening the war into Cambodia and Laos, stepping up our air activity—which has the potential firepower to more than make up for our reduced troop levels. And they hear repeated talk

of an invasion of North Vietnam—presumably with American air support, since Vietnamization seems to amount to nothing unless it has continued and mounting American air support.

What are the Chinese to make of this discrepancy? What are they to make of this confusing and contradictory policy of simultaneously winding down and widening the war?

Even the American people are unsure of what the administration has in mind. And if the administration suffers from a credibility gap here at home, imagine our credibility gap with the Chinese. It is not surprising that the Chinese are suspicious of our intentions, dubious about our reassurances, and frightened by our actions.

There is grave danger to the United States in this Chinese worry and uncertainty, especially when land so close to their borders is threatened. Ideology aside, any country—Communist or capitalist, dictatorial or democratic—will fight if it feels its territory threatened.

It is of utmost importance that the present implied threat to China be lifted. Our present policies could pull China over the brink and into a war with us in Southeast Asia.

I urgently call upon President Nixon to immediately caution General Abrams not to take any further action which Chinese leaders may believe is a direct or indirect threat to the territory integrity of China.

It would be disastrous if Vietnamization were to lead to a direct confrontation between America and China in the jungles of Asia. It could be disastrous even if Chinese involvement initially were limited only to logistical support for the North Vietnamese similar to certain aspects of our support to the south.

Such a move by the Chinese could delay indefinitely American troop withdrawal under the terms of Vietnamization.

Moreover, if China does enter the conflict, the next question is:

Will the Soviet Union stay out?

Mr. President, I ask unanimous consent to have printed in the RECORD as further documentation some material prepared by the Library of Congress for the Senator from Arkansas (Mr. FULBRIGHT), the distinguished chairman of the Committee on Foreign Relations, comparing Chinese statements prior to the conflict that developed in Korea with statements now being made by the Communists in China as the war widens in Southeast Asia.

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

STATEMENTS BY COMMUNIST CHINA IN 1950 [1] PRIOR TO ENTERING KOREAN WAR AND RECENT STATEMENTS REGARDING LAOS

August 20: Message from Foreign Minister Chou En-lai to the United Nations: "Korea is China's neighbor. The Chinese people cannot but be concerned about the solution of the Korean question . . .

August 28: The Communist Chinese government complained to the United Nations that U.S. and British planes had strafed airfields and railways in Manchuria.

September 22: Message to the United Nations: "The Chinese people clearly affirm that we will always stand on the side of the Korean people . . . and resolutely oppose the criminal acts of American imperialist aggressors against Korea and their intrigues for enlarging the war . . ."

September 24: Message from Foreign Minister Chou En-lai to the United Nations: He accused the United States of trying "to extend the aggressive war against Korea, to carry out armed aggression on Formosa, and to extend further her aggressing against China . . . The flames of war being extended by the United States in the east are burning more fiercely. If the representatives of the majority of states attending the United Nations General Assembly should still be pliant to the manipulation of the United States and continue to play deaf and dumb to these aggressive crimes of the United States, they shall not escape a share in the responsibility for lighting up the war-flames in the east."

October 1: Chou En-lai National Day speech: He warned that China would not "supinely tolerate" seeing Korea "invaded by the imperialists."

October 5: Peking radio broadcast: The broadcast said that the Korean war "in its real sense has just begun" with the United Nations invasion of North Korea.

1950

October 10: Statement by the Ministry of Foreign Affairs: "The American war of invasion in Korea has been a serious menace to the security of Chinao from its very start . . ." The broadcast warned that China would not stand "idly" by while Korea was overrun.

October 18: The Red Chinese filed a complaint with the United Nations that American planes were making reconnaissance flights over Manchuria.

November 1: A North Korean broadcast said that the Chinese had decided to let "volunteers" fight in defense of the "Chinese area" of the Yalu River "electrification zone" because of its importance to Manchurian industry. A daily barrage of propaganda against the "aggressive" United Nations forces near Manchuria was put out by the Chinese Communists.

1971 [2]

January 25: Statement of Ministry of Foreign Affairs: ". . . the People's Republic of China . . . condemns U.S. imperialism for stepping up the expansion of its war of aggression in Indo-China and plotting new military adventures . . . the Chinese government and people are firm and unshakable in their stand of supporting the three Indo-Chinese peoples' war against U.S. aggression and for national salvation and the 700 million Chinese people pledge themselves to provide a powerful backing to them until the U.S. aggressors are completely driven out of all the three countries of Indo-China . . . U.S. imperialism is widely attempting to launch a new military adventure in Indo-China. The Chinese government and people are closely watching the development of this scheme of the Nixon government . . . U.S. Imperialism . . . will surely suffer even more disastrous defeats . . ."

February 2: Statement of Ministry of Foreign Affairs: The statement issued the "481st serious warning" concerning "military provocations by the U.S. military aircraft" for intruding into China's airspace.

February 4: Statement of Ministry of Foreign Affairs: ". . . The Chinese government and people sternly condemn U.S. imperialism for its new crime of aggression against the three peoples of Indo-China and firmly support the solemn statements issued by the spokesman of the Central Committee of the Laotian Patriotic Front and the Ministry of Foreign Affairs of the Democratic Republic of Viet Nam, the Ministry of Foreign Affairs of the Republic of South Viet Nam and the spokesman of the Royal Government of National Union of Cambodia on February 1, 2, and 3 respectively. U.S imperialism will never succeed . . . It will certainly suffer even more severe punishment by the three peoples of Indo-China, and the 700 million Chinese people who uphold proletarian internationalism absolutely will not allow U.S. imperialism to do whatever it pleases in Indo-China. It is our duty and obligation to give all-out support and assistance to the three peoples of Indo-China till complete victory in the war against U.S. aggression and for national salvation."

February 4: People's *Daily* article entitled "Smash U.S. Imperialism's New War Venture in Indo-China": "U.S. imperialism's criminal activities in intensifying and expanding the war of aggression in Indo-China have reached an extremely maniacal degree recently . . . The Chinese people resolutely support the above statements (of the Indo-Chinese people) and reaffirm that the 700 million Chinese people pledge to provide powerful backing for the people of the three Indo-Chinese countries and spare no efforts in supporting them to crush all the war ventures committed by U.S. imperialism and its lackeys . . ." The statement warned that, "If the Nixon administration dares to use nuclear weapons, it will become a most vicious and inplacable criminal and is tantamount merely to dig the grave for itself . . . the whole world can in no way be intimidated by nuclear weapons . . ."

1971

February 6: Peking Radio: "U.S. imperialism is carrying out a new war venture in Indochina . . . He who plays with fire will get burned himself. The Indochinese people, together with the people of the whole world, will sweep the U.S. imperialists and all their running dogs in Indochina completely into the garbage heap of history."

February 8: Statement of Ministry of Foreign Affairs: "The large-scale invasion of Laos by U.S. imperialism is a grave provocation not only against the three peoples of Indo-China but against the Chinese people and the people of the whole world as well. Laos is a close neighbor of China. The Chinese and Laotian peoples are intimate brothers. The Chinese Government and people have long been resolved to make all-out efforts in giving support and assistance to the peoples of Laos, Viet Nam and Cambodia to 'defeat the U.S. aggressors and all their running dogs!' "

[1] Source: Facts on File.

[2] Source: Foreign Broadcast Information Service.

LIMITATION ON STATEMENTS DURING THE TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Pursuant to a previous order, the Senate will now proceed to the transaction of routine morning business, with statements therein limited to 3 minutes, until the hour of 12 meridian.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR HUMPHREY ON MONDAY VACATED

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the

order of yesterday recognizing the very distinguished Senator from Minnesota (Mr. HUMPHREY) on Monday next for a period not to exceed 15 minutes be vacated.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Pastore rule, paragraph 3 of rule VIII of the Standing Rules of the Senate, not begin operating today until the unfinished business is laid before the Senate.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Pastore rule today run for 5 hours instead of the normal 3 hours under the rule.

Mr. GRIFFIN. Reserving the right to object, Mr. President, this might be an appropriate point to make a comment. There has been considerable effort on the part of some of the junior Members of this body to promote adherence to revised procedures to expedite the business of the Senate. Certain changes in procedures and practices were agreed to, and in general Senators have been very cooperative. However, the situation today, unfortunately, is an example of how that effort has not succeeded completely.

The Senate came in today at 10 a.m. To convene 2 hours early is an inconvenience, not only for the leadership, who must be here, but also to employees and others who must be here whenever Senate is in session. We came in early to accommodate a Senator who was, of course, within his rights to ask for a 30 minute special order for a colloquy.

However, I must say it is my impression that the practice of obtaining special orders for 30 or 45 minutes, or an hour is being abused. When the new procedures were adopted, it was hoped that longer speeches would be delivered toward the end of the day, after the legislative business had been transacted. If the period for the Pastore rule were extended in accordance with the request, it appears that it would be impossible for a Senator, later in the day, to deliver a speech on a different subject. I wonder if that is what the distinguished majority whip intends.

Mr. BYRD of West Virginia. Mr. President, it is not my desire to make it difficult for any Senator to speak at length later in the afternoon. I have asked unanimous consent that the Pastore rule be extended today simply because under the agreement of yesterday there will be 3 hours on the unfinished business when it is laid before the Senate, and one-half hour, equally divided, on each amendment.

So, in view of the fact that the unfinished business is not to be laid before the Senate until 12 o'clock meridian today, just taking into consideration the 3 hours on the bill alone, if the 3 hours is fully utilized, the Pastore rule would have spent itself before the final passage of the bill. This would make it possible for Senators to come in with nongermane speeches before final action on the bill and indeed inconvenience the great majority of Senators by keeping them waiting until final passage of the bill, on which a rollcall vote has already been ordered, while some Senator makes a nongermane speech. It was for that reason that I thought it best to seek to extend the operation of the Pastore rule.

Mr. GRIFFIN. If the Senator will permit, I want to indicate to the distinguished majority whip that I wish to cooperate with respect to his request. However, I really have in mind a broader concern.

I wonder if it would be understood, despite the unanimous-consent request, that if the Senate were to dispose of the proposed legislation prior to the expiration of 5 hours, nothing would preclude a Senator thereafter from speaking on another subject.

Mr. BYRD of West Virginia. Exactly. I am glad the Senator raised this question.

Mr. President, I modify my request. I ask unanimous consent that the Pastore rule begin running today at 12 o'clock meridian, and that it extend for 5 hours or until action on the unfinished business is completed, whichever is the earlier.

The ACTING PRESIDENT pro tempore. Is there objection to the request?

Mr. GRIFFIN. Reserving the right to object, Mr. President—and I shall not object—I want to conclude my observation about the broader concern by indicating that there may be a disposition from this side of the aisle to object to some of the requests for time in excess of 15 minutes.

I am sure there are occasions when a 30-minute colloquy or a 45-minute colloquy may be justified. But I believe a Senator who makes a request for such special consideration should bear a little bit of a burden of proof. For the good of the Senate as a whole, most Senators have been adjusting to the new procedures. Most Senators are willing to limit their speeches to 15 minutes. When the prepared text is longer than that, they send it up to the Press Gallery where it can be read. In the future, I hope we can get all Senators to follow that practice more closely.

I thank the Senator. I do not object.

The ACTING PRESIDENT pro tempore. Without objection, the unanimous-consent request of the Senator from West Virginia is agreed to.

Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, may I be recognized for 3 minutes?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, I want to compliment the able minority whip on having taken the floor this morning to voice some concern with respect to the way in which the new procedures are operating. On the whole, they are being well received. I think that without exception we are enjoying excellent cooperation from all Senators on both sides of the aisle, when they are fully acquainted with the new procedures involved.

I, too, have voiced concern with respect to the granting of 30 minutes or 45 minutes or an hour for a colloquy when, as a matter of fact, no colloquy has ensued. Each time this has happened, however, I have gone to the particular Senator to acquaint him with the new procedures, and he has indicated a desire to act accordingly in the future.

I think that as Senators become better acquainted with those procedures, they will desist from asking for more than 15 minutes for a statement prior to the morning business. I hope we can make these procedures work. They are calculated to speed up the business of the Senate and to make possible better programing and better organizing of the Senate's business.

I will certainly continue in the effort on my side of the aisle—and I know that the majority leader will, because he and I discussed this matter this morning—in the effort to see that these procedures are kept within the proper limitations and that Senators are made better aware of them.

I thank the Senator for calling this to the attention of the Senate.

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

The PRESIDING OFFICER (Mr. BENTSEN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

HOW OBJECTIVE ARE OUR NEWS TELECASTS?

Mr. HANSEN. Mr. President, yesterday, I asked the distinguished Senator from Kansas (Mr. DOLE) to secure some prints of films which had been made of news telecasts that were brought into Washington by some staff people from Vanderbilt University.

Mr. Paul Simpson, who is on that campus, has for some time been engaged in trying to study the impact of news with a view toward assessing the objectivity of the various newscasts that are available and are being viewed by the public daily in this country.

I have not had an opportunity to see the full one and a half hour showing, but I hope that all Senators will avail themselves of the opportunity being afforded them to view this series of films which have been made directly from news telecasts.

It is not for me to say whether the news reports are biased or whether they may lack complete objectivity. That is a decision and a judgment that should be made by each of us as individuals.

From what I have seen, however, I must say that I do have my own ideas about the lack of fairness and the lack of objectivity which seems to me to come across. I feel also that an unbiased person would be inclined to feel at times that certain news reporters seem to be as interested in trying to make a point, trying to convey an impression, trying to build up an image as to a particular point

of view, as in their eagerness to "tell it like it is."

Mr. President, while I was over in the old Senate Office Bulding watching some of the movies taken of the newscasts, I was struck with the fact that, in one instance, one of the major networks, in describing the incursion into Cambodia, interviewing members of the Armed Forces who were there at the time, went back and replayed—I am convinced, on the basis of what I saw—the identical interview a second time.

The importance of this, in my judgment, is that most of us, as we watch a telecast taking place, would probably be inclined to think that as different members of the Armed Forces or civilians are interviewed, we would not be subjected very adroitly to a retake of what had earlier transpired, so as to conclude that perhaps four persons have been speaking out rather than two.

Yet, as I looked at the films this morning, that is exactly the impression I gained.

The PRESIDING OFFICER (Mr. BENTSEN). The 3 minutes of the Senator from Wyoming have expired.

Mr. HANSEN. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming?

Mr. GRIFFIN. Mr. President, I regret that because of the procedures, and so forth, I shall be constrained to object. However, I seek recognition.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, am I recognized?

The PRESIDING OFFICER. Yes.

Mr. GRIFFIN. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Michigan.

Mr. President, I have gained one other impression which I think is important and which I want to relate to Senators: In interviewing people in the United States as to the reaction that takes place following military activities, I was struck with the fact that one particular nationwide network went onto the campus of the University of Wisconsin and interviewed three students there. I do not know whether the network made any attempt at all to try to get both sides of the story. The fact is that only one side was portrayed.

I am disturbed about that. I am also disturbed that when the Laos incursion took place, the particular network newscast I watched interviewed only Members of the Senate who were very much opposed to that activity.

The unfairness in this sort of reporting seems to me to result from the fact that John Q. Public, in watching such a telecast, might very well conclude there are no Members of the Senate who feel differently than those who were on the telecast and who expressed themselves.

What I am trying to say is that I think there is reason seriously to question the objectivity of the news telecasts that we are viewing daily in this country.

Mr. President, American and allied soldiers are today fighting two wars. One is in Southeast Asia where American and South Vietnamese men are serving their nations with the highest distinction. The other war is here in the United States where the television networks are oftentimes unfairly reporting the highly important Laotian operation and otherwise undercutting support for this essential action.

I have rarely seen such irresponsible television reporting as has come from Laos. It is reminiscent of last May when the media in their zeal to prove President Nixon wrong used all their efforts to make the Cambodian decision look bad.

Of course, they were wrong about Cambodia, and I think they are going to be wrong about Laos. But the point I wish to make is that the networks have not waited to see how the operation in Laos would work. They have made judgments, as the President recently said, "while the jury is still out." With selected interviews and slanted reports, the prominent networks have attempted to shape and mold American opinion against the Laotian operation and against their President.

By design or negligence, the network news shows have been dominated throughout by negative reports of the actions by ARVN and American forces.

Continuing, night after night, we have heard: the Laotian operation is in serious trouble, the operation is stalled, we are losing helicopters by the dozens, it looks like the objective of Tchepone will not be reached.

Mr. President, reporting this long and difficult war is not an easy task. But surely there can be reporting which shows balanced perspective. What we have heard on the networks is all too often not balanced.

Today we can see that the Laotian operation is moving toward success, as it cuts into the crucial Ho Chi Minh trail. The Government of South Vietnam is growing stronger. It does not have the support of all South Vietnamese but it does have the support of a majority. It is developing the capacity to protect its citizens and to assume in full the responsibilities that have been borne in part by the United States. But, we can also see that it was done while the American public was subjected to the most subtle brainwashing by network television. When history records the winning of the peace in Indochina, it must also record the great obstacles which were overcome to achieve peace. Those obstacles were not only in Vietnam; they were also in the news offices of Manhattan, generated sadly to millions of citizens along transmission wires. I am saddened by that spectacle, Mr. President, and my hopes lie in the wisdom of the American people who refuse to be sold on the networks' unbalanced reporting.

I certainly have no suggestions to make that we impose any sort of censure on the news but, rather, we should call their attention to what I think are some obvious manifestations and clear evidences of unfairness and distortions in order to project a particular point of view, or a particular philosophy.

If we can call these shortcomings in their reporting to the attention of the news services, I would hope that they might look at themselves a little more objectively and see if they do not believe they could do a better job in trying to present to the public more objectively and more unbiased reporting of the news.

Mr. President, I thank the distinguished Senator from Michigan for yielding me his time.

ORDER FOR RECOGNITION OF SENATORS PERCY, JAVITS, AND SYMINGTON ON MONDAY, MARCH 15, 1971—OBJECTION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on Monday next, immediately following recognition of the two leaders under the standing order, the distinguished Senator from Illinois (Mr. PERCY) be recognized for 30 minutes for the purpose of a colloquy, the time to be also controlled by the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Missouri (Mr. SYMINGTON).

The subject of the colloquy will be arms control.

Mr. GRIFFIN. Mr. President, I object.

Mr. MANSFIELD. I wish the Senator would withhold that objection. This is part of the agreement entered into by the joint leadership with Senators SAXBE, SCHWEIKER, CRANSTON, and HUGHES. It was agreed to, and the Senate understands that a Senator can come in for 15 minutes to make a solo speech, but he could get practically unlimited time if he wished to engage in a colloquy.

I would think that if we did not honor this request, it would be a breach of faith as far as the leadership is concerned.

Mr. GRIFFIN. Mr. President, I disagree with the majority leader. I think it is a matter of interpretation. However, I feel strongly that the so-called privilege has been abused a great deal.

While I might withdraw my objection later in the day if I could be satisfied that there is an important need for an extension beyond 15 minutes, for the time being, I object.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ACTION OF THE LABOR AND PUBLIC WELFARE COMMITTEE WITH RESPECT TO QUORUMS

Mr. DOMINICK. Mr. President, I rise to share with the Presiding Officer and the Members of the Senate a great concern which I feel today. I am deeply distressed at an action taken yesterday

by the Labor and Public Welfare Committee. That committee yesterday sacrificed the lamb of democracy on the altar of expediency. Yesterday the members of the majority changed the rules of the committee to permit the conduct of all committee and subcommittee executive business excepting the reporting of a measure to the floor on the basis of a one-third quorum.

Mr. President, in this connection it is interesting to note that the Health Subcommittee, on which I have now been appointed as ranking member, has been holding hearings at the call of the Senator from Massachusetts (Mr. KENNEDY) since March 3, 1971, even though the number of subcommittee members was not determined until March 11; nor were the rules under which the subcommittee operated; nor were there any bills before the subcommittee at all.

It would seem that the Senator from Massachusetts believes at least in the fact that the Senate is a continuing body under rule XXII, even though he voted to the contrary in the recent test on the floor of the Senate.

I believe that this action is a disaster and that it will have tragic consequences for the committee, the Senate, and the Nation. The Labor and Public Welfare Committee is charged with the responsibility for most of the critical social legislation so badly needed by the people of this Nation. It has jurisdiction over all of the activities of the Department of Health, Education, and Welfare, the second largest department in Government. It has jurisdiction over the Labor Department which regulates many of the aspects of employment. In this Congress this committee will be faced with great social issues, health care, manpower revenue sharing, labor law reform, to name a few. These are monumental issues which will require the most serious consideration. But, I fear that that serious consideration will not be given. I fear that there will be a rush to get legislation through the committee without proper attention being given to the substance of the legislation or to the rights of the minority.

Let me give an example of why I am particularly concerned. I am the ranking minority member on the Health Subcommittee—as I said—as of yesterday, which will be considering what may be the most important legislation to come before the 92d Congress, the national health insurance legislation. There are 14 members on this subcommittee, 14 out of the 17 members of the entire committee. One-third of 14 is five. Five members will constitute a quorum. Five members of that subcommittee will be able to act upon amendments to this critical legislation. Even worse, three of those five are all that are required to actually pass any amendment. Three are all that are actually required to appear in person and to vote yes to report the bill to the full committee. Is this the kind of legislative consideration the American people deserve on this most important issue. I think not. Will it be possible for the Members of this body to have confidence in the work of the Labor and Public Welfare Committee. Again, I think not.

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

Mr. BYRD of West Virginia. Mr. President, if the Chair will recognize me, I will be glad to yield my time to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for another 3 minutes.

Mr. DOMINICK. Mr. President, I thank the distinguished Senator from West Virginia.

The American people are entitled to have a majority of its elected representatives act in person at all steps of the legislative process. Nor will this change bring about the efficiency its supporters hope to achieve. It may appear to be efficient for awhile. Expedient measures always do. But there will be a breakdown. Suppose a subcommittee meets two, three, or five times with only one-third of its members present. It can amend a bill, change its character, defeat amendments, do whatever it will, and quickly, too. All the subcommittee chairman need do is collect proxies from his fellow members and the measure will be given speedy treatment. Minority amendments can be rapidly voted down with a handful of proxies. Finally the bill can be moved to the full committee.

In the full committee, the one-third quorum rule also applies—six Senators, one-third of 17. Six Senators voting to accept or reject amendments, arguing those positions on some of the Nation's most pressing problems. Perhaps this reduced number will be able to move the bill up to the point of reporting without full consideration by a majority of the members.

But the price of this efficiency must be paid. And it will begin to be paid when it is time to report the bill out. There is no doubt in my mind that at this point there will be delay. Since a majority quorum is required to report the bill out, there may be Senators present who have not been able to devote full attention to the bill. It will be their right and even their responsibility to question each and every proposition in the measure before the committee. Amendments will perhaps be brought up for the first time. The pressures of time which we all face will necessitate either delay to give full consideration or the hasty acceptance or rejection of these new measures. This, I submit, Mr. President, is not good legislative procedure. For then the bill must come to the floor for consideration. And here there will be further problems.

How can the Members of this body have confidence in a bill that has come from the Labor and Public Welfare Committee. How can you, my distinguished colleagues, believe that the legislation which this committee will put before you is worthy of your vote when you know that it is likely that the bill had received the personal attention of one-third of the members of the committee or its subcommittees during most of its legislative life.

I submit that this minority consideration will lead to great time delays here in this Chamber on many of the bills that this committee will report out. We need only look at the last session of the 91st Congress for examples of how Labor and Public Welfare bills are received on the floor. Many of them are controversial. In the last Congress, many hours were spent in this Chamber debating amendments to such bills as the manpower bill, the equal employment opportunity bill, the occupational safety and health bill, the coal mine safety bill.

It does not take much imagination to see what would have happened to those bills if they had come to this floor without the close consideration given these bills in the subcommittees and in the full committee. All decisions on truly critical sections will be postponed. Postponed to the floor where the valuable time of every Senator will be taxed to the fullest. These hard questions should be reduced to the bare minimum in the crucible of the committee and its subcommittees. But, I ask you, how hot will that crucible be if only six Senators can meet to boil away the fat that so often overlays the legislation brought before this committee.

Therefore, Mr. President, I do not see that the objective of the majority will be advanced. Indeed, it may be retarded. And the price that we must pay for this apparent efficiency is minority legislation—legislation that has not been truly refined, legislation that will not deserve the confidence nor trust of the American people. I truly lament this black hour in the history of good government. I cannot believe that the American people will be at all pleased with government based on the principle that quick action even if it is wrong is better than fully considered laws won at the expense of larger consideration in committee and subcommittee.

Mr. President, in connection with my remarks, I ask unanimous consent that an editorial from the Golden Daily Transcript entitled "Health Insurance Gets to Congress," be printed in the RECORD.

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

[From the Golden Daily Transcript, Mar. 3, 1971]

A CONSERVATIVE VIEW: HEALTH INSURANCE GETS TO CONGRESS

(By James J. Kilpatrick)

Any thoughtful discussion of the various pending proposals for national health insurance ought to begin with the threshold question: How in the name of the Constitution did health insurance get to be the business of the United States Congress?

No one asks that kind of question anymore. It is just generally assumed that Congress has power to do anything that Congress wants to do, and only a few aging troglodytes still mumur of the Tenth Amendment and the doctrine of enumerated powers. Let us get on.

To the assumption that Congress somehow has the power, constitutionally speaking, to adopt legislation in this field, one other assumption has to be granted. This one has considerable validity: It is the assumption that the time has arrived when Congress is ready to go beyond Medicare, beyond Medicaid, beyond the proliferating grants for health research. In some form, a plan of national health insurance almost certainly will be approved by the 92nd Congress.

On these assumptions, Mr. Nixon's proposal for a National Health Insurance Standards Act is a ten-strike. It is superior in every way to the alternative program, known as the Kennedy-Reuther plan, advanced by a group of Senate liberals headed by Edward Kennedy of Massachusetts. If battle lines are to be drawn—and they will be drawn—conservatives will want to throw their energies squarely behind the President.

Under the Kennedy approach, the nation's existing body of private health insurance would be dealt a fatal blow, the Federal government itself, through a massive program of new taxation, would take over the entire field of medical services, cradle to grave. The prospect, under Kennedy, is for total nationalization in the European fashion. Only the forms, and not the substance, of private practice would remain.

In his message of February 18, Mr. Nixon spelled out his objections to any such course:

"Under a nationalized system, only the Federal Government would lose when inefficiency crept in or when prices escalated; neither the consumer himself, nor his employer, nor his union, nor his insurance company would have any further stake in controlling prices. The only way that utilization could be effectively regulated and costs effectively restrained, therefore, would be if the Federal Government made a forceful, tenacious effort to do so.

"This would mean—as proponents of a nationalized insurance program have admitted—that Federal personnel would inevitably be approving budgets of local hospitals, setting fee schedules for local doctors, and taking other steps which could easily lead to the complete Federal domination of all American medicine. That is an enormous risk—and there is no need for us to take it. There is a better way—a more practical, more effective, less expensive, and less dangerous way—to reform and renew our nation's health system."

Mr. Nixon's idea is to impose upon all employers (and he means all employers, down to those having a single employee) a requirement that they provide basic health insurance after July 1, 1973, for their workers. By "basic," he means insurance covering hospital services and physicians' fees, plus "certain other medical expenses" not specified. His minimum package would include "certain deductible and coinsurance features." Employees could be required to pay up to 25 percent of the premium costs.

The President also would create a new Family Health Insurance Plan, fully financed through Federal taxes, to provide coverage for the poor and unemployed. He would retain Medicaid for the blind and the disabled. He would raise the Social Security tax base in order to take over the entire cost of Medicare for the aged.

Mr. Nixon's package contains a great deal more—new funds for medical education, for cancer research, for the encouragement of Health Maintenance Organizations. Some of these elements may be makeweights. The key point is the preservation of a basically private system of health insurance and medical service. Granting the original assumptions, the President's plan has great appeal.

Mr. GRIFFIN. Mr. President, I listened with interest to the remarks of the distinguished Senator from Colorado. I have quickly glanced at the rules of the Senate to try to determine whether or not the action taken by the Committee on Labor and Public Welfare is consistent with the rules of the Senate. Has the Senator from Colorado had an opportunity to examine that question?

Mr. DOMINICK. I thank the Senator from Michigan for bringing up this point. I have had and, unfortunately, under the Reorganization Act of 1946 as amended in 1950, it is stated that the Senate may, if it so chooses, go to a one-third quorum. I do not think that it specifically refers to subcommittees but it does refer to committees.

It does not seem to me to be right that we have less than a majority to act in executive committee on amendments. Nevertheless, these were the rules adopted by the full committee on a straight partisan vote.

Mr. GRIFFIN. Was this a change in the Reorganization Act that was passed in the last session?

Mr. DOMINICK. The Reorganization Act that was passed last session did not contain this provision. This provision was added in 1950 and was redesignated as paragraph 5(a) of rule XXV in the act of last session.

Mr. GRIFFIN. It is my recollection that there was recognition, of course, of the fact that to hold hearings many times a quorum of less than a majority would be appropirate; but I frankly must confess I never realized there was any authority under the Senate rules to take action on legislation when less than a majority of the committee was present.

Mr. DOMINICK. I frankly agree with the Senator. I did not realize that provision was in there either. There is a provision that there must be a majority to report the measure to the floor, and that is all; and with respect to executive committees and subcommittees, as far as reporting to the full committee of a measure or amendments, a one-third quorum is sufficient. At least, that is what the majority party decided yesterday in the debate in committee.

Mr. GRIFFIN. The process of going through the bill, marking up the bill, and voting on amendments can be accomplished under the new rules with only one-third of the members present; and the committee can have an executive meeting where a majority is present and the only question would be whether to report a measure or not.

Mr. DOMINICK. The Senator is correct. I find this to be extremely distressing. I think it will result in much more time spent on the floor debating measures and in measures being much more hastily considered, legislation perhaps in an extraordinarily important area.

Mr. GRIFFIN. It might well be that a resolution or measure to amend the rules of the Senate would be something to consider.

QUORUM

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

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

EXTRAORDINARY CONTRACTUAL ADJUSTMENT AUTHORIZED BY NASA CONTRACT ADJUSTMENT BOARD

A letter from the Acting Administrator of the National Aeronautics and Space Administration reporting, pursuant to law, an extraordinary contractual adjustment authorized by the NASA Contract Adjustment Board; to the Committee on Aeronautical and Space Sciences.

REPORT ON FINAL CONCLUSION OF JUDICIAL PROCEEDINGS REGARDING CLAIM OF CERTAIN INDIANS

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, a report on the final conclusion of judicial proceedings regarding the claim of the Lemhi Tribe, represented by the Shoshone-Bannock Tribes, Fort Hall, against the United States of America (with accompanying papers); to the Committee on Appropriations.

STATISTICAL SUPPLEMENT, STOCKPILE REPORT

A letter from the Director of the Office of Emergency Preparedness transmitting, pursuant to law, a report on the Statistical Supplement, Stockpile for the period ending December 31, 1970 (with an accompanying report) to the Committee on Armed Services.

REPORT ON ACTUAL PROCUREMENT RECEITS FOR MEDICAL STOCKPILE OF CIVIL DEFENSE EMERGENCY SUPPLIES AND EQUIPMENT

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of actual procurement receipts for medical stockpile of civil defense emergency supplies and equipment purposes for the quarter ending December 31, 1970; to the Committee on Armed Services.

RECEIPT OF PROPOSAL UNDER SMALL RECLAMATION PROJECTS ACT OF 1956

A letter from the Assistant Secretary of the Interior informing the Senate, pursuant to law, of an application for a loan of $1,365,000 and a grant of $460,000 for fish and wildlife enhancement to the Overland Ditch and Reservoir Co. of Hotchkiss, Colo.; to the Committee on Interior and Insular Affairs.

REPORT BY THE COMPTROLLER GENERAL ON THE ADMINISTRATION OF CONTRACTS AND GRANTS FOR CANCER RESEARCH BY THE NATIONAL INSTITUTES OF HEALTH

A letter from the Comptroller General of the United States transmitting a report, pursuant to request, on the administration of contracts and grants for cancer research by the National Institutes of Health, Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED MANPOWER REVENUE SHARING ACT OF 1971

A letter from the Secretary of Labor transmitting proposed Manpower Revenue Sharing Act of 1971 (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

S. 1117. A bill to provide for regulation of public exposure to sonic booms, and for other purposes (Rept. No. 92-34).

EXECUTIVE REPORTS OF A COMMITTEE

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

By Mr. MAGNUSON, from the Committee on Commerce:

Herbert F. DeSimone, of Rhode Island, to be as Assistant Secretary of Transportation.

Mr. MAGNUSON. Mr. President, I also report favorably sundry nominations in the National Oceanic and Atmospheric Administration which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

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

Donald J. Florwick, and sundry other persons, for appointment in the National Oceanic and Atmospheric Administration.

BILLS AND JOINT RESOLUTIONS INTRODUCED

By Mr. TALMADGE (by request):

S. 1211. A bill to extend the authority for insuring loans under the Consolidated Farmers Home Administration Act of 1961. Referred to the Committee on Agriculture and Forestry.

By Mr. CHURCH:

S. 1212. A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code of 1954 in the case of certain contributions of ordinary income property. Referred to the Committee on Finance.

By Mr. McINTYRE:

S. 1213. A bill to increase the availability of guaranteed home loan financing for veterans and to increase the income of the national service life insurance fund. Referred to the Committee on Veterans' Affairs.

By Mr. METCALF:

S. 1214. A bill to amend the Federal Property and Administrative Services Act of 1949 with respect to the disposal of excess and surplus personal property, and for other purposes. Referred to the Committee on Government Operations.

By Mr. JACKSON (by request):

S. 1215. A bill to authorize the Secretary of the Interior to conduct a study with respect to certain land acquisitions by the United States in Guam. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON:

S. 1216. A bill to amend the National Environmental Policy Act of 1969 (Public Law 91-190), to fund and establish a nonprofit Environmental Policy Institute and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 1217. A bill to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 1218. A bill to declare that certain federally owned lands in the State of Nevada are held by the United States in trust for Reno-Sparks Indian Colony, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON (by request):

S. 1219. A bill to amend the Federal Trade Commission Act. Referred to the Committee on Commerce.

S. 1220. A bill to amend the Act to authorize appropriations for the fiscal year 1971 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

S. 1221. A bill to provide increased warranty protection for consumers, and for other purposes. Referred to the Committee on Commerce.

S. 1222. A bill to provide increased protection for consumers, prevent consumer fraud, and for other purposes. Referred to the Committee on Commerce.

S. 1223. A bill to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard. Referred to the Committee on Commerce.

By Mr. McINTYRE (by request):

S. 1224. A bill to clarify and extend the authority of the Small Business Administration, and for other purposes. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 1225. A bill to amend section 209 (a) and (b) of title 37, United States Code, to provide increased subsistence allowances for Senior Reserve Officers' Training Corps members. Referred to the Committee on Armed Services.

S. 1226. A bill to amend section 2107 of title 10, United States Code, to provide additional Reserve Officers' Training Corps scholarships for the Army, Navy, and Air Force. Referred to the Committee on Armed Services.

S. 1227. A bill to provide subsistence allowances for members of the Marine Corps officer candidate programs. Referred to the Committee on Armed Services.

By Mr. ALLOTT (for himself, Mr. ANDERSON, Mr. BURDICK, Mr. CANNON, Mr. HANSEN, Mr. HATFIELD, Mr. JACKSON, Mr. JORDAN of Idaho, Mr. McGOVERN, Mr. MOSS, and Mr. STEVENS):

S. 1228. A bill to restore the golden eagle program to the Land and Water Conservation Fund Act. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS (for himself and Mr. SPONG):

S. 1229. A bill to extend for 6 months the time for filing the comprehensive report of the Commission on the Organization of the District of Columbia. Referred to the Committee on the District of Columbia.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 1230. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Stockbridge Munsee Community, Wis. Referred to the Committee on Interior and Insular Affairs.

By Mr. BURDICK (for himself, Mr. ALLOTT, Mr. MANSFIELD, Mr. METCALF, and Mr. YOUNG) (by request):

S. 1231. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Pembina Band of Chippewa Indians in Indian Claims Commission docket Nos. 18-A, 113, and 191, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 1232. A bill to amend title 10, United States Code, to establish the authorized strength of the Naval Reserve in officers in the Judge Advocate General's Corps in the grade of rear admiral, and for other purposes. Referred to the Committee on Armed Services.

By Mr. INOUYE (for himself, Mr. COOPER, Mr. COTTON, Mr. DOMINICK, Mr. EASTLAND, Mr. GURNEY, Mr. HATFIELD, Mr. HOLLINGS, Mr. MAGNUSON, Mr. MANSFIELD, Mr. METCALF, Mr. MONTOYA, Mr. MUSKIE, Mr. RANDOLPH, Mr. STEVENS, Mr. THURMOND, and Mr. WILLIAMS):

S. 1233. A bill to amend the Internal Revenue Code of 1954 to provide the same tax exemption for servicemen in and around Korea as is presently provided for those in Vietnam. Referred to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. BIBLE, Mr. BURDICK, Mr. BYRD of Virginia, Mr. CANNON, Mr. COOPER, Mr. CRANSTON, Mr. EASTLAND, Mr. GURNEY, Mr. HATFIELD, Mr. HARRIS, Mr. HART, Mr. BAYH, Mr. HOLLINGS, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MATHIAS, Mr. McGOVERN, Mr. MILLER, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mrs. SMITH, and Mr. STEVENSON):

S. 1234. A bill to establish limits on the assignment of a member of the Armed Forces to a combat zone and for other purposes. Referred to the Committee on Armed Services.

By Mr. SCHWEIKER (for himself and Mr. SCOTT):

S. 1235. A bill to provide that the Allegheny Center Urban Renewal Project in Pittsburgh, Pa., may include the donation of certain property for development and nonprofit operation as an historical site or museum. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATHIAS:

S. 1236. A bill for the relief of Randall L. Talbot. Referred to the Committee on the Judiciary.

By Mr. TUNNEY (for himself, Mr. ANDERSON, Mr. BAYH, Mr. BIBLE, Mr. BROOKE, Mr. BURDICK, Mr. CRANSTON, Mr. EASTLAND, Mr. GRAVEL, Mr. GURNEY, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. McGEE, Mr. McGOVERN, Mr. MILLER, Mr. MUSKIE, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. SPONG, Mr. STEVENS, Mr. TOWER, Mr. WILLIAMS, and Mr. CHILES):

S. 1237. A bill to provide Federal financial assistance for the reconstruction or repair of private non-profit medical care facilities which are damaged or destroyed by a major disaster. To the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH:

S. 1212. A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code of 1954 in the case of certain contributions of ordinary income property. Referred to the Committee on Finance.

GIFTS TO LIBRARIES INCENTIVE ACT

Mr. CHURCH. Mr. President, I introduce for appropriate reference a bill to amend section 170(e) of the Internal Revenue Code. This bill will equate the incentive to donate certain income property to specified nonprofit and governmental institutions with the incentive to sell those materials on the open market. Even though this bill will modify the restrictions contained in section 170(e), it does not weaken the reform purpose of

the 1969 Tax Reform Act, and in some cases the restrictions in this bill strengthen that purpose.

Congress created an unfortunate hardship for its own Library when it enacted the Tax Reform Act of 1969. Through changes in section 1221(3) and in coordination with 170(e), that act eliminated one of the Library's most important incentives to donations of materials that the donor had created. That incentive was the right of the donor to deduct from his gross income the market value of his own original materials when given to a nonprofit institution. At this moment, the donor may deduct only the base value of those materials—the cost of their creation—and not their fair market value. Thus, it is much more profitable for authors, composers, and artists to sell their original works than to donate them. As a result, the ability of the Library of Congress to acquire original collections has diminished greatly. I believe this bill will furnish a solution without any untoward consequences.

The problem was brought to my attention by Archibald MacLeish, former Librarian of Congress, who wrote me that—

> The principal glory of the Library is its Manuscript Division and one of the great achievements of the Manuscript Division has been its acquisition of American literary manuscripts and related correspondence. Writers, public men and others were encouraged by the Internal Revenue Code as it stood prior to 1969 to give materials of this kind to the Library and its collections made significant gains. In 1969, however, the Tax Reform Act of that year . . . (made a) distinction between donors who themselves *created* literary and historic documents and others who *collected* them. The collector, commercial or academic or whatever, received tax advantages if he gave the materials to a library; the creator did not.

Therefore, Mr. President, in the form of this bill I would like to see Congress take corrective action which will enable our own Library, and her sister institutions, to enjoy at least an equal chance, along with private collectors, to obtain original manuscripts of great historical and cultural value.

The severity of the impact of the 1969 change is startling, particularly when one examines figures furnished to me by officials of the Library of Congress. In 1967, 1968, and 1969 the Manuscript Division of the Library received an average of 213,926 manuscript pieces.[1] In 1970, only 69,803 pieces were received and many of these were of negligible value. The Manuscript Division is not alone in suffering the impact of the law's change. Indeed, the Music Division of the Library reports a decline in the number of donors from an average of 36 in the 3 fiscal years prior to the law's change, to only six in the first fiscal year after the law went into effect. One extremely important collection denied to the Music Division has received recent public attention. Because of the change in the law, Igor Stravinsky has been forced to place his manuscript collection, valued at $3.5 million, on the open market when, prior to the change, he could have donated it to the Library and not been penalized financially. The plight of Mr. Stravinsky, and this entire problem, is discussed in an article by Irving Lowens which appeared in the January 24, 1971, edition of the Sunday Star. I shall ask unanimous consent to place this article, and one by John J. Kominski which appeared in manuscripts, in the RECORD following my remarks.

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

Mr. CHURCH. The Library of Congress is only one of many institutions to have felt the effect of the law's change. Both the Association of Research Libraries and the American Library Association have adopted resolutions supporting a change in the appropriate sections of the code.

In specific, the law now states that the donor of income property may deduct an amount which is equal to market value of the property minus the amount of gain. The amount of gain is the increase in the value of the property from the cost of the materials which went into its creation to the time of the donation. In other words, the donor can deduct only the cost of the property to him. This is particularly restrictive for the donor who wishes to give property he has created. The author, for example, has only the cost of the paper and ink to deduct and cannot claim the value added by his own creativity.

This bill would allow the donor of the income property to deduct the market value of the property minus "50 percent of the gain"—minus 50 percent of the difference between the property's market value and its original cost. This figure approximates the amount of income most donors would retain after selling the material on the open market and paying income tax on the profit. This change does not return the amount deductible to the previous status in which—in effect—the total value could be deducted with no tax payed on the appreciated value.

This bill allows the 50 percent rather than 100 percent reduction in the amount deductible only if the property is related to the function or purpose of the charitable recipient. Likewise, this benefit shall not be allowed for donations of income property to foundations which presently are excluded from receiving tax exempt gifts. Additionally, this legislation explicitly prohibits the receipt of these benefits from creator donated materials which were: "Written, prepared, or produced by or for an individual while he held an office under the Government of the United States or of any State or political subdivision thereof, and which was related to, or arose out of, the performance of the duties of such an office."

Mr. President, Congress has an obligation to the people of the United States and to its own Library to facilitate the preservation of historically and culturally valuable materials. In the past the Library of Congress has performed admirably. Now, however, our Library and similar institutions throughout the country are severely hampered. We, in Congress, should make every effort to provide a means by which the Library has at least an equal chance to obtain and preserve whole collections of important materials, thereby making them available to both the general public and the scholarly community. This bill will open the way for creators of important papers to make donations to public nonprofit institutions without suffering financial penalties; at the same time, we will not abandon the intent of the 1969 Tax Reform Act.

Mr. President, I send the bill to the desk, and I ask unanimous consent that the text of the bill appear following these remarks, together with the text of the two articles to which I previously referred.

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

S. 1212

A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code of 1954 in the case of certain contributions of ordinary income property

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 170(e) of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended—

(1) by inserting after "the amount of gain" in paragraph (1)(A) "(or, in the case of a contribution described in paragraph (3), 50 percent of the amount of gain)"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Certain contributions of ordinary income property.—For purposes of paragraph (1)(A), 50 percent of the amount of gain shall apply with respect to a contribution only if the use by the donee of the property contributed is related to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)); and shall not, in any case, apply to—

"(A) a contribution to or for the use of a private foundation (as defined in section 509(a)), other than a private foundation described in subsection (b)(1)(E), or

"(B) a contribution by a taxpayer described in section 1221(3) of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while he held an office under the Government of the United States or of any State or political subdivision thereof, and which was related to, or arose out of, the performance of the duties of such office."

(b) The amendments made by subsection (a) shall supply to taxable years ending after the date of the enactment of this Act, but only with respect to contributions of property after such date.

TAX REFORM: A "HALF-AXE" EFFECT ON MANUSCRIPT CONTRIBUTIONS

(By John J. Kominski, General Counsel, Library of Congress)

Among other changes it made in the Internal Revenue Code, the Tax Reform Act of 1969 amended Section 1221(3) by providing that letters, memoranda, and similar property (or collections thereof) *are not to be treated as capital assets* if they are held by the taxpayer whose personal efforts created the property or for whom it was prepared or by a person who received the property as a gift from the one who created it. Accordingly, these materials are treated as ordinary income property. In addition, the Act gave new treatment, in Sections 170(b) and (e), to the amount allowed as a charitable deduction by making donations of

[1] While the 1969 Act became effective in July of 1969, by far the greatest number of donations in that year came before the effective date.

such ordinary income property deductible only as to basis and not as to appreciation.

These two changes, perhaps more than any others, went a long way toward deferring gifts of manuscript materials to public institutions, such as the Library of Congress (which opposed these changes), or other organizations eligible for charitable treatment.

The wording of both House and Senate bills raised an immediate clamor among the literary world, and the Library of Congress felt the full impact of the growing concern among writers and composers. Attorneys, accountants, authors . . . all wanted to discuss the changes, to get the Library's views, to express doubts, resignation, and worst of all, disinterest in making future gifts. It was a reaction the Library expected, and although the Library hoped it would not be the case with all such donors, it conceded that it would most certainly be the case with those motivated in part by tax advantages.

The first seven months following passage of the Act pretty much tell the story. While other institutions have expressed a belief that changes in the law would not severely reduce private gifts, the Library felt otherwise. *Not a single new gift of a manuscript collection has been received by the Library since January 1970.* Some donors who had already established rather large collections were resigned to continue adding to them, but there were others in the same status who stopped contributing altogether. Furthermore, some authors felt the urge to express to the Library their resentment about the legislation in such creative terms that those letters, alone, may be said to have added immeasurably to the Library's collections.

More important than levity at this time, however, is an examination of just what changes in the Internal Revenue Code have brought about this reaction from authors and what those changes mean to the collector of manuscript materials.

It should be understood, at the onset, that a major purpose of the Act was to equalize the benefit of cash contributions and contributions of property which had increased in value, such as manuscripts. Under the old law, contributions of appreciated property could garner greater advantages to the donor than could a cash contribution. The old law allowed a deduction in the amount of the fair market value of the donated property at the time of the contribution and no tax became due on the appreciated value. Thus, the Congress considered that changes were necessary as a matter of equity if nothing else.

Basically, the concern of authors results from two changes made in the Internal Revenue Code with respect to gifts of appreciated tangible personal property: (1) the allowable amount of a charitable contribution of such property now depends on the character of that property; the amount may be appreciably lower for ordinary income property than for capital gain property, and (2) the term "ordinary income property", as initially stated, now includes "letters or memoranda," held either by the preparer or the person for whom such property was prepared.

On the other hand, the collector or inheritor of manuscript materials need not be so concerned. Materials which are ordinary income property in the hands of the creator-author, in most cases may become capital gain property in the hands of the collector or inheritor, and these latter individuals need only concern themselves with the particular nature of the donee charity or the use to which that institution will put donations of these materials. We shall consider the major and most drastic change first.

Prior to enactment of the changes, all donors of literary property (authors as well as collectors) could declare as a charitable deduction the fair market of the literary property at the time of the gift. No longer is that always true. The prospective donor must now consider the status of the property (ordinary income property or capital gain property) because of his relationship to it.

If the property, while in the donor's hands, is ordinary income property (as in the case of the author himself), the deduction is severely limited to cost basis alone. This rule is applicable *in all cases*, and the type of charitable recipient has no bearing on the amount of the allowable charitable deduction. Therefore, when the composer, artist, or author donates his original work, or the works of others *given to him*,[1] including letters received, the amount of his deduction may be little more than the cost of the paper and ink or the canvas and paint. It is important to note that these rules apply to contributions of ordinary income property made after December 31, 1969, with one exception: the effective date for contributions of letters, memoranda, or similar property prepared for or by the donor is July 25, 1969.

If the property is a capital gain property (as it would be in the hands of a collector), the deduction may be as much as the fair market value at the time of the contributions, i.e., the basis (cost) to the donor plus the appreciated value while he has held it. With respect to gifts of capital gain property, however, there are certain limitations on the allowable deduction. We shall consider these limitations **next.**

When a taxpayer donates tangible personal property which is not used by the donee charity directly in its exempt functions, the amount of the deduction for each donation of capital gain property is computed by subtracting 50 percent (62½ percent if a corporate donor) of the amount of the gain (that would have been long term capital gain had the donor sold the property) for the fair market value of the property at the time of the contribution. By way of example:

"Donor gives an eligible library a replica of a bronze French cannon (non-operative) 75mm. World War I vintage. For some reason, the library accepts this gift. The donor is a collector of artillery art pieces, and in his hands the cannon may be considered a capital gain property. However, it is not the type of material that particular library would collect or directly make use of. Donor is limited to a deduction of the cost to him of acquiring the art piece plus one-half the value said object has appreciated while in his possession."

On the other hand, if such property is *used* by the donee charity toward its exempt functions, it would appear that the donor will get the full fair market value as the amount of allowable deduction; consider:

"Donor is a collector of literary manuscripts. He wishes to donate some of these materials to an eligible library as well as several letters and memoranda which he has *inherited* from a deceased relative. Both types of property are considered capital gain property in his hands and both are materials which the library usually collects and directly uses. Assuming he proceeds with the gifts as planned, donor may deduct the full fair market value of these materials at the time of the gift."

The ceiling on *gifts of cash* was raised by the Act to 50 percent of an individual donor's adjusted gross income (it says at 5 percent for corporate donors) where the charity so qualifies, such as public charities (like the Library of Congress) and certain foundations. *However, gifts of capital gain property to qualifying charities remain subject to a deduction ceiling of 30 percent of an individual donor's adjusted gross income.* At present the only method by which the taxpayer may deduct contributions of appreciated property under the 50 percent maximum deduction ceiling is if he elects to take the unrealized appreciation in value into account for tax purposes—that is, "reduce the amount of the contribution".

An individual taxpayer may still carry over excess capital gain property deductions to his next five years, and the carryover retains its 30 percent status for purposes of computing the allowable charitable contributions deductions in these carryover years.

There are many other considerations that should concern a prospective donor of manuscript materials, all of which give immediate credence to the recommendation that the donor should seek professional advice about his own particular situation and the status of the institution to which he intends to make a gift. For example, some manuscript materials ordinarily thought of as capital gain property may, because of the short period they have been held (less than six months), be considered ordinary income property. On the other hand, some manuscript materials may be used in a donor's trade or business; in which case, only that portion of the gain (if the property is sold at its fair market value at the date of contribution) which is subject to depreciation recapture rules would be considered ordinary income property, and any gain above this amount is treated as capital gain property.

At this point it should be clear that of two groups of prospective donors, collectors and authors, only the latter has experienced more acutely the "Congressional axe". In summary, then, the Tax Reform Act of 1969 has left us with three methods of treating charitable contributions:

1. *Cash contributions.* The new law now permits deductions of up to 50 percent of the donor's adjusted gross income, but gradually phases out the little-used "unlimited charitable deduction" provisions. This change should serve to increase cash contributions.

2. *Appreciated property of the ordinary income type.* The Act has created drastic change in this area; contributions of ordinary income property (such as literary property, including letters and memoranda) by creators are greatly discouraged. Early statistics appear to confirm this conclusion.

3. *Appreciated property of the capital gain type.* The new legislation has continued favorable treatment in this area; philanthropic inducement still permits a donor to deduct gifts of such property at their fair market value without recognizing any gain for tax purposes. There are two limitations: (1) to get the full fair market value, the donee charity must be able to use the gift directly in relation to its tax exempt purposes, and 2) the ceiling on such gifts is 30 percent of the donor's adjusted gross income. With respect to this latter limitation, however, a special option permits a donor to deduct gifts of such property up to 50 percent of his adjusted gross income if he reduces the value of his gift by one-half (½ of the appreciated portion. *Caveat:* if a taxpayer exercises this option, all deductions involving appreciated property for that year, including deductions carried forward from earlier years, must be similarly reduced. A donor may prefer this alternative when a gift property has a substantial fair market, but that part of the value which is appreciation is small.

[1] As used here, "gift" would not include inherited property. Inherited property is capital gain property. Thus, a widow of an author may get the full tax advantage if she *inherits* the manuscrip material.

Music: Why Tax Reform Should Be Reformed

(By Irving Lowens)

A few months ago, Igor Stravinsky's original manuscripts and personal papers were put up for sale on the open market. The price tag was $3.5 million, and considering their importance, anyone buying them would be getting a bargain.

These days, it costs $25 million per mile or more to build a superhighway. Are the thousands of items offered by Stravinsky, including the manuscripts of compositions which altered the entire history of 20th century music, worth less than one-fifth of a mile of concrete?

The Stravinsky papers have not yet been sold as of this writing. If you want to snap them up, Lew D. Feldman (30 East 62 Street, New York 10021) will be glad to accept your $3.5 million.

Meanwhile, the Library of Congress, to whom Stravinsky had been presenting his papers from year to year, sits on the sidelines biting its fingernails and hoping that some rich and civic-minded collector will buy them and donate them to the Library as a gift. The Library doesn't have $3.5 million with which to buy the papers, in which the Soviet Union reportedly has shown a lively interest.

The appearance of the Stravinsky papers on the open market seems to have been a direct result of certain strange provisions of the Tax Reform Act of 1969. Formerly, donors of literary properties (authors and composers as well as collectors) could declare as a charitable deduction the fair market value of the literary property at the time of the gift.

In other words, if Stravinsky gave to the Library of Congress as a gift his own manuscripts which would bring $3.5 million if sold, he could claim a deduction of that amount on his income tax return.

This is no longer true.

According to Section 1221(3) of the Internal Revenue Code, such things as music manuscripts, literary manuscripts, letters, memoranda and similar property, when still in the hands of the person whose personal efforts created the property, are no longer entitled to this treatment. If a composer wants to give them away to a library, law holds that these properties cannot be considered capital assets. They must be considered ordinary income properties, and as such, their value is established on a cost basis.

Thus, Stravinsky's original manuscripts in his hands are worth little more than the cost of paper and ink, regardless of their fair market value.

Ironically, exactly the same materials are considered capital assets when they are in the hands of a collector. This means that their value is established on the basis of the market. Thus, the collector giving the Stravinsky materials to the Library of Congress as a gift could legitimately claim a $3.5 million tax deduction, if that it what he paid for them; Stravinsky himself could claim nothing.

The Tax Reform Act, signed by President Nixon in December, 1969, was made retroactive to July 26, 1969. It was the intent of the amendments discussed here to make it impossible for former presidents (and especially Lyndon Johnson) and politicians to claim large income tax deductions by making gifts of their personal papers to presidential libraries.

The proponents of the Tax Reform Act had no special animus towards authors and composers, to say nothing of libraries, but the result of their work has been to penalize creators and to wreak havoc with acquisitions policies in scholarly institutions.

The Library of Congress formerly leaned heavily upon the tax advantage provisions of the old law in building up its magnificent collections of manuscript papers. Suddenly, their source of supply was shut off. Writing in July of last year, John J. Kominski, General Counsel of the Library, stated that "not a single new gift of a manuscript collection has been received by the Library since January, 1970."

The same story is being repeated in libraries across the country; the tax revision is looming as a major disaster.

Every January, a report on notable music acquisitions during the previous fiscal year (which runs from July through June) is printed in the "Quarterly Journal" of the Library of Congress. At first glance, the 1971 report, written by Edward N. Waters of the music division, looks very similar to that of 1970. But there is an ominous reference, in the second sentence, to the fact that "patterns of growth differed somewhat from the previous year," and a close reading of the section devoted to manuscripts of living composers shows how.

Discounting original manuscripts added to the collection as the result of commissions from the Coolidge and Koussevitzky Foundations (their legal status is still unclear), the division received as gifts manuscripts from only eight composers—Richard Adler, Radie Britain, Aaron Copland, Robert Evett, Don Gillis, Robert Parris, Igor Stravinsky and Edwin John Stringham—between July 1, 1969 and June 30, 1970. Several of these gifts were received before July 26, 1969.

Compare this to the Waters report on the previous year's acquisitions in the January 1970 "Quarterly Journal" and the change becomes painfully clear.

Between July 1, 1968 and June 30, 1969, the music division received gifts of manuscripts from 28 composers—Hugh Aitken, William Bergsma, Elliott Carter, Aaron Copland, Paul Creston, Alvin-Etler, Robert Evett, Johan Franco, Edmund Haines, Howard Hanson, Roy Harris, Alan Hovhaness, Karel Husa, Ulysses Kay, Meyer Kupferman, Ezra Laderman, Benjamin Lees, Nikolai Lopatnikoff, Teo Macero, Peter Mennin, Robert Merrill, Darius Milhaud, Vincent Persichetti, David Raksin, Gardner Read, William Schuman, Robert Starer and Igor Stravinsky.

Perhaps even more alarming than the drastically curtailed list of donations during the first full years the Tax Reform Act was in effect is the degree to which the Library's search for new and important collections of papers and manuscripts has been hobbled.

When the Library does find a prospective donor whose papers it feels are important enough to warrant inclusion in the national collections, it is very careful to advise him that a gift at this time of materials of his own creation may not benefit him taxwise. A copy of the General Counsel's "Memorandum on the Tax Reform Act of 1969" is furnished with the suggestion that he may want to discuss the matter with his accountant or lawyer.

Currently, the Library is urging prospective donors to consider placing their papers in the collections on a deposit basis. This means that the owner would retain legal title to them while, at the same time, they would be made available for research purposes.

It does not require much imagination to see this as a holding action until the problem caused by the new provisions of the Internal Revenue Code has been solved.

As serious as is the situation in the music division, it appears to be worse in the manuscripts division. The Tax Reform Act of 1969 strikes directly at many of that division's donors.

"The effects of the law have been damaging to the acquisition program of the manuscript division," stated Mary C. Lethbridge, the Library's information officer. "In 1969 several important collections were here on deposit pending the results of tax reform. When the provisions of the law were made known one playright withdrew his papers immediately. An actor also withdrew material on deposit, although some of his papers remain as earlier gifts to the Library. A poet requested the return of his deposited materials but was persuaded at last to let them remain on deposit. A novelist wrote an angry letter of protest, implying that his periodic gifts to the Library were at an end.

"Although the collections cited are in the arts where self-creation of valuable material is more obvious, the chief loss was a political-judicial collection for which a gift in 1969–70 had been planned.

"In 1970 there have been virtually no gifts of self-created material, although material has been received on deposit. Such deposits have come from long-term donors. No deposits of material for which there was no prior history of negotiation and/or earlier gift occurred. For example, one earlier donor deposited extremely valuable material in 1970 but gave nothing. A woman prominent in the theater gave only the segment of her papers identifiable as inherited; the remainder is on deposit."

The music division, too, has had its withdrawals of materials on deposit. It too has had its angry letters of protest. It too has received no deposits of material for which there was no prior history of negotiation.

No one in the Library is optimistic about future acquisitions of gift of manuscripts and personal papers belonging to live creators until the cost basis for tax deductions, established by the Tax Reform Act of 1969, can be returned to the fair market value basis of earlier years.

The ill-considered amendments to Section 1221 (3) of the Internal Revenue Code damage both creators and institutions of learning. If Stravinsky is to reap any financial benefit from his own manuscripts, he is forced to sell them. If the Library of Congress is to have such national treasures in its collections, it is forced to buy them. Neither of the principals involved does this willingly; the country as a whole loses because of the situation.

The National Music Library Association holds its annual meeting in Washington at the Dodge Hotel beginning next Wednesday. I hope that many of the librarians assembled here, whose institutions have been hurt just as much as the Library of Congress by the new tax provisions, will take advantage of their presence in the Nation's Capital to let their representatives in the Congress know their feelings in this matter.

By Mr. McINTYRE:

S. 1213. A bill to increase the availability of guaranteed home loan financing for veterans and to increase the income of the national service life insurance fund. Referred to the Committee on Veterans Affairs.

HOUSING FOR VETERANS

Mr. McINTYRE. Mr. President, the housing needs of our Nation remain great and I introduce for appropriate reference a bill which I hope will be of assistance to veterans in securing homes.

Veterans have a special problem, as the Congress has understood and faced throughout our history. We have provided for veterans, because through their service their lives are disrupted at the very time they might be establishing themselves in their life's work, purchasing a home, and generally getting started in establishing themselves as citizens.

The Federal Government, through its VA home loan program, has provided special benefits for veterans who wish to purchase their own homes. In recent years, the increasing number of veterans coming home from Vietnam have, in varying degrees, depending on conditions in their own sections of the country, found it difficult at times to obtain mortgage money from local banks—even with the VA guarantee.

The bill I am introducing would provide a new source of funds for veterans' mortgages. It would set aside up to $5

billion—now held in the national service life insurance fund in low-yielding bonds—and provide that these funds could be invested in Government guaranteed VA mortgages. This would result in two distinct benefits to veterans:

First, it would make more money available immediately for veterans' housing.

Second, by providing a higher yield to the national service life insurance fund, it would provide greater security and possibly higher dividends to veterans holding national service life insurance.

Mr. President, I feel there is even greater need for this housing assistance for veterans in face of the administration's recommendation that the direct loan program for veterans housing be eliminated. I happen to disagree with this recommendation because the direct loan program has been of enormous assistance to veterans and it has paid for itself. But, if the administration's recommendation stands, this proposal I am making takes on added significance.

Mr. President, I ask unanimous consent that this bill, which is the same measure introduced in the House of Representatives by the distinguished chairman of the House Veterans' Affairs Committee, be printed in the RECORD at this point.

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

S. 1213

A bill to increase the availability of guaranteed home loan financing for veterans and to increase the income of the national service life insurance fund

Be it enacted by the Senate and House of of Representatives of the United States of America in Congress assembled, That (a) subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 1828. Investment of funds of the national service life insurance fund in first mortgage loans guaranteed under section 1810 of this chapter

"(a) When issuing a commitment to guarantee a proposed home mortgage loan under section 1810 of this chapter the Administrator is authorized and is hereby directed to issue, if such is requested by the lender-mortgagee, a non-assignable commitment to purchase the completed loan from such lender-mortgagee. For each such commitment the lender-mortgagee shall pay a nonrefundable fee of not in excess of one-half per centum of the amount of the commitment. Such commitment shall provide for the purchase of the loan from the lender-mortgagee for the price specified in the commitment (which price shall be specified as a percentage of par) if the lender-mortgagee certifies to the Administrator, subsequent to the disbursement of the loan proceeds but not later than one hundred and eighty days from the date of the Administrator's issuance of the loan guaranty evidence that—

"(1) it has not been successful in effecting a sale of the loan to a private investor at a price equal to or in excess of that specified in the Administrator's commitment;

"(2) it has not charged or collected from and will not charge or collect from the seller or builder of the property, or from any third person or entity, directly or indirectly, any discount (points) in excess of the difference between the face amount of the loan and the price specified in the Administrator's purchase commitment plus the commitment fee specified in this subsection (a);

"(3) the loan is not in default.

The purchase price specified in any purchase commitment issued under this subsection shall not be less than the average price for which one-hundred-and-eighty-day purchase commitments were auctioned by the Federal National Mortgage Association at the last Association auction preceding the issuance of the Administrator's purchase commitment, but in no instance shall the Administrator agree to pay more than par (unpaid principal balance plus accrued interest) nor less than 96 per centum of par for any loan purchased under this subsection. If an auction of purchase commitments by the Federal National Mortgage Association has not been conducted during the three months immediately preceding the issuance of a commitment under this subsection the price to be specified in such commitment shall be determined by the Administrator but any such price determination by the Administrator shall not exceed par nor be less than 96 per centum of par. Upon the purchase of a guaranteed loan pursuant to a commitment issued under this subsection the Administrator's guaranty of the loan shall continue in full force and effect and shall inure to the investment fund established in subsection (b) of this section. Insofar as practicable the Administrator shall utilize the purchase authorization in this subsection in those localities where the discount levels are determined by him to be substantially in excess of the discounts entailed in the Federal National Mortgage Association average auction prices for its one-hundred-and-eighty-day purchase commitments.

"(b) There is hereby established in the Treasury of the United States a revolving fund to be known as the national service life insurance investment fund (hereinafter called the investment fund). The investment fund shall be available to the Administrator for all operations under this section, including the payment of expenses and losses, except administrative expenses. To provide the Administrator with the funds necessary to purchase loans as the consequence of commitments issued or to be issued pursuant to subsection (a) of this section, the Secretary shall, as authorized by section 720(c) of this title, transfer such funds from the national service life insurance fund (hereinafter called the insurance fund) to the investment fund, except that the aggregate of transfers pursuant to this subsection shall not, in the period between the enactment of this section and June 30, 1974, exceed $5,000,000,000, and such transfers of funds during any fiscal year within such period—

"(1) may not exceed the sum of the investments of the insurance fund which mature in that fiscal year, and

"(2) may not be in an amount greater than authorized in an appropriation Act.

"(c) The Administrator shall utilize the funds transferred to the investment fund as provided in subsection (b) of this section to purchase loans pursuant to commitments issued as provided by subsection (a) of this section. Wherever the Administrator determines that the effective yield on loans eligible for purchase at any given time would be less than that which would be obtained from an alternative investment in special securities of the Treasury Department, he shall direct that sums then available in the investment fund for purchases of loans shall be invested in such special Treasury securities. The insurance fund shall be paid interest on all funds transferred to the investment fund at the same rate as the average interest rate on loans purchased and special Treasury securities held by the investment fund less 1 per centum but in no event less than the average return on the other invested portion of the insurance fund. All moneys received by the Administrator from the repayment of such loans shall be deposited in the investment fund and shall also be available, until June 30, 1975, for the purchase of loans as provided in this section, except that if the Administrator at any time determines that the balance in the investment fund is in excess of anticipated needs for the purchase of loans, he may so notify the Secretary of the Treasury, who shall then transfer such excess to the insurance fund. To assure against the impairment of the insurance fund on account of expenses and losses resulting from the purchase of loans under this section, the Administrator shall establish and retain within the investment fund an adequate reserve for such expenses and losses. All collections of interest on loans purchased and all nonrefundable commitment fees received pursuant to the authority in subsection (a) of this section shall be deposited in the investment fund by the Administrator, who shall, after determining the amount to be retained in the investment fund as a reserve for expenses and losses, periodically notify the Secretary as to the amount of such interest collections available for transfer to the insurance fund and the Secretary thereupon shall effect such transfers. Such transfers shall constitute the payment of interest to the insurance fund. The Administrator is authorized to invest on an interim basis unexpended balances of the investment fund, including the reserve for expenses and losses, in obligations of the United States Government or agencies thereof. After June 30, 1975, all moneys received in the repayment of loans purchased pursuant to subsection (a) of this section and all interest collections on such loans, except for such sums which the Administrator determines to be necessary for retention in the investment fund as a reserve for losses, shall be deposited in the insurance fund. Such deposits shall be continued until the funds transferred to the investment fund by the insurance fund are repaid in full with interest.

"(d) In the event of a deficiency in the investment fund reserves for expenses and losses, the Administrator is hereby authorized and directed to guarantee the investment fund against loss of interest or principal and shall discharge such guarantee by transferring to the investment fund from available funds of the loan guaranty revolving fund such sums or sums as may be necessary to defray such deficiency. Any deficiency in the investment fund defrayed by the loan guaranty revolving fund shall be paid to such fund by the investment fund as soon as such payment becomes feasible.

"(e) The Administrator may sell, and shall offer for sale, any loan purchased under the authority of this section at a price determined by the Administrator, but not less than the price paid by the Administrator to purchase the loan (that is, the percentage of the unpaid balance of the loan), plus accrued interest. The Administrator may, in respect to loans thus sold, guarantee any such loans subject to the same conditions, terms, and limitations as would be applicable in the case of loans guaranteed under section 1810 of this chapter. The proceeds of any such sales shall be deposited in the investment fund.

"(f) Notwithstanding any of the foregoing provisions of this section, the Administrator, when authorized by appropriation Acts so to do, may set aside first mortgage loan assets of the investment fund as the basis for the sale of participation certificates pursuant to and in accordance with the provisions of the Participation Sales Act of 1966 (Public Law 89-429), and until June 30, 1974, the proceeds of any sale of such participation certificates shall be deposited in the investment fund and be available for the purposes of that fund. After June 30, 1974, the proceeds of any sales of such participation certificates shall be deposited in the insurance fund.

"(g) In the administration and management of the investment fund the Adminis-

trator shall, to the extent feasible, invest the funds thereof in loans which will represent a broad spectrum of the veteran homebuying population in respect to age, income, and location of the properties which will constitute the loan securities. In order to facilitate a more adequate supply of mortgage financing for veterans in the lower and middle income brackets the Administrator shall purchase only loans not in excess of $30,000 which are secured by single-family dwellings only. The Administrator is authorized to adopt such standards, policies, and procedures and to promulgate such regulations as he considers necessary or appropriate for carrying out his functions and responsibilities under this section. In carrying out such functions and responsibilities the Administrator may contract with private entities for the servicing of any loans purchased by him for the investment fund provided that the servicing fee payable pursuant to any such contract shall not exceed the Administrator's estimate of the cost of the direct servicing of such loans by agency employees."

(b) The anaylsis of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following:

"1828. Investment of funds of the national service life insurance fund in first mortgage loans guaranteed under section 1810 of this chapter."

SEC. 2. Paragraph (1) of section 1811(c) of title 38, United States Code, is amended to read as follows:

"(1) he is unable to obtain from a private lender in such housing credit shortage area, a loan for such purpose for which he is qualified under section 1810 of this title, at an interest rate not in excess of the rate authorized for guaranteed home loans and at a discount charge to the seller or builder not in excess of the discount (if any) determined to be reasonable by the Administrator who shall, whenever feasible to do so, base such determination on the discount involved in the latest average auction price for the Federal National Mortgage Association purchase commitments but not in excess of a 4 per centum discount in any event; and".

SEC. 3. Section 720 of title 38, United States Code, is amended by adding at the end thereof the following new subsection (c):

"(c) The Secretary of the Treasury is authorized and directed to transfer from time to time from such fund to the Investment Fund established under section 1828 of this title such amounts as are necessary to purchase loans as a consequence of commitments issued or to be issued by the Administrator pursuant to subsection (a) of section 1828, of this title, and shall transfer from the investment fund to the national service life insurance fund, upon notification by the Administrator, such amounts as the Administrator determines are available for such transfer pursuant to the provisions of section 1828. The funds transferred from the national service life insurance fund under this section to the investment fund, together with the interest thereon as computed under section 1828(c) of this title, shall be guaranteed as to principal and interest by the United States."

By Mr. JACKSON (by request):

S. 1215. A bill to authorize the Secretary of the Interior to conduct a study with respect to certain land acquisitions by the United States in Guam. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I send to the desk for appropriate reference a bill to authorize the Secretary of the Interior to conduct a study with respect to certain land acquisitions by the United States in Guam.

On January 18, 1971, the Legislature of Guam adopted Resolution No. 6, "Relative to respectfully requesting and memorializing the Congress of the United States to establish a Commission to reopen and reexamine the process whereby the Federal Government obtained title to one-third of the territory of Guam with a view to determine whether the people whose land was so acquired were properly compensated for their loss."

By letter of February 23, 1971, the Honorable A. B. Won Pat, Guam's elected representative in Washington, requested that I have drafted a legislative proposal responsive to the Guam Legislature's resolution. Pursuant to this request, I am today introducing proposed legislation that would authorize the Secretary of the Interior to make a thorough investigation of the adequacy of compensation paid to Guamanians for lands acquired by the United States and to submit a report to the Congress of his findings and recommendations with respect thereto.

I ask unanimous consent that Resolution No. 6 of the 11th Guam Legislature, together with the communication I received from Mr. Won Pat and the proposed legislation, be printed in the RECORD following my remarks.

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

RESOLUTION No. 6

Relative to respectfully requesting and memorializing the Congress of the United States to establish a Commission to reopen and re-examine the process whereby the Federal government obtained title to one-third of the territory of Guam with a view to determine whether the people whose land was so acquired were properly compensated for their loss

Whereas, in the latter stages of the Second World War and in the build-up of Guam as a major defense base for the U.S. Navy, the U.S. Army, the U.S. Air Force and other Federal agencies following World War II and the start of the Cold War, a very large percentage of the limited land area within the territory of Guam was acquired by the United States for defense purposes, the total of both Federally-owned and Federally-leased land representing thirty-six percent of all the real property in Guam; and

Whereas, with Guam being so limited in land area and with the only asset belonging to many Guam families being their inherited piece of property, it is respectfully submitted that the United States government, in acquiring this land, was under a duty to see that the rights of all local landowners were safeguarded and fair compensation was afforded to all; and

Whereas, unfortunately, a history of Federal land-taking after World War II discloses quite the contrary; that is, the people of Guam were not properly compensated, were not advised of their rights, and were generally deprived of their property without due process of law and without just compensation; and

Whereas, the facts supporting the foregoing charge were as follows:

1. The acquisition of land for defense purposes immediately following World War II was in the hands of the Naval government; there was no independent judicial system, the so called "Superior Court" being staffed by Naval officers who were under the direct command of that same officer who was condemning or otherwise acquiring Guam land for defense bases;

2. The people of Guam immediately following the Second World War were deeply grateful to the United States for having been liberated from the Japanese and were additionally inculcated with a deep respect, if not fear of the United States Navy, which had been running the territory of Guam in a high-handed manner since 1898; accordingly, it was almost impossible for the average Guamanian to refuse to voluntarily give up his land to a Naval representative requesting the same, especially since it was put to him on the basis of patriotism and loyalty; there are many well attested incidents where Naval negotiators intimidate the owners and prevent any fair negotiations;

3. There are other well attested incidents wherein illiterate and unsophisticated Guamanians were persuaded to sign stipulations approving fee title acquisitions in the belief that they were signing mere leases for licenses for the United States to use their lands temporarily, and this deceit on the part of the Federal negotiators was willful and deliberate; and

Whereas, one of the most unfortunate aspects of this history is that those relatively few Guamanians who were both wealthy enough and sophisticated enough to refuse to deal with the Navy negotiators ended up with fair compensation for their land since they never lost title until after the passage of the Organic Act which established an independent Federal court and permitted the orderly and fair acquisition of land through eminent domain proceedings following the Federal statutes and the Federal Rules of Civil Procedures, and thus the rich, whose holdings were quite large and extensive, ended up well paid for their lands, while the poor, who usually had only small holdings, received practically nothing; and

Whereas, since these people who lost their lands under such unfair circumstances are without any adequate remedy at law, any applicable statutes of limitation having long since expired, the only possible solution or form of relief is action by the Congress to set up a Claims Commission to re-open the whole question of Federal land acquisition in the territory of Guam immediately following World War II; and

Whereas, it should be of salutary interest to the Congress to know the principal reason why the Trust Territory islands have for the most part strenuously resisted the commonwealth status offered them by the Federal government is the fear that with commonwealth will come Federal acquisition of their very limited land, and with the history of the people of Guam's loss of their land continually before them they indeed have good reason to fear for their future; now therefore be it

Resolved, that in view of the foregoing, the Eleventh Guam Legislature does hereby on behalf of the people of Guam respectfully request and memorialize the Congress of the United States to establish a Claims Commission to review and re-open if necessary the land acquisitions undertaken by the Federal government in the territory of Guam following the Second World War; and be it further

Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Secretary of the Interior, to the Secretary of State, to the Attorney General of the United States, to the United States Ambassador to the United Nations, to the President of the Senate, to the Speaker of the House of Representatives, to the Chairman, Senate Committee on Interior and Insular Affairs, to the Chairman, House Committee on Interior and Insular Affairs, to Guam's Washington Representative, to the U.S. Attorney, District of Guam, and to the Governor of Guam.

FEBRUARY 23, 1971.

Hon. HENRY M. JACKSON,
Chairman, Senate Committee on Interior and Insular Affairs, 137 Old Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Legislature of Guam officially has submitted to you Resolution No. 6, petitioning for the establishment of a Commission on the post-war acquisition by the Navy of lands on Guam.

I realize fully the difficulties involved in reopening these claims after the lapse of more than 20 years. However, there can be no doubt whatever that in a very substantial number of instances settlements were highly inequitable as a result of our tragic war experiences and the historic awe—amounting to fear on the part of many—in which the Navy was held.

As you know, the residents of the Trust Territory, although they are not American citizens, are being accorded much more generous treatment, with respect to compensation for their lands and property, than that accorded Guam.

The drafting of a legislative vehicle for the establishment of a Commission such as envisioned by Resolution No. 6 is a highly technical matter. It would be greatly appreciated if you request your Legislative Counsel to draft such proposed legislation and then if you would introduce it "by request." Your Committee is of course the unit that has initial basic responsibility for federal legislation affecting Guam.

Sincerely yours,

A. B. WON PAT.

S. 1215

That (a) the Secretary of the Interior is authorized and directed to conduct a study of the policies, methods, and procedures used by or on behalf of the United States in connection with land acquisitions undertaken by the United States in the territory of Guam during the period following World War II, with particular emphasis on the matter of compensation paid in connection with such acquisitions, the total amount of such land so taken, and the effect thereof on the existing economy of Guam.

(b) On or before the expiration of the twelve month period following the date of the enactment of this Act, the Secretary of the Interior shall report to the Congress concerning the results of such study conducted in accordance with the provisions of this Act. Such report shall include the findings of the Secretary of the Interior and his recommendations with respect thereto.

Sec. 2. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.

By Mr. JACKSON:

S. 1216. A bill to amend the National Environmental Policy Act of 1969 (Public Law 91–190), to fund and establish a nonprofit Environmental Policy Institute and for other purposes. Referred to the Committee on Interior and Insular Affairs.

NATIONAL ENVIRONMENTAL POLICY INSTITUTE ACT OF 1971

Mr. JACKSON. Mr. President, I introduce for appropriate reference a bill to establish a National Environmental Policy Institute.

The purpose of this measure is to establish a nonprofit corporation patterned to some extent after Rand, Battelle, Mitre, and other nonprofit "think tank" corporations.

The institute would be composed of a relatively small but highly competent staff of professionals trained in a variety of disciplines. These people would be drawn from universities, Government, and industry and would be chosen solely on the basis of professional excellence and their ability to develop new concepts and to offer new insights for dealing with the Nation's complex and growing environmental problems.

The institute would be charged with an in-depth analysis of the policy alternatives for dealing with the broad range of environmental problems facing State, local, and Federal Government. Because of the substantial Federal funding and because of the great public interest in finding sound and innovative methods to deal with critical environmental problems, the institute would be a congressionally chartered, nonprofit corporation. Basic financing would be obtained through an annual appropriation made to and administered by the National Science Foundation. The institute would also be empowered to receive grants from private foundations, and I am advised that there is reason to expect major contributions from this source.

The National Environmental Policy Act of 1969 explicitly stated for the first time a new policy and a new function for the Federal Government—comprehensive environmental management in the interests of all of the people. While the Federal Government has accepted responsibility for and embarked upon programs which fall within the broader area of environmental management—conservation of forest and mineral resources, water resource development, and control of water and air pollution—it was only with adoption of the National Environmental Policy Act that these fragmentary approaches to resource and environmental management were recognized as belonging to a larger and more basic function of the Federal Government.

The Environmental Policy Act recognized the need for an environmental overview agency and established the Council on Environmental Quality. The Council's duties are:

To assist in the preparation of an annual report on the state of the Nation's environment;

To develop and recommend administrative and legislative policies to the President;

To conduct ecological and environmental studies;

To review Federal environmental programs;

To define and interpret trends in environmental indicators; and

To perform studies and prepare special reports at the President's request.

The Council, in its first year of operation has attempted to meet all of the duties imposed upon it by the act, and has met some of them admirably.

As adviser to the President, however, the Council is called upon to perform two dissimilar services. First, the Council must offer action-oriented advice on critical environmental problems of the day, and second, the Council must devise methods and set in motion programs to improve the body of information upon which policies and actions can be developed.

In a year of intense and unprecedented public attention to environmental concerns, the Council has devoted most of its energies toward action-oriented advice. Furthermore, the problems of transition to a new form of environmental decisionmaking throughout the executive agencies has required that an inordinate proportion of the Council's attention be directed to what are essentially procedural questions of compliance with section 102(2)(C) of title I of the act.

While some of the responsibilities now being placed upon the Council are probably transitory, it is clearly evident that there is a need for a highly skilled and competently staffed organization to provide an interdisciplinary, professional service in environmental policy analysis to the Council, and to other Federal agencies. The institute could perform many of the important long-range needs which were recognized in the National Environmental Policy Act, but which have not received adequate attention because of the pressing, more immediate demands being placed upon the Council's resources and personnel.

Some of these long-range needs include:

Designing a uniform and comprehensive system of national and worldwide environmental monitoring;

Subjecting available data on domestic natural resources to analysis and developing supply and demand projections based on a variety of growth assumptions;

Developing proposed methods for anticipating future and emerging environmental problems before they reach crisis proportions—air and water pollution and the introduction of chemical agents such as lead and mercury into the environment provide classic examples of problems which could have been largely avoided if they had been perceived as a "problem" at an early enough point in time; and

Providing in-depth policy analyses, using systems analysis techniques, of alternative solutions for dealing with environmental problems.

After a year of experience, and in view of the increased involvement of the executive branch in direct environmental management, it seems unlikely that the Council on Environmental Quality will be able to conduct all of the detailed analytical work required to meet these needs. Furthermore, it would, in my view, not be wise to increase the staff and budget of the Council to enable it to do such work. To do so would carry with it the risk of converting the Council into an agency of such significant size and specialization that it would not be an appropriate part of the Executive Office of the President. The proposed Environmental Policy Institute, however, could relieve the Council of much of the fundamental data gathering and detailed analysis required, and thereby permit the Council to direct its efforts to the policy level advisory duties which are its primary functions.

The desirability of additional support for the Council was recognized by the President in his February 8, 1971, message to the Congress entitled "A Program To Save and Enhance the Environment." In section V of the message, he stated that—

The solutions to environmental and ecological problems are often complex and costly.

If we are to develop sound policies and programs in the future and receive early warning on problems, we need to refine our analytical techniques and use the best intellectual talent that is available.

After thorough discussions with a number of private foundations, the Federal Government through the National Science Foundation and the Council on Environmental Quality will support the establishment of an Environmental Institute. I hope that this nonprofit institute will be supported not only by the Federal Government but also by private foundations.

The Institute would conduct policy studies and analyses drawing upon the capabilities of our universities and experts in other sectors. It would provide new and alternative strategies for dealing with the whole spectrum of environmental problems.

Mr. President, I believe that a legislatively chartered institute would have a number of advantages over one which is less formally founded. The mandate of the institute and its organizational relation to other executive agencies can be defined with greater precision. The support which such an institute can provide is undeniably valuable, but there is a danger that the creation of an institute with close ties to a variety of executive agencies might begin to exercise policy advisory functions unsuited to an organization outside of the immediate direction of the executive branch or the Congress. It is also important that the role of the institute be defined so that it complements that of the Council on Environmental Quality and other existing environmental agencies and does not compete with them.

Legislation would also provide an opportunity to declare congressional intent to provide funding for the institute. Funds would be provided through the National Science Foundation to insure that the work of the institute and other research funded by NSF were complementary, but the funds would be provided by a specific authorization so that the institute would not be put in competition with the many other urgent demands upon the Foundation's scarce resources.

The measure I have proposed would also establish the manner in which the board of directors and chief executive officer of the institute would be selected. The fundamental requirement that the institute be free of political affiliation or influence cannot be overstated. If the institute is to attract the best minds, and if its work is to have credibility, it must be recognized for its objectivity and professional standards. In short, the institute cannot be allowed to become a partisan instrument and should, therefore, be launched in a bipartisan atmosphere. Continued financial support for the institute from the Congress and from private sources will turn upon the institute's ability to maintain a reputation for professional excellence free of petty partisanship.

Mr. President, I ask unanimous consent that the bill and excerpts from a July 11, 1968, committee print on "A National Policy for the Environment," be printed in the RECORD at the conclusion of my remarks.

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

S. 1216

A bill to amend the National Environmental Policy Act of 1969 (Public Law 91-190), to fund and establish a non-profit Environmental Policy Institute and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Environmental Policy Act of 1969 (Public Law 91-190) is amended by adding a new Title III to read as follows:

TITLE III

ENVIRONMENTAL POLICY INSTITUTE

SEC. 301. (a) The Congress hereby finds:

(1) that as presently constituted local, State and Federal governments do not have an adequate capacity to integrate and evaluate the growing body of environmental research now underway, nor to develop in systematic and critical manner the alternatives such research presents for the development of new and the restructuring of existing governmental policies and programs; and

(2) that there are no existing non-governmental institutions capable of adequately performing this function in an objective and comprehensive manner and on a full time basis.

(b) The Congress further finds:

(1) that there is a need for objective, impartial policy analysis to be conducted by an appropriate Institute which is independent of government and private enterprise, including a broad program of research, and the identification and development of alternative solutions to existing and emerging environmental problems;

(2) that the Institute should be a center for systematic environmental problem solving and policy-oriented research conducted on a broad, interdisciplinary basis;

(3) that the Institute should be available to local, State and Federal governmental agencies to assist in the assessment, development and presentation of policy alternatives, but should have the freedom and independence to extend its studies to matters other than those specified by its government sponsors; and

(4) that it is a responsibility of the Federal government, in conjunction with appropriate charitable foundations, to establish, to assist, to encourage and to fund such an Institute.

SEC. 302. There is hereby authorized to be created a non-profit corporation to be named the Environmental Policy Institute (hereinafter referred to as the "Institute") which shall not be an agency or establishment of the Federal government. The Institute shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Non Profit Corporation Act.

SEC. 303. The incorporators of the Environmental Policy Institute shall consist of the Director of the National Science Foundation, the Chairman of the Council on Environmental Quality, the President of the American Bar Association, and two persons appointed by the President of the United States, one of whom shall be an officer of a major charitable foundation, and one of whom shall by training and profession be especially qualified to participate in the establishment of an Institute dealing with emerging and long-range environmental problems.

SEC. 304. The Institute shall have an eleven member board of directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as Chairman. Members of the board shall be:

(a) the five initial incorporators;

(b) four members appointed by the President of the United States, one of whom shall be chosen on the basis of professional competence and knowledge in each of the following areas—environment, consumer affairs, labor, and industry; and

(c) two members elected by the board on the basis of their interest in environmental problems, and their professional competence in technology assessment or systems analysis.

SEC. 305. The Institute shall have a President who shall be named and selected by the board and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board, and serving at the pleasure of the board. No officer of the Institute shall receive any salary from any source other than the Institute during his period of employment by the Institute.

SEC. 306. The duties of the Institute shall include, but not be limited to:

(a) developing and analyzing policy alternatives for dealing with environmental problems, utilizing a systematic interdisciplinary approach, which will insure the integrated use of all relevant disciplines;

(b) identifying and developing methods and procedures, in consultation with the Council on Environmental Quality, whereby presently unquantifiable environmental amenities and values may be given appropriate consideration in policy evaluation together with technical and economic considerations in governmental and private decisionmaking;

(c) making available to States, counties, municipalities, institutions, and individuals, advice and informaiton developed by the Institute which is useful in restoring, maintaining, and enhancing the quality of the environment;

(d) undertaking, after consultation with the Chairman of the Council on Environmental Quality, contract studies for Federal agencies which involve problems of policy analysis of regional or national significance

(e) identifying areas where additional environmental research and data collection is needed to deal with emerging and potential problems;

(f) following on a continuing basis the national capability for technology assessment;

(g) performing within the availability of funds provided under Sec. 308 (a) and by specific fund transfers for these purposes, such studies as the Council on Environmental Quality may request.

SEC. 307. The President of the Institute shall transmit to the Congress annually, beginning July 1, 1972, a report on the financial position and activities of the Institute. The report shall be referred to all standing committees having jurisdiction over the subject matter therein.

SEC. 308. (a) There are hereby authorized to be appropriated to the National Science Foundation, as provided in annual appropriation Acts, not to exceed a total of $30,000,000 for Fiscal Years 1972 through 1977 inclusive and $6,000,000 for each Fiscal Year thereafter for the purpose of assisting the financing of the Institute. Funds appropriated under the provisions of this section are to remain separate from other funds appropriated to the National Science Foundation and are to remain available until expended.

(b) The Institute is authorized to accept, hold, and administer grants and contributions from any source for assisting in the financing of activities for the purposes for which the Institute is established.

(c) Contracts with Federal, State and local governmental agencies to conduct investigations and analyses pursuant to section 305 (d) shall be fully financed by transfers of funds or payments. The conduct of such studies shall not interfere with the duties of the Institute as set forth in section 306.

(d) All Federal agencies are auhorized to enter into contracts with the Institute for the conduct of policy analysis studies of environmental problems which will be of assistance in the performance of the agencies' missions.

SEC. 309. This Act may be cited as the "National Environmental Policy Institute Act of 1971".

A NATIONAL POLICY FOR THE ENVIRONMENT

STATEMENT BY SENATOR HENRY M. JACKSON

Over the years, in small but steady and growing increments, we in America have been making very important decisions concerning the management of our environment. Unfortunately, these haven't always been very wise decisions. Throughout much of our history, the goal of managing the environment for the benefit of all citizens has often been overshadowed and obscured by the pursuit of narrower and more immediate economic goals.

It is only in the past few years that the dangers of this form of muddling through events and establishing policy by inaction and default have been very widely perceived. Today, with the benefit of hindsight, it is easy to see that in America we have too often reacted only to crisis situations. We always seem to be calculating the short-term consequences of environmental mismanagement, but seldom the long-term consequences or the alternatives open to future action.

This report proposes that the American people, the Congress, and the administration break the shackles of incremental policy-making in the management of the environment. It discusses the need for a national environmental policy and states what some of the major elements of such a policy might be. It also raises a number of questions implicit in the establishment of such a broad-based and far-reaching policy.

The report does not purport to deal exhaustively with these subjects. Rather, it attempts to place some of the fundamental questions concerning the need for and the elements of a national environmental policy in the arena of public debate. If the report is successful in encouraging discussion and in refining some of the issues involved, it will have performed a worthwhile purpose. In the last few years, it has become increasingly clear that soon some President and some Congress must face the inevitable task of deciding whether or not the objective of a quality environment for all Americans is a top-priority national goal which takes precedence over a number of other, often competing, objectives in natural resource management and the use of the environment. In my judgment, that inevitable time of decision is close upon us.

If we are to make intelligent decisions which are not based in the emotion of conservation's cause celebre of the moment or in the error of simply perpetuating past practices, there is a very real need to develop a national capacity for constructive criticism of present policies and the development of new institutions and alternatives in the management of the environmental resources of land, air, water, and living space. Developing this capacity will require that representatives from all elements of our national life—industry, the university, Federal, State, and local government—participate in forming this policy. It will require the creative utilization of technology to improve environmental conditions and to prevent unanticipated future instances of costly abuse. It will also require that government, business, and industry pay closer attention to a far greater range of alternatives and potential consequences when they make environment-affecting decisions than they have in the past.

Finally, it needs to be recognized that the declaration of a national environmental policy will not alone necessarily better or enhance the total man-environment relationship. The present problem is not simply the lack of a policy. It also involves the need to rationalize and coordinate existing policies and to provide a means by which they may be continuously reviewed to determine whether they meet the national goal of a quality life in a quality environment for all Americans. Declaration of a national environmental policy could, however, provide a new organizing concept by which governmental functions could be weighed and evaluated in the light of better perceived and better understood national needs and goals.

This report was prepared for the use of the Senate Interior Committee by Prof. Lynton K. Caldwell, chairman, Department of Government, Indiana University, with the assistance of Mr. William J. Van Ness, special counsel to the committee, and the Natural Resources Division, Legislative Reference Service, Library of Congress. Professor Caldwell's contribution was, in part, made possible through an arrangement with the Conservation Foundation.

PREAMBLE

It is a major function of the Congress to propose and consider policies "to provide for the common defense and the general welfare of the United States." Today, a challenge to the safety and welfare of the United States and of the American people has arisen. The challenge is the rapid deterioration of the environmental base, natural and manmade, which is the indispensable foundation of American security, welfare, and prosperity. Congress has recognized this challenge, and in accord with its responsibilities is preparing a response. Numerous proposals are now before the Congress to deal with what some of our best informed scientists and political leaders describe as an "environmental crisis." The purpose of this report is not to "view with alarm," but to raise the issue of whether there is a need for a national environmental policy and to discuss some of the major elements which might be considered for inclusion in such a policy. This report is intended to bring the issue of environmental policy into as sharp a focus as the complexity of its subject matter permits, and to identify some of the basic questions that would be encountered in shaping a national policy.

The threat of environmental deterioration, which the President of the United States has described as "a crisis of choice," is largely the result of the unprecedented impact of a dual explosion of population and technology upon limited resources of air, water, land, and living space. This challenge has not occurred before in American history nor in the history of civilization. Today the threat this challenge presents is widely recognized. Calls for action have come from many sectors of American society: from labor, from business, from agriculture, from science, from civic bodies, from religious, cultural and ethnic groups, from public agencies and from the elected representatives of the people. Symbolizing the national concern, the Department of the Interior entitled its 1968 Conservation Yearbook "Man—An Endangered Species?"; and the Chamber of Commerce of the United States has issued a call for action in a pamphlet bearing the headline "The Need: To Manage Our Environment." These publications, together with many others listed in appendix A, document the evidence and provide an understanding of the dangers and costs of environmental deterioration. When these dangers and costs are understood, the need for a continuing effort to refine and establish a countervailing policy is apparent.

Therefore, the issue before the American people and their elected representatives is the kind of policy that will meet the need. To be effective, a national policy for the enviromnent must be compatible and consistent with many other needs to which the Nation must respond. But it must also define the intent of the American people toward the management of their environment in terms that the Congress, the President, the administrative agencies and the electorate can consider and act upon. A national policy for the environment—like other major policy declarations—must be concerned with principle rather than with detail; but it must be principle which can be applied in action. The goals of effective environmental policy cannot be counsels of perfection; what the Nation requires are guidelines to assist the Government, private enterprise and the individual citizen to plan together and to work together toward meeting the challenge of a better environment. At the risk of some oversimplification, the task may be summarized in these terms:

(1) To arrest the deterioration of the environment.

(2) To restore and revitalize damaged areas of our Nation so that they may once again be productive of economic wealth and spiritual satisfaction.

(3) To find alternatives and procedures which will minimize and prevent future hazards in the use of environment-shaping technologies, old and new.

(4) To provide direction and, if necessary, new institutions and new technologies designed to optimize man-environment relationships and to minimize future costs in the management of the environment.

The challenge of environmental management is, in essence, a challenge of modern man to himself. The principal threats to the environment are those that man himself has induced. A national policy for the environment is thus above all else a national policy for the welfare and survival of man. It is one more step in the journey of the American people from political independence toward knowledgeable self-determination in its most fundamental and democratic sense.

INTRODUCTION

This report is based upon the assumption that the threat of environmental mismanagement and deterioration to the security and welfare of the United States has been established. (See app. A.) There are differences of opinion as to the severity and relative urgency of various hazards to the environment. Some scientists believe that man's environmental relationships have reached a point of crisis; others do not see the condition of the environment generally as having yet reached a critical stage. But there is, nevertheless, general consensus throughout most walks of life that a serious state of affairs exists and that, at the least, it is approaching a crisis of national and international proportions. The focus of this report is therefore on national policy to cope with environmental crisis, present and impending, rather than with documenting the facts related to environmental crisis, present or impending, rather than with documenting the facts related to environmental deterioration.

PART I.—REQUIREMENTS FOR POLICY EFFECTIVENESS

Effective policy is not merely a statement of things hoped for. It is a coherent, reasoned statement of goals and principles supported by evidence and formulated in language that enables those responsible for implementation to fulfill its intent. This section of the report describes some of the interrelating conditions that appear necessary to an effective national policy for the environment. The discussion will be developed under the following five headings:

(1) Understanding Imminent Need.

(2) Recognizing Costs.

(3) Marshaling Relevant Knowledge.

(4) Facilitating Policy Choice.

(5) National Policy and International Cooperation.

1. Understanding imminent need

An effective and enlightened environmental policy is a response to the needs of man in relation to his environment. The response may involve the control of man's behavior

on behalf of the larger interests of mankind where those interests are clearly perceived and widely held. Man's relationships with his environment are, of course, multitudinous and complex. Control by governments, by international organizations, or by other institutions, cannot feasibly be extended to every aspect of the environment nor to more than a fraction of the actual points of impact of individual man upon his environment. Policy effectiveness consequently depends very largely upon the internalization, in the human individual, of those understandings, values, and attitudes that will guide his conduct in relation to his environment along generally beneficial lines. A major requisite of effective environmental policy is therefore intelligent and informed individual self-control.

There is substantial evidence to indicate that large numbers of Americans perceive the need for halting the spread of environmental decay. It is also evident, however, that few recognize the connection between the conditions which they deplore, and the absence of any explicit and coherent national policy on behalf of environmental quality.

Man is confronted by a circumstance that is totally new in human history. He has rapidly completed the occupancy of the easily inhabitable areas of the earth while his numbers have increased at an exponential and accelerating rate. Simultaneously, unprecedented economic power and advances in science and technology have permitted man to make enormously increased demands upon his environment. In no nation are these coincidental developments more dramatically evident than in the United States. And yet many Americans find it difficult to understand why sound environmental management should now suddenly become "everybody's business." Long-accepted ways of thinking and acting in relation to one's surroundings are now being called into question. Understanding of what has happened can be helped by a simple exercise in arithmetic.

At the time of the American Revolution the total human population of the present-day continental United States could hardly have exceeded 3 million individuals. The demands of the American Indian and European colonists on the Atlantic seaboard were very light when contrasted with current exactions. By the close of the 20th century, if the population of this same area approximates 300 million, the daily stress man places on the environmnt will, on the basis of mere numbers, have increased 100 times over. Technology has alleviated some forms of stress (as on forests for fuel or on wildlife for food), but it has greatly increased environmental stress in general. The net result has been enormously increased demands upon the environment in addition to the increase in population. Calculation of an average per man-year stress upon the environment, estimated from A.D. 1700 to 2000, and adjusted for technological factors at particular historical periods, would be a powerful persuader of the need for a sensitive and forward-looking national environmental policy. The exponential increase in the pressure of man and his technology upon the environment, particularly since World War II, is the major cause of the need for a national environmental quality effort.

The rate at which the Nation has changed since 1890 when the frontier officially ceased to exist has been unexceeded by any other social transformation in history. Scarcely one long generation removed from the last days of the frontier, America has become an urbanized and automated society with publicly institutionalized values in social security, labor relations, civil rights, public education, and public health that would have been utopian less than a century ago. In the absence of a system for adequately assessing the consequences of technological change, who could have predicted the many ways in which applied science would transform the conditions of American life? Powerful new tools applying the discoveries in chemistry, physics, biology, and the behavioral sciences were put to work for improving the health, wealth, comfort, convenience, and security of Americans. Utilizing the vast natural resources of the American environment, the world's highest standard of living was achieved in an amazingly short period of time. Unfortunately, our productive technology has been accompanied by side effects which we did not foresee. Experience has shown us that there are dangers as well as benefits in our science-based technology. It is now becoming apparent that we cannot continue to enjoy the benefits of our productive economy unless we bring its harmful side effects under control. To obtain this control and to protect our investment in all that we have accomplished, a national policy for the environment is needed.

Although Americans have enjoyed prodigious success in the management of their economy they have been much less successful in the management of natural resources. As a people we have been overly optimistic, careless, and at times callous in our exactions from the natural environment. The history of soil exhaustion and erosion, of cut-over forest lands, of slaughtered wildlife document a few of our early failures to maintain the restorative capacities of our natural resources. Fortunately many of these early failures have been corrected or are now being remedied. But our exploding population and technology have created more subtle dangers, less easily detected and more difficult to overcome.

These more recent dangers have been documented in testimony before the Congress and in the reports of scientific committees (app. A). They confront us with the possibility that the continuation of present trends affecting, for example, (a) the chemistry of the air, (b) the contamination of food and water, (c) the use of open land and living space, and (d) the psychophysical stress of crowding, noise and interpersonal tension on urban populations, may indefinitely degrade the existence of civilized man before the end of this century. These are not the exaggerated alarms or unsubstantiated predictions of extremists; they are sober warnings of competent scientists supported by substantial demonstrable evidence. The practical course is, therefore, to forestall these threats before they have outgrown our technical, economic, legal, and political means to overcome them. Fortunately, we still have a choice in this matter. We still have a relatively wide range of alternatives available in managing the environment.

It may be contended that the problems of the environment must wait until more urgent political issues are resolved. Problems of national security, poverty, health, education, urban decay, and underdeveloped nations have just and appropriate claims for priority in national attention and public expenditure. Yet many aspects of these problems involve environmental policy. Three of the most urgent—the slums and ghettos of the great cities; increasing disability and death from diseases induced by environmental factors (for example, cancer, emphysema, mental disorders); and the decline and decay of rural areas (for example, in Appalachia) furnish persuasive reasons for a national environmental policy. Before billions of dollars are spent in attempts to alleviate these social ills, it would be wise to be sure that environmental factors causing or accompanying these conditions are properly identified and remedied. We may otherwise worsen the state of our economy and environment without solving the underlying social problems.

In summary, within the present generation the pressures of man and technology have exploded into the environment with unprecedented speed and unforeseen destructiveness. Preoccupied with the benefits of an expanding economy the American people have not readily adopted policies to cope with the attendant liabilities. Popular understanding of the need to forestall the liabilities in order to preserve the benefits is now becoming widespread, and provides the political rationale for the development of a national policy for the environment, and for a level of funding adequate to implement it.

2. Recognizing costs

The nation long ago would probably have adopted a coherent policy for the management of its environment, had its people recognized that the costs of overstressing or misusing the environment were ultimately unavoidable. This recognition was arrived at belatedly for several reasons: *First*, environmental deterioration in the past tended to be gradual and accumulative, so that it was not apparent that any cost or penalty was being exacted; *second*, it seemed possible to defer or to evade payment either in money or in obvious loss of environmental assets; *third*, the right to pollute or degrade the environment (unless specific illegal damage could be proved) was widely accepted. Exaggerated doctrines of private ownership and an uncritical popular tolerance of the side effects of economic production encouraged the belief that costs projected onto the environment were costs that no one had to pay.

This optimistic philosophy proved false as many regions of the Nation began to run out of unpolluted air and water, as the devastation of strip mining impoverished mining communities, as the refuse of the machine age piled up in manmade mountains of junk, as the demand for electricity and telecommunications arose to festoon the Nation with skeins of cables strung from forests of poles, and as the tools of technology increasingly produced results incompatible with human well-being. Under the traditional "ground rules" of production, neither enterprise nor citizen was called upon to find alternatives or to pay for measures that would have prevented or lessened ensuing loss of environmental quality. Payment continued to be exacted in the loss of amenities the public once enjoyed, and in the costs required to restore resources to usefulness and to support the public administration that environmental deterioration entailed. When the public began to demand legislation to control pollution and to prevent environmental decay, the reaction of those involved in environment degrading activities was often one of counter-indignation. Businessmen, municipalities, corporations and property owners were confronted with costs in the form of taxes or the abatement of nuisances that they had never before been called upon to pay. They were now about to be penalized for behavior which America had long accepted as normal.

What is now becoming evident is that there is no way in the long run of avoiding the costs of using the environment. The policy question is not whether payment shall be made; it is when payment shall be made, in what form, and how the costs are to be distributed. Hard necessity has made evident the need for payment to obtain air and water of quality adequate to meet at least minimum standards of health and comfort. Scientific knowledge and rising levels of amenity standards have added to public expectation that protection against environmental damage will be built into the products and production costs of manufacturers.

Lack of a national policy for the environment has now become as expensive to the business community as to the Nation at large. In most enterprises a social cost can be carried without undue burden if all competitors carry it alike. For example, industrial

waste disposal costs can, like other costs of production, be reflected in prices to consumers. But this becomes feasible only when public law and administration put all comparable forms of waste-producing enterprises under the same requirements. Moreover it has always been an advantage to enterprise to have as clear a view as possible of future costs and requirements. When public expectations and "ground rules" change, however, as they have been changing recently on environmental quality issues, the uncertainty of resulting effects upon business costs, and the necessity for adjustment to unexpected expenses and regulations, is disconcerting and hardly helpful.

A national policy for the environment could provide the conceptual basis and legal sanction for applying to environmental management the methods of systems analysis and cost accounting that have demonstrated their value in industry and in some areas of government. It has been poor business, indeed, to be faced with the billions of dollars in expense for salvaging our lakes and waterways when timely expenditures of millions or timely establishment of appropriate policies would have largely preserved the amenities that we have lost and would have made unnecessary the cost of attempted restoration. A national system of environmental cost accounting expressed not only in economic terms but also reflecting life-sustaining and amenity values in the form of environmental quality indicators could provide the Nation with a much clearer picture than it now has of its environmental condition. It would help all sectors of American society to cooperate in avoiding the overdrafts on the environment and the threat of ecological insolvency that are impairing the national economy today.

It is not only industrial managers and public officials who need to recognize the unavoidable costs of using the environment. It is, above all, the individual citizen because he must ultimately pay in money or in amenities for the way in which the environment is used. If, for example, he likes to eat lobster, shrimp or shellfish, the citizen must reconcile himself to either paying dearly for these products or indeed finding them unobtainable at any price, unless we find ways to preserve America's coastline and coastal waters. The individual citizen may also have to pay in the cost of illness and in general physical and psychological discomfort. And these costs, of course, are not incurred voluntarily.

In the interest of his welfare and of his effectiveness as a citizen the individual American needs to understand that environmental quality can no longer be had "for free." Recognition of the inevitability of costs for using the environment and of the forms which these costs may take is essential to knowledgeable and responsible citizenship on environmental policy issues.

In summary, the American people have reached a point in history where they can no longer pass on to nature the costs of using the environment. The deferral of charges by letting them accumulate in slow attrition of the environment, or debiting them as loss of amenities will soon be no longer possible. It is no longer feasible for the American people to permit it. The environmental impact of our powerful, new, and imperfectly understood technology has often been unbelievably swift and pervasive. Specific effects may prove to be irreversible. To enjoy the benefits of technological advance, the price of preventing accidents and errors must be paid on time. From now on "pay-as-you-go" will increasingly be required for insuring against the risks of manipulating nature. This means merely that provision must be made for the protection, restoration, replacement, or rehabilitation of elements in the environment before, or at the time, these resources are used. Later may be too late.

3. Marshaling relevant knowledge

For many years scientists have been warning against the ultimate consequences of quiet, creeping, environmental decline. Now the decline is no longer quiet and its speed is accelerating. The degradation is destroying the works of man as well as of nature. We are confronted simultaneously with environmental crisis in our cities and across our open lands and waters. The crisis of the cities and the crisis of the natural and rural environments have many roots in common, although they may erroneously be viewed as extraneous to one another, or even as competitive for public attention and taxation. In fact, both crises stem from an ignorance of and a disregard for man's relationship to his environment.

An effective environmental policy in the past might have prevented and would certainly have focused attention upon the wretched conditions of urban and rural slums. It would surely have stimulated a search for knowledge that could have helped to correct and prevent degraded conditions of living. It is now evident that the fabric of American society can no longer contain the growing social pressure against slum environments. Today, remedial measures are being forced by social violence and by the social and economic costs of environmental decay; but it is not certain that the remedies take full account of the nature of the ailment. The pressure upon the urban environment is acute and overt; it is dramatized, it has obvious political implications, and it hurts. Conversely, the degradaton of natural and rural environments is more subtle. Stress may reach the point of irreparable damage before there is full awareness that a danger exists. What is needed therefore is a systematic and verifiable method for periodically assessing the state of the environment and the degree and effect of man's stress upon it, as well as the effect of the environment and environmental change on man.

One would expect to be able to look to the universities and to the great schools and institutes of agriculture, engineering, and public health as constituting an environmental intelligence system. Unfortunately however, no such system exists. Man-environment relationships per se have seldom been studied comprehensively. Various disciplines have concerned themselves with particular aspects of environmental relationships. Geographers, physiologists, epidemiologists, evolutionists, ecologists, social and behavioral scientists, historians, and many others have in various ways contributed to our knowledge of the reciprocal influences of man and environment. But the knowledge that exists has not been marshaled in ways that are readily applicable to the formulation of a national policy for the environment. At present, there are many gaps in our knowledge of the environment to which no discipline has directed adequate attention.

It should not be surprising that there is a lack of organized knowledge relating to environmental relationships. Society has never asked for this knowledge, and has neither significantly encouraged nor paid for its production. By way of contrast, public opinion has supported the costs of high-energy physics as reasonable, even though direct and immediate applications to public problems are relatively few. But public opinion has been guided in part by the judgment of the scientific community and of the leaders of higher education. Only recently have the scientific community and the universities begun to interest themselves institutionally in man-environment relationships, perceived in the totality in which they occur in real life.

Environmental studies in the universities are as yet largely focused on separate phases of man-environment relationships. This, in itself, is not undesirable; it is in fact necessary to obtain the degree of specialization and intensive study that many environmental problems require. The inadequacy lies in the lack of means to bring together existing specialized knowledge that would be relevant to the establishment of sound policies for the environment. There is also need for greatly increased attention to the study of natural systems, to the behavior of organisms in relation to environmental change, and to the complex and relatively new science of ecology. There is need for synthesis as well as for analysis in the study of man-in-environment.

A reciprocal relationship exists between the interests of public life and the activities of American universities. Public concern with a social problem when expressed in terms of public recognition or financial support, stimulates related research and teaching in the colleges and universities. Research findings and teaching influence the actions of government and the behavior of society. This relationship has been exceptionally fruitful in such fields as agriculture, medicine, and engineering. It has not, as yet, developed strength in the field of environmental policy and management. Nevertheless a beginning is being made in some colleges and universities, and in a number of independent research organizations and foundations, to provide a more adequate informational base for environmental policy.

Recognition of the need for a more adequate informational base for environmental policy has not been confined to academic institutions or to government. Speaking to the 1967 plenary session of the American Institute of Biological Sciences, Douglas L. Brooks, president of the Traveler's Research Center, declared that "* * * We need to recognize environmental quality control as a vital social objective and take steps to establish the field of environmental management as a new cross-discplinary applied science professional activity of extraordinary challenge and importance."

To date, action by Government to assist the marshaling of relevant knowledge has been uncoordinated and inconstant. With the exception of defense and space-related technical investigations, the amount of money made available for environmental research has been relatively meager and has been allocated largely along conventional disciplinary lines. Specialized aspects of research on man-environment relationships have been well funded by the Atomic Energy Commission, the Department of Defense, and the National Aeronautics and Space Administration. But much of this work is highly technical and is appropriately directed toward problems encountered in the missions of these agencies. More broadly based are the interests of the National Science Foundation, but the Foundation's resources of funding academic research relating to environmental policy are small. For a brief period the most promising source of support for the kind of knowledge needed for environmental policy effectiveness was the U.S. Public Health Service. In the mid-1960's, the Service began to assist the establishment of broadly based environmental health science centers in selected universities. But a shift of emphasis in the Public Health Service brought this effort to an untimely standstill. The National Institutes of Health fund a significant body of health-related environmental research, but little of it appears to be policy-related.

The Science Information Exchange of the Smithsonian Institution, surveying the general field of Government-funded research for the Senate Interior and Insular Affairs Committee, found (not unexpectedly) that there were heavy concentrations of research where Government funding was heaviest—notably in physical science and the biomedical aspects of the environment. Government-funded research of broadly cross-disciplinary or policy-oriented character appeared to be

almost negligible in volume and in funding. It is probable that policy problems are investigated in the course of substantive research; but it is evident that we have not yet made a conscious decision to organize and fund the effort which students of environmental policy and management see as the necessary first step to an adequate environmental information system.

To provide facilities and financial support for new research on natural systems, environmental relationships and ecology on an independent, but publicly financed basis, a National Institute of Ecology has been proposed by a group of scientists associated with the Ecological Society of America and assisted by the National Science Foundation. The functions proposed for this institute are worth restating in brief, as indicative of the contribution that ecologists would like to make toward strengthening the Nation's capacity to cope with its environmental problems. Defining ecology to be "* * * the scientific study of life-in-environment," the proponents of a National Institute of Ecology state that it is needed (1) to conduct large-scale multi-disciplinary field research beyond the capacities of individual researchers or research institutions, (2) to provide a central ecological data bank on which ecologists and public agencies can draw, (3) to coordinate and strengthen activities of ecologists in relation to ecological issues in public affairs, and to promote the infusion of ecology into general education at all levels, and (4) to perform advisory services for government and industry on action programs affecting the environment. The principal purpose of the proposed institute is not, however, to study public policy or education, but to do more and better ecology.

These efforts and proposals, and many others unreported here, are constructive contributions to the task of marshaling the knowledge needed for an effective national policy for the environment. They do not, however, add up to a national information system, nor do they necessarily present information and findings relative to the environment in forms suitable for review and decision by the Nation's policymakers. The ecological research and surveys bill introduced by Senator Gaylord Nelson in the 89th Congress would have established a national research and information system under the direction of the Secretary of the Interior. Similar proposals have been incorporated in a number of bills introduced in the 90th Congress, including S. 2805 by Senators Jackson and Kuchel. (See app. B.) An important difference between the proposals before the 90th Congress and the efforts and proposals described in the preceding paragraphs is that in pending legislation the knowledge assembled through survey and research would be systematically related to official reporting, appraisal, and review. The need for more knowledge has been established beyond doubt. But of equal and perhaps greater importance at this time is the establishment of a system to insure that existing knowledge and new findings will be organized in a manner suitable for review and decision as matters of public policy.

In summary, to make policy effective through action, a comprehensive system is required for the assembly and reporting of relevant knowledge; and for placing before the President, the Congress, and the people for public decision, the alternative courses of action that this knowledge suggests. With all its great resources for research, data processing, and information transmittal, the United States has yet to provide the financial support and operational structure that would permit these resources to implement a public policy for the environment.

4. Facilitating policy choice

The problem of organizing information for purposes of policy-oriented review leads directly to the need for a strategy of policy choice. Environmental policymaking presents certain organizational difficulties. It must draw heavily upon scientific information and yet it embraces important considerations and issues that are extraneous to science policy. Insofar as environmental policy is dependent upon scientific information, it is handicapped by the insufficiency of the research effort and the inadequacies of information handling described in the preceding paragraphs. In a review of U.S. science policy by the Organization for Economic Cooperation and Development, the European examiners cited environmental problems as one of the areas of inquiry that American science was not well organized to attack. The criticism was directed not at the accomplishments of American science in support of major technical undertakings; it was instead concerned with the absence of a system and a strategy adequate to deal with the problems of the environment, and of social relationships and behavior, on a scale which their comprehensive and complex subject matters require.

Insofar as science is an element in environmental policymaking, the Office of Science and Technology affords a mechanism for enlisting the resources of the scientific community, for establishing study groups and advisory panels on specific issues, and for presenting their recommendations to the President. In the coordination of scientific aspects of environmental policy, the Federal Council of Science and Technology, in association with the Office of Science and Technology, is the more general of several coordinative or advisory bodies in the executive branch. (See app. C.) The establishment of special councils for marine resources and engineering development, for water resources, for recreation and natural beauty, among other purposes, complicates to some extent the function of policy advice. None of these bodies are constituted to look at man-environment relations as a whole; none provide an overview; none appear fully to answer the need for a system to enable the President, the Congress, and the electorate to consider alternative solutions to environmental problems.

Possible answers to the need for a system to assist national policy choice may be found in legislative proposals to create councils on environmental quality or councils of ecological advisers. These councils are conceived as bridges between the functions of environmental surveillance, research, and analysis, on the one hand, and the policymaking functions of the President and the Congress on the other. The particular and indispensable contribution of the Council to environmental policy would be twofold. The first would be, using S. 2805 for purposes of illustration, "* * * to study and analyze environmental trends and the factors that effect these trends, relating each area of study and analysis to the conservation, social, economic, and health goals of this Nation." Most proposals call for a report on the state of the environment from the Council to the President and from the President to the Congress. S. 2805, for example, states that the Council shall provide advice and assistance to the President in the formulation of national policies, and that it shall also make information available to the public. The bill further provides that "* * * The Council shall periodically review and appraise new and existing programs and activities carried out directly by Federal agencies or through financial assistance and make recommendations thereon to the President."

From this enumeration of the Council's functions several inferences may be drawn. *First*, the proposed environmental advisory councils are not science advisory bodies. They are instructed in pending legislative proposals to take specified factors, including the scientific, into account in the course of their analysis and recommendations on environmental policy issues. *Second*, the councils are not primarily research or investigating bodies even though they have important investigatory functions. They are essentially policy-facilitating bodies. *Third*, their functions are those of analysis, review, and reporting. Their nearest functional counterpart is probably the Council of Economic Advisers. *Fourth* and finally, councils on the environment, such as proposed by some of the measures listed in appendix B, must be located at the highest political levels if their advisory and coordinative roles are to be played effectively. For this reason the proposals have generally established the Council in the Executive Office of the President. However, the Technology Assessment Board proposed by Representative Emilio Q. Daddario, which would perform many functions similar to those of the environmental councils, would be an independent body responsible primarily to the Congress.

This brings the discussion to the role of the Congress in facilitating policy choice. Some have found the formal committee structure of the Congress to be poorly suited to the consideration of environmental policy questions. Senator Edmund Muskie has proposed a Select Committee of the Senate on Technology and the Human Environment to facilitate consideration of related environmental issues that would normally be divided among a number of Senate committees. Others have proposed that a Joint Committee on the Environment, representative of the principal committees of the House and the Senate concerned with environmental policy issues, should be established to review a proposed annual or biennial report of the President on the state of the environment. Many Congressmen, however, feel that the policy of establishing new committees to deal with each new problem area should be resisted and that the present committees should assume their legislative and oversight responsibilities in this area. Meanwhile the informal and practical operations of legislative business permits the present standing committees to function with remarkable speed and dexterity where the will to legislate exists.

In summary, policy effectiveness on environmental issues will require some form of high-level agency in the executive branch for reviewing and reporting on the state of the environment. No existing body seems appropriate for this function. To meet this need, and under various names, a council for the environment has been suggested and has been incorporated in numerous legislative proposals. Provision for a policy assisting body in the executive branch suggests to some the desirability of a comparable committee in the Congress.

5. National policy and international cooperation

In his address to the graduating class at Glassboro State College on June 4, 1968, President Lyndon B. Johnson called for the formation of a permanent "international council on the human environment." The ecological research and surveys bill first offered in 1965 by Senator Gaylord Nelson authorized participation by the United States with "other governments and international bodies in environmental research." Similarly, S. 2805 and other pending measures authorize "* * * environmental research in surrounding oceans and in other countries in cooperation with appropriate departments or agencies of such countries or with coordinating international organizations * * *."

These and other expressions of the willingness and intent of the United States to cooperate with other nations and with international organizations on matters of environmental research and policy reinforce the argument for a national environmental policy. Although the United States could cooperate internationally on many specific issues without a national policy, it could do

so more effectively and comprehensively if its own general position on environmental policy were formally and publicly enunciated.

The United States, as the greatest user of natural resources and manipulator of nature in all history, has a large and obvious stake in the protection and wise management of man-environment relationships everywhere. Its international interests in the oceanic, polar, and outer space environments are clear. Effective international environmental control would, under most foreseeable contingencies, be in the interest of the United States, and could hardly be prejudicial to the legitimate interests of any nation. American interests and American leadership would, however, be greatly strengthened if the Nation's commitment to a sound environmental policy at home were clear.

PART II. QUESTIONS OF IMPLEMENTATION

What significance would adoption of a national policy for the environment hold for the future of government in the United States? At the least, it would signify a determination by the American people to assume responsibility for the future management of their environment. It would not imply an all-inclusive Federal or even governmental environmental administration. The task to too widespread, multitudinous, and diverse to be wholly performed by any single agency or instrumentality. There are important roles to be played at every level of government and in many sectors of the nongovernmental economy. Nevertheless a new policy, and particularly a major one, is certain to arouse some apprehensions.

In the Federal agencies, among the committees of the Congress, in State governments, and among businesses whose activities impinge directly upon the environment and natural resources, there would be understandable concern as to what changes for them might be implicit in a national policy for the environment. The objection is certain to be raised that Government is already too large and that there are already too many agencies trying to manage the environment. "Please—not one more," will be an oft-repeated plea. These fears, however, are largely those that always accompany a new public effort regardless of its purpose, direction, or ultimate benefit. Very few people oppose, in principle, public action on behalf of quality in the environment. It is implementation that raises questions and arouses apprehension.

It would be unconvincing to assert that no interest, enterprise, or activity will be adversely affected by a national environmental quality effort. There is no area of public policy that does not impose obligations upon, nor limit the latitude for action of important sectors of society. But while activities harmful to man's needs and enjoyments in the environment must necessarily be curbed, it is also true that all Americans, without exception, would benefit from an effective national environmental policy. In brief, although all would benefit, a relative few might be required to make adjustments in business procedures or in technological applications.

For the foregoing reasons, a report on the need for a national policy for the environment would be incomplete if it did not raise, at least for purposes of discussion, some major questions that the establishment as such a policy would imply. These are mainly questions of how a decision to establish a national policy would be implemented in practice. They are questions to be answered by the Congress and by the President. But in their answers, the policy-determining branches of Government will need to consider a number of issues subsidiary to those major questions.

To better illustrate the issues involved in these questions, reference will be made to S. 2805. No claim of special priority is implied by these references. Many of the bills now pending on this issue have similar provisions. Any one bill might serve as well as any other.

1. What are the dimensions of an environmental policy and how are they distinguishable from other areas of national concern?

This is the fundamental question. It would be unreasonable to expect that its metes and bounds could be defined more clearly than those of the more familiar policy areas of national defense, foreign relations, civil rights, public health, or employment security. The field of definition can be narrowed, however, by identifying those concepts with which it might be confused but from which it should be clearly distinguished.

Environmental policy, broadly construed, is concerned with the maintenance and management of those life-support systems—natural and man made—upon which the health, happiness, economic welfare, and physical survival of human beings depend. (See app. D.) The quality of the environment, in the full and complex meaning of this term, is therefore the subject matter of environmental policy. The term embraces aspects of other areas of related policy or civic action, and it is important that environmental policy and environmental quality, in the broad sense, be distinguished from these related but sometimes dissimilar policies or movements.

Environmental policy should not be confused with efforts to preserve natural or historical aspects of the environment in a perpetually unaltered state. Environmental quality deos not mean indiscriminate preservation, but it does imply a careful examination of alternative means of meeting human needs before sacrificing natural species or environments to other competing demands.

Environmental quality is not identical with any of the several schools of natural resources conservation. A national environmental policy would however, necessarily be concerned with natural resource issues. But the total environmental needs of man—ethical, esthetic, physical, and intellectual, as well as economic—must also be taken into account.

Environmental policy is not merely the application of science and technology to problems of the environment. It includes a broader range of considerations. For this reason S. 2805, in proposing a Council on Environmental Quality, does not stipulate that its five members be scientists, although it obviously would not preclude scientists among them.

One of the few differences in emphasis among the environmental policy bills now before the Congress has to do with the role of ecologists and of the science of ecology in the shaping of national policy. The need for a greatly expanded program of national assistance for ecological research and education cannot be doubted by anyone familiar with present trends in the environment. The science of ecology can provide many of the principal ingredients for the foundation of a national policy for the environment. But national policy for the environment involves more than applied ecology, it embraces more than any one science and more than science in the general sense.

The dimensions of environmental policy are broader than any but the most comprehensive of policy areas. The scope and complexities of environmental policy greatly exceed the range and character of issues considered, for example, by the Council of Economic Advisers. One may therefore conjecture, without derogation to the unquestionable importance of the economic advisory function, that a council on the environment would, in time, perhaps equal and even exceed in influence and importance any of the specialized conciliar bodies now in existence. For this reason its membership should be broadly representative of the breadth and depth of national interests in man-environment relationships. The ultimate scope of environmental policy, and the relationship of a high-level implementing council to existing councils, commissions, and advisory agencies, are not questions that can be, or need to be, decided now, nor even at the time that a national policy may be adopted. The important consideration is to develop a policy and to provide a means that will permit its objectives to be considered and acted upon by the Congress, the President, and the executive agencies. If we wait until we are certain of the dimensions of environmental policy and of how it will relate to other responsibilities and functions of Government, our assurance will be of no practical value. It will have come too late to be of much help.

2. Upon what considerations and value should a national environmental policy be based?

If it is ethical for man to value his chances for survival, to hope for a decent life for his descendants, to respect the value that other men place upon their lives, and to want to obtain the best that life has to offer without prejudicing equal opportunities for others, then the cornerstone of environmental policy is ethical. That cornerstone is the maintenance of an environment in which human life is not only possible, but may be lived with the fullest possible measures of personal freedom, health, and esthetic satisfaction that can be found. No government is able to guarantee that these values can be realized, but government is able to assist greatly in the maintenance of an environment where such values are at least realizable.

Ethics, like justice, is not easily quantifiable, yet few would argue that society should not seek to establish justice because justice cannot be adequately defined or quantified. Environmental policy is a point at which scientific, humanistic, political, and economic considerations must be weighed, evaluated, and hopefully reconciled. Hard choices are inherent in many policy issues. The sacrifice of a plant or animal species, for example, or of a unique ecosystem ought not be permitted for reasons of short-run economy, convenience, or expediency. The philosophy of reverence for life would be an appropriate guiding ethic for a policy that must at times lead to a decision as to which of two forms of life must give way to a larger purpose.

The natural environment has been basically "friendly" toward man. Man's survival is dependent on the maintenance of this environment, but not upon the unaltered operation of all of its myriad components. Pathogenic micro-organisms, for example, are not reverenced by man. Protection against them is a major task of environmental health and medicine. But even here, respect for the incredible variety, resilience, and complexity of nature is a value that environmental policy would be wise to conserve. Frontal attacks upon man's environmental enemies or competitors, identified as pathogens or as "pests," have miscarried too often to encourage the thought that direct action on threats in the environment are always wise, economical, or effective.

The range of values to be served by environmental policy is broad and an indication of how its scope might be defined may be obtained from the provisions of S. 2805 which specify the considerations to which the Council on Environmental Quality should respond: "Each member shall, as a result of training, experience, or attainments, be professionally qualified to analyze and interpret environmental trends of all kinds and descriptions and shall be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of this Nation."

The assessment and interpretation of these

needs and interests is obviously a function that the members of the Council would have to perform to the best of their ability. No more than in the election of legislators or in the appointment of judges, would it be possible to stipulate how these or other values should be understood and weighted. The reputations and characters of the individuals appointed to the Council would offer the best indication of how the specifications of the law might be construed. But the findings and conclusions of the Council need not be wholly subjective or based upon speculative data. The methods of systems analysis, cybernetics, telemetry, photogrammetry, electronic and satellite surveillance, and computer technology are now being applied to a wide range of environmental relationships. New statistical and computerized simulation techniques are rapidly bringing ecology from what has been described as "one of the most unsophisticated of the sciences," to what may become one of the most complex, intellectually demanding, and conceptually powerful of the sciences.

In brief, the values and considerations upon which a national environmental policy should be based should be no less extensive than the values and considerations that men seek to realize in the environment. In the interpretation of these values and considerations science can play a role of great importance. But neither science, nor any other field of knowledge or experience, can provide all of the criteria upon which environmental policies are based. The full range of knowledge and the contributions of all of the scientific and humanistic disciplines afford the informational background against which value judgments on environmental policy may most wisely be made.

3. How Should the Information Needed for a National Environmental Policy Be Obtained and Utilized?

Of all major questions on the implementation of environmental policy, this one is probably the least difficult. It is in part a technical question; yet to describe it as technical is not to suggest that it can be easily answered. There is no present system for bringing together, analyzing, collating, interpreting, and disseminating existing information on the environment. There is accordingly no reliable way of ascertaining what aspects of man-environment relationships are unresearched or hitherto unidentified. The question is less difficult than others primarily because it is clearly possible to design an information system, to fund its implementation, and to put it into effect. The particular form in which the data should finally appear, and the method of its subsequent disposition are more problematic.

Title I of S. 2805, and other measures proposed on behalf of a national environmental policy, make provision for the functions of information gathering, storage and retrieval, dissemination, and for enlarging the available information through assistance to research and training. The detailed provisions of S. 2805 on an environmental information system are numerous and need not be repeated here. The significant feature of these provisions is that they create an information system designed and intended to serve the policymaking processes of government.

Most of the environmental quality bills place this information function under the direction of the Secretary of the Interior. But they relate its data-gathering functions to those of other Federal agencies and they provide for the transmittal of its findings to a high-level reviewing body and to the President and the Congress. In the provision for organizing environmental information into a form that is usable for policy formation, this proposal represents a step toward greater rationality in government and toward the more effective use of modern information systems and technology to serve public purposes.

3. How should the information needed for a national environmental policy be obtained and utilized?

Some innovation and restructuring of policy-forming institutions will be required to achieve the purposes of a national environmental policy. Our present governmental organization has not been designed to deal with environmental policy in any basic or coherent manner. (See app. C.) The extent to which governmental reorganization may be necessary cannot be determined absolutely in advance of experience. But it does seem probable that some new facility at the highest levels of policy formulation will be needed to provide a point at which environmental policy issues cutting across the jurisdictional lines of existing agencies can be identified and analyzed, and at which the complex problems involved in man's relationships with his environment can be reduced to questions and issues capable of being studied, debated, and acted upon by the President, the Congress, and the American people. As we have seen, some of the bills on environmental policy now pending in the Senate and the House of Representatives (see app. B) provide a point of focus for this new area of policy through a high-level board or council. Many of these bills provide for periodic reports on the state of the environment to the policy-determining institutions of the Nation—the President and the Congress—and, as these reports are matters of public record, to the American people who must be the final judges of the level of environmental quality they are willing to support.

As noted in the preceding paragraphs, improved facilities for the finding, analysis and presentation of pertinent factual data are needed. A vast amount of data is now collected by Federal agencies and by private research organizations; but this data is uneven in its coverage of the various aspects of environmental policy. For example, there is a superabundance of technical information on some aspects of environmental pollution, but comparatively little research on the social and political aspects of environmental policy. Much of the data now available is in a form unsuitable for policy purposes. The sheer mass of data, much of it highly technical on certain major environmental problems, is a serious impediment to its use. For this reason, the legislative proposals on national environmental policy provide a system for reinforcing, supplementing, and correlating the flow of information on the state of the environment.

These two major needs, (*a*) a high-level reviewing and reporting agency and (*b*) an information gathering and organizing system, are the essential structural innovations proposed in bills now before the Congress for implementing a national environmental policy. Would these additions to the present structure of government be sufficient to implement a national environmental quality program and how in particular would the proposed high level Council be related to other agencies in the federal structure of government?

New policies and programs imply structures appropriate to their functions and may call for new relationships among existing agencies. To construct a comprehensive structure for environmental administration will require time, and meanwhile the need for leadership in informing the people and in formulating policy recommendations and alternatives grows more urgent. It is for this reason that some of the measures which have been introduced propose that a Council for Environmental Quality be established in the Executive Office of the President. In effect, the Council would be acting as agent for the President. It would need information from the various Federal departments, comissions, and independent agencies that, under prevailing organization, it could not as easily obtain if it were located at a level coequal or subordinate to the divisions of Government whose programs it must review. Reinforcing this consideration is the distribution of environmental-affecting activities among almost every Federal agency.

Objection may be raised that there are already too many councils and committees established in the Executive Office of the President. Some students of public administration argue that a simplification of structure and a clarification of existing responsibilities should take precedent over any new programs or agencies. The answer to this objection lies in an assessment of relative priorities. Is each of the councils or comparable agencies now established in the Executive Office of the President more important, of greater urgency, or of more direct bearing upon the public welfare, than the proposed Council on Environmental Quality? What criteria indicate how many conciliar bodies are "too many"? These questions are not merely rhetorical. Although they cannot be answered here, they are obviously germane to the issue of governmental organization and to the way in which national environmental policy is formulated and made effective.

A strong case can be made of a major restructuring of the Federal departments in which public responsibility for the quality of the environment would, like defense or foreign relations, become a major focus for public policy. Proposals tending in this direction and chiefly affecting the Department of the Interior have been made over several decades. A prominent news magazine took up this line of reasoning in a recent editorial declaring that "* * * the Secretary of the Interior ought to be the Secretary of the Environment." But a major restructuring of functions in the Federal administrative establishment cannot be accomplished easily or rapidly. Such a development would be most plausible as a part of a more general restructuring of the executive branch. The multiplication of high-level councils and interagency committees may indicate that a restructuring is needed. (See app. C.) Some of the complexity of present arrangements for policy formulation and review reflects the confusion often attending a transition from one set of organizing concepts to another.

Among the concepts that have been proposed to reduce the burden of the Presidential office and to provide a more simple and flexible administrative structure, is that of the "superdepartment." One of these agencies already exists as the Department of Defense. A Department of the Environment might be another. The substance and character of the organizational changes that superdepartments might imply are germane to a discussion of environmental administration, but they require no further exploration in this report beyond the following three points: *First*, they would be fewer in number than present departments, probably no more than seven to nine; *second*, they would be oriented broadly to services performed for the entire population, and *third*, they would be planning and coordinative rather than directly operational, assuming, to some degree, certain of the tasks that now fall heavily on the Executive Office of the President.

There may be another answer to the need for a more effective review and coordination of related functions in diverse agencies in the concept of "horizontal authority" or matrix organization. This organizational arrangement has been employed in multifunctional, cross-bureau, projects in the Department of Defense and in the National Aeronautics and Space Administration. Under a temporary structure for project management, it structures across normal hierarchal lines and working relationships among the necessary

personnel and skills. The concept might be applicable to interagency attack upon specific problems of environmental policy.

Review of national policy, and revision if and when needed, are functions that the Congress performs for all major policies of Government. The device of an annual or biennial report from the President to the Congress on the state of the environment offers the logical occasion for an examination by the Congress, not only of the substance of the President's message, but of national policy itself. In many respects, the transmission of an annual report on the state of the environment accompanied by a clear and concise statement of the Nation's goals, needs, and policies in managing the environment could attain many of the ends sought by those who propose reorganization.

SUMMATION

Although historically the Nation has had no considered policy for its environment, the unprecedented pressures of population and the impact of science and technology make a policy necessary today. The expression "environmental quality" symbolizes the complex and interrelating aspects of man's dependence upon his environment. Through science, we now understand, far better than our forebears could, the nature of man-environment relationships. The evidence requiring timely public action is clear. The Nation has overdrawn its bank account in life-sustaining natural elements. For these elements—air, water, soil, and living space—technology at present provides no substitutes. Past neglect and carelessness are now costing us dearly, not merely in opportunities foregone, in impairment of health, and in discomfort and inconvenience, but in a demand upon tax dollars, upon personal incomes, and upon corporate earnings. The longer we delay meeting our environmental responsibilities, the longer the growing list of "interest charges" in environmental deterioration will run. The cost of remedial action and of getting onto a sound basis for the future will never be less than it is today.

Natural beauty and urban esthetics would be important byproducts of an environmental quality program. They are worthy public objectives in their own right. But the compelling reasons for an environmental quality program are more deeply based. The survival of man, in a world in which decency and dignity are possible, is the basic reason for bringing man's impact on his environment under informed and responsible control. The economic costs of maintaining a life-sustaining environment are unavoidable. We have not understood the necessity for respecting the limited capacities of nature in accommodating itself to man's exactions, nor have we properly calculated the cost of adaptation to deteriorating conditions. In our management of the environment we have exceeded its adaptive and recuperative powers and in one form or another must now pay directly the costs of obtaining air, water, soil, and living space in quantities and qualities sufficient to our needs. Economic good sense requires the declaration of a policy and the establishment of an environmental quality program now. Today we have the option of channeling some of our wealth into the protection of our future. If we fail to do this in an adequate and timely manner we may find ourselves confronted, even in this generation, with environmental catastrophe that could render our wealth meaningless and which no amount of money could ever cure.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 1217. A bill to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of the senior Senator from the State of Colorado (Mr. ALLOTT) and myself, I introduce, for appropriate reference a bill to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes.

This legislation was submitted and recommended by the Department of the Interior and I ask unanimous consent that the executive communication from the Secretary of the Interior accompany the proposal and be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 1, 1971.

Hon. SPIRO T. AGNEW,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft of a proposed bill "To declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration and that it be enacted.

This proposed bill transfers the beneficial interest to approximately 28,700 acres of federally owned submarginal land within the White Earth Reservation to the Minnesota Chippewa Tribe with the title to be held in trust by the United States. The bill also provides protection to any person who may have vested rights in the land. It further provides that the Indian Claims Commission will determine the extent to which the value of the beneficial interest conveyed should or should not be set off against any claim against the United States Government determined by the Commission.

These lands were originally tribally owned, but they were allotted under the allotment acts and subsequently passed from Indian ownership. They were acquired by the United States during the middle 1930's under Title II of the National Industrial Recovery Act (48 Stat. 200), and subsequent relief acts at a cost of $175,664. The purchase of the submarginal land was but a small part of the submarginal land program undertaken by the Federal Government for the benefit of Indians.

In Circular No. 1, issued on June 7, 1934, by the Federal Emergency Relief Administration, to govern the acquisition of submarginal lands, it is stated that the land acquisition program of the Federal Government would be of three major types, the third type being "Demonstration Indian lands projects," which would include lands to be purchased primarily for the benefit of Indians. It was further stated that the objectives of the programs include "Improvements of the economic and social status of 'industrially stranded population groups', occupying essentially rural areas, including readjustment and rehabilitation of Indian population by acquisition of lands to enable them to make appropriate and constructively planned use of combined land areas in units suited to their needs." The circular set forth the following five types of demonstration Indian areas to be included in the program: (1) checkerboarded areas; (2) watershed or water control areas; (3) additional lands to supplement inadequate reservations; (4) lands for homeless Indian bands or communities now forming acute relief problems; and (5) lands needed for proper control of grazing areas.

In a memorandum of understanding between the Federal Resettlement Administration and the Office of Indian Affairs, approved by the Administrator of Resettlement Administration on October 19, 1936, it is stated that:

"Whereas, the lands being acquired under this program are situated almost entirely within the existing Indian Reservations to which they are intended for addition for the purpose of providing subsistence farm sites and consolidated grazing areas for the exclusive use of Indians; and

* * * * *

"2. Pending the transfer of the lands within these projects to the Office of Indian Affairs for permanent administration for the exclusive benefit of Indians, the Commissioner of Indian Affairs is hereby authorized to exercise, and hereby agrees to assume the responsibility for administration and maintenance of those projects, subject to the following stipulations:

* * * * *

"4. Upon the consummation of its land acquisition program in connection with the projects listed in paragraph 1, the Resettlement Administration will recommend to the President that the lands within those projects be transferred to the Office of Indian Affairs for permanent administration for the exclusive benefit of Indians."

The records disclose a complete understanding between the Federal agencies involved in the acquisition and administration of submarginal lands on or near Indian reservations. It was that the lands were being selected for acquisition in connection with demonstration Indian projects; that they were needed by the Indians; that they would be utilized by the Indians in connection with the use of Indian-owned lands; and that proper recommendations would be made at the appropriate time for the enactment of legislation to add these lands permanently to Indian reservations.

Jurisdiction over the White Earth submarginal land was transferred by Executive Order 7868, dated April 15, 1938, from the Department of Agriculture to the Department of the Interior for the benefit of the Indians, insofar as consistent with the conservation purposes for which the lands were acquired.

The full legal and equitable title to the lands is in the United States. The lands, technically, are not subject to the provisions of Title III of the Bankhead-Jones Farm Tenant Act of July 22, 1937 (50 Stat. 522), because they were transferred to the Department of the Interior about two months before most of the submarginal land projects were placed under the act. Nevertheless, that Act was intended to and did control all of the submarginal land projects under the jurisdiction of the Secretary of Agriculture on that date, that is June 9, 1938, including the Indian projects that were transferred to the Department of the Interior after that date. Under that Act the lands are to be used for a program of land conservation and land utilization broadly described to correct maladjustments in land use, control erosion, further reforestation, preserve natural resources, mitigate floods, prevent the impairment of dams and reservoirs, conserve surface and subsurface moisture, protect watersheds, and protect the public lands, health, safety, and welfare. The lands may be sold or donated to public agencies on condition that they be used for public purposes, or the lands may be transferred by the President to any Federal or State agency for administration in a manner that will further the land conservation and land utilization program authorized by the Act.

As neither Title III of the Bankhead-Jones Farm Tenant Act nor the original recovery and relief Acts under which the lands were acquired contemplate transfer of program lands to private owners, the lands in ques-

tion have been administered by the Department of the Interior for more than 30 years for the dual purpose of conservation and benefit to the Indians. The fact that the lands are interspersed with 25,568 acres of Indian tribal lands and 1,993 acres of allotted lands, makes that form of administration the only practical method of accomplishing the conservation purpose for which the lands were acquired. The maladjustments in land use were, to a large extent, caused by the allotment of tribal lands and subsequent sales in relatively small acreages. These maladjustments have, for the most part, been corrected by integrating the administration of the submarginal lands with the remaining Indian tribal holdings. If the land is transferred to the tribe, such administration will, of course, be continued.

About 24,258 acres of the submarginal land are in 16 fairly solid blocks of adjoining tracts, located in two townships in Mahnomen County. The other 4,437 acres consist of 38 scattered tracts in four townships in Becker County which adjoins Mahnomen County. The 54 tracts range in size from 20 to 14,319 acres. Their present estimated fair market value based not only on increasing land values but primarily on increasing timber values and growth is $745,500. This land is considered to be without value for minerals, either metalliferous or nonmetalliferous, although one permit has been issued for the removal of sand and gravel.

Improvements consist mainly of dwellings and farm buildings that were on the land when it was acquired by the Government. In addition, some improvements have been made on lakeshore lots by individuals who leased the lots from the Bureau of Indian Affairs under revocable permits.

Practically all of these submarginal lands are best suited to forestry production and should be managed with the tribal lands as a tribal unit. The cutting of timber on submarginal lands is presently limited to only that which is necessary to prevent the loss of fire-killed, wind-thrown or other damaged timber, and that which impairs productivity.

The Department has permitted the use of these lands by the tribe on a revocable permit basis. The tribe has in turn issued permits directly to individuals.

The White Earth Reservation Council, on December 2, 1961, adopted a provisional economic development plan which includes the use of submarginal and tribal lands. Tribal officers approved the plan on March 8, 1962. On August 13, 1962, this Department recommended to the Area Redevelopment Administration, Department of Commerce, the acceptance of the White Earth Overall Economic Development Program, which was subsequently approved by the Area Redevelopment Administration on September 8, 1962. Under this plan, one of the most urgent needs is for the White Earth Reservation to acquire title to the submarginal lands. In a letter addressed to the Commissioner of Indian Affairs, the Chairman of the Minnesota Chippewa Tribe stresses that the lands have not been developed to their highest potential because of the limitations of the revocable permits. The goals of the program are to provide employment for residents of the reservation area; improve living standards with better housing, health and welfare facilities; full utilization of the natural resources; education and training of members to permit the earning of more adequate incomes; and cooperation with public agencies and individuals in economic development of the reservation area. The resources to be developed in accordance with this plan include cultivation of cranberry marshes, cultivation and harvesting of wild rice, mink farms, poultry raising, harvesting of maple syrup, dairying and agricultural pursuits and greater utilization of recreational resources. A Job Corps Center was developed on tribal land contiguous to the submarginal land. These improvements could be used as a nucleus for development of the submarginal land in conjunction with the tribal program. These uses are consistent with those recommended by the Minnesota Conservation Department and Mahnomen County Conservation Needs Committee. The White Earth Overall Economic Program will have many lasting benefits for the Indians of the White Earth Reservation, and the acquisition of these submarginal lands by the tribe is essential to the full realization of this program.

Because of the limitation on revocable permits, tribal plans for campground development, lakeshore leasing, access road construction, individual home construction, and industrial development are in effect prohibited with respect to the submarginal land, since the tribe is unable to encumber leaseholds of up to 25 years with an option to renew for a like period as they can do on tribal lands. Thus proper economic utilization of the submarginal land is being stifled because industry cannot construct the improvements necessary to make full use of the property.

For these reasons, it is urged that these lands be donated in trust to the tribe by the enactment of this legislation. The Minnesota Chippewa Tribe, by Resolution No. 50-67 dated January 13, 1967, has urged that this be accomplished.

The Office of Management and Budget has advised there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary of the Interior.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 1218. A bill to declare that certain federally owned lands in the State of Nevada are held by the United States in trust for the Reno-Sparks Indian Colony, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of my colleague from Nevada (Mr. CANNON) and myself, I introduce for appropriate reference, a bill to declare that certain federally owned lands in the State of Nevada are held by the United States in trust for the Reno-Sparks Indian Colony, and for other purposes.

I introduced this legislation in the 91st Congress. An identical measure was passed by the Senate September 1, 1970, but unfortunately the House did not complete action on the bill.

As explained in the report of the Senate Committee on Interior and Insular Affairs on S. 3196 of the last Congress the purpose of the bill is to grant to the Reno-Sparks Indian Colony in Nevada the beneficial interest in and to 28.38 acres of land the colony has been using and occupying since the land was acquired by the Federal Government by purchase from private individuals for use as homesites for nonreservation Indians. The bill also authorizes the governing body of the colony, with the approval of the Secretary of the Interior, to make long-term leases of land to members for homesites, dedicate lands for public purposes, contract for public facilities and other services, enact zoning, building, and sanitary regulations, and take action to establish proper boundaries of the colony lands.

The colony site consists of two tracts of land, one of which was acquired in 1917 and the other in 1927 pursuant to authority of, and with funds made available by, two acts of Congress for the purpose of procuring home and farm sites for the nonreservation Indians in the State of Nevada. Title to the land was taken in the name of the United States.

On June 10, 1935, the Indians residing in the colony voted to accept the Indian Reorganization Act of June 18, 1934, and later adopted a constitution and bylaws which was approved by the Secretary of the Interior on January 15, 1936. Article I of the constitution and bylaws provides that the organized colony shall have jurisdiction over all of the land within the boundaries of the colony site, except as otherwise provided by law.

The property since its purchase has been used almost exclusively for homesite purposes by the colony members. There are now located on the land over 100 cottages and mobile homes. The value of these improvements, which are in varying degrees of repair and maintenance, has been estimated at approximately $125,000 to $150,000.

When purchased, the land was rural in character and location. In the intervening years the city of Reno has grown until the colony is completely surrounded on all sides. Nearly the whole acreage of the colony has been plotted into lots which have been assigned to members on an approved assignment form. Although the colony has domestic water and waste disposal facilities, which were completed in 1968, there is need for modernization and improvement of the housing and community facilities and services.

With the formal transfer of the beneficial ownership from the United States to the colony, any doubt of the rights and interest of the colony in and to the land and its authority to contract for improvements on or to the land and to make in-kind contribution toward the Neighborhood Facilities project will be resolved. The colony will also have authority to make long-term leases to its members for homesite purposes and thus enable the members to mortgage or otherwise hypothecate their leasehold interests as security for improvement loans and through this procedure effect an improvement in their housing conditions.

Although the constitution and bylaws adopted by the colony provide that the Indian council may exercise certain specified authorities, including the promulgation and enforcement of ordinances, to safeguard and promote the peace, safety, and general welfare of the colony, attempts of tribal governing bodies in this general area of autonomy have often given rise to serious questions. Accordingly, it is deemed desirable that this bill be enacted to remove any doubt as to the authority of the Indian council of the colony to take the actions therein authorized as and when the needs are indicated.

The legislation has also been requested by the Reno-Sparks Indian Council, and I ask unanimous consent that a resolution of the Council dated November 11, 1969, be inserted in the RECORD following my remarks.

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

RESOLUTION OF THE RENO-SPARKS INDIAN COUNCIL

Whereas, by Resolution 68–RS–6 of October 8, 1968, the Reno-Sparks Indian Council endorsed legislation that would declare that all right, title and interest of the United States in certain Federally owned lands in the State of Nevada are held by the United States in trust for the Reno-Sparks Indian Colony, and

Whereas, these lands were never placed in Federal trust as are most Indian Reservations, and

Whereas, it is felt that development and safeguarding of lands known as the Reno-Sparks Indian Colony could be more effectively carried out under a trust status.

Now, therefore, be it resolved that Resolution 68–RS–6 of October 8, 1968, be modified by authorizing and directing the Chairman of the Reno-Sparks Indian Colony to present a Bill to the Nevada delegation for their introduction of legislation that would declare that certain federally owned lands are held by the United States of America in trust for the Reno-Sparks Indian Colony. Copy of a proposed Bill is attached.

Be it further resolved that the Congress of the United States is hereby requested to take whatever steps are necessary to place the lands of the Reno-Sparks Indian Colony in the name of the United States of America in trust for the Reno-Sparks Indian Colony.

CERTIFICATION

I, the undersigned, Secretary of the Reno-Sparks Indian Colony, hereby certify that the Reno-Sparks Indian Council is composed of six members of whom 5 constituting a quorum were present at a duly called meeting which was convened and held on Nov. 11, 1969, and that the foregoing resolution was duly adopted by a vote of 5 for and 0 against, pursuant to authority contained in the Constitution and Bylaws of the Reno-Sparks Indian Colony approved January 15, 1936.

MRS. EFFIE DRESSLER,
Secretary, Reno-Sparks Indian Council.

By Mr. MAGNUSON (by request):

S. 1219. A bill to amend the Federal Trade Commission Act. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference a bill to amend the Federal Trade Commission Act and ask unanimous consent that the letter of transmittal be printed in the RECORD together with the text of the bill.

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

S. 1219

A bill to amend the Federal Trade Commission Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Trade Commission Act Amendments of 1971."

EXPANDED FEDERAL TRADE COMMISSION JURISDICTION

SEC. 2. Section 5 of the Federal Trade Commission Act, as amended (38 Stat. 719, 15 U.S.C. 45) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof the words "affecting commerce." Subsections (a) and (b) of Section 6 of the Federal Trade Commission Act (38 Stat. 721; 15 U.S.C. 46(a) and (b)) are amended by striking out the words "in commerce" and inserting in lieu thereof the words "in or whose business affects commerce." Section 12 of the Federal Trade Commission Act (52 Stat. 114; 15 U.S.C. 52) is amended by striking out the words "in commerce" and inserting in lieu thereof in subsection (a) the words, "in or having an effect upon commerce," and in subsection (b) the words, "affecting commerce."

PRELIMINARY INJUNCTION

SEC. 3. Section 13 of the Federal Trade Commission Act (52 Stat. 114; 15 U.S.C. 53) is amended by redesignating subsection (b) and all references thereto as subsection (c) and by inserting after subsection (a) thereof the following new subsection (b):

"(b) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is engaged in, or is about to engage in, any act or practice which is unfair or deceptive to a consumer and is prohibited by section 5, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission made thereon has become final within the meaning of section 5, would be to the interest of the public—the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon proper showing and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage is granted by courts of equity. *Provided, however,* That if a complaint under section 5 is not filed within such period as may be specified by the court after the issuance of the temporary restraining order or preliminary injunction, the order or injunction may be dissolved by the court and be of no further force and effect. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

PENALTY FOR VIOLATION OF ORDER

SEC. 4. Section 5(*l*) of the Federal Trade Commission Act (38 Stat. 719; 15 U.S.C. 45 (*l*)) is amended by striking out the amount "$5,000," and inserting in lieu thereof the amount, "$10,000."

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is enclosed for your consideration and appropriate reference a legislative proposal entitled the "Federal Trade Commission Act Amendments of 1971."

This proposed legislation carries out in part the February 24 Consumer Message of the President.

The change of the words "in commerce" to "affecting commerce" accomplished by Section 2 of the proposed legislation removes a limitation on the jurisdiction of the Federal Trade Commission over certain actions and practices which have adverse commercial consequences and which cannot be reached under Section 5 of the Federal Trade Commission Act as it now reads.

Section 3 of the proposed legislation carries out one of the recommendations appearing in the President's message and the report of the American Bar Association, by providing that the Federal Trade Commission may obtain a preliminary injunction to halt, at the outset, certain unlawful acts or practices adversely affecting consumers. The district courts, by suspending these activities pending the conclusion of administrative or judicial proceedings, could avoid situations in which the final administrative or judicial action may be mooted by the passage of time during the progress of the proceedings.

Section 4 of the proposed bill increases the maximum civil penalty for violation of a cease and desist order issued by the Commission from $5,000 to $10,000. This amendment will increase the deterrent effect of such orders.

The Office of Management and Budget has advised that the submission of this proposal is in accord with the program of the President.

Sincerely,

———,
Attorney General.

By Mr. MAGNUSON (by request):

S. 1220. A bill to amend the Act to authorize appropriations for the fiscal year 1971 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Act to authorize appropriations for the fiscal year 1971 for certain maritime programs of the Department of Commerce, and ask unanimous consent that the letter of transmittal and statement of need be printed in the RECORD together with the text of the bill.

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

S. 1220

A bill to amend the Act to authorize appropriations for the fiscal year 1971 for certain maritime programs of the Department of Commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of May 13, 1970 (84 Stat. 207; P.L. 91–247) is amended by striking out of paragraph (b) the figure $193,000,000 and inserting in lieu thereof the figure $273,000,000.

THE SECRETARY OF COMMERCE,
Washington, D.C., February 25, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill "To amend the Act to authorize appropriations for the fiscal year 1971 for certain maritime programs of the Department of Commerce," together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to submission of our draft bill to the Congress and further that enactment would be in accord with the program of the President.

Sincerely,

MAURICE H. STONE,
Secretary of Commerce.

STATEMENT OF THE PURPOSES AND PROVISIONS OF THE DRAFT BILL TO AMEND THE ACT TO AUTHORIZE APPROPRIATIONS FOR THE FISCAL YEAR 1971 FOR CERTAIN MARITIME PROGRAMS OF THE DEPARTMENT OF COMMERCE

Section 209 of the Merchant Marine Act, 1936, provides that after December 31, 1967, there are authorized to be appropriated for certain maritime activities only such sums as Congress may specifically authorize by law.

The bill the Department of Commerce requested to have introduced, and which was introduced and enacted as P.L. 91–247, au-

thorized appropriations for the fiscal year 1971 for these activities. One of these activities is payment of obligations incurred for ship operation subsidies. The amount the Department requested for this purpose was $193,000,000, and this was the amount authorized by the Act. For reasons hereinafter given, this request understated our needs for funds for this purpose in fisal 1971 by $80,000,000.

Under the Merchant Marine Act, 1936, the Department enters into contracts with American flag vessel operators, for a period of not exceeding 20 years, to pay them an operating differential subsidy for operation of their vessels in the United States foreign trade. The purpose of the appropriation for ship operation subsidies is to pay amounts which are, or will become due and payable under such contracts in the current fiscal year or in prior years.

The draft bill would amend P.L. 91-247 to increase the authorization for appropriations for payment of ship operation subsidies for fiscal 1971 from $193,000,000 to $273,000,000. This is an increase of $80,000,000.

$40,300,000 of this increase is required to partially liquidate accruals of unpaid subsidies for the calendar year 1968 and prior years. These unpaid amounts could not be paid heretofore because of disagreements between the operators and the Department as to the final subsidy rates applicable to such years. Agreements have now been reached with most of the operators with respect to final subsidy rates applicable to calendar year 1968 and prior years. It is expected that final rates applicable to the remaining operators for this period will be finalized in the near future. On this basis it is expected that all of the operators will be submitting billings for the subsidy due them through calendar 1968 before the end of fiscal 1971. It is a matter of the utmost importance to the maritime program that these billings be paid promptly. The inordinate length of time that these funds have been withheld, which in the majority of cases include unpaid balances relating to subsidies for operations dating back as far as 1962, has had a serious adverse effect on the operators.

The remaining $39,700,000 of the $80,000,000 increase relates to provisions in the President's new Maritime program. These provisions will materially accelerate the payment schedule for liquidation of accrued operating-differential subsidies for fiscal 1971.

By Mr. MAGNUSON (by request):

S. 1221. A bill to provide increased warranty protection for consumers, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference, a bill to provide increased warranty protection for consumers, and ask unanimous consent that the letter of transmittal and statement of need be printed in the RECORD together with the text of the bill.

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

S. 1221

A bill to provide increased warranty protection for consumers, 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 "Fair Warranty Disclosure Act of 1971".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. Congress finds that the free flow of consumer products and services and open competition in guaranties relating to those products and services are interdependent; and Congress further finds that it is in the interest of the commerce of the United States that consumers receive complete disclosure of the terms and conditions of any guaranty of merchandise or services, and that guaranties not be marketed deceptively.

It is the purpose of this Act to provide for full disclosure of warranty terms, and to prevent the sale of consumer products and services by the use of deceptive guaranties that affect commerce.

DEFINITIONS

SEC. 3. As used in this Act—

(a) "guaranty" or "warranty" shall mean—

With respect to consumer products or services, any express written statement of guaranty or warranty, or any undertaking in writing to refund, repair, replace or take other remedial action with respect to the sale of a consumer product in the event that the product fails to meet the specifications set forth in the undertaking which becomes part of the basis of the bargain;

(b) "consumer products" means any tangible personal property normally used for personal, family, or household purposes and that actually cost the purchaser more than $10; "consumer products" include personal property intended to be attached to or installed in any real property without regard to whether it is so attached or installed;

(c) "guarantor" means any supplier who gives or offers to give a guaranty or warranty. A supplier who has not expressly obligated himself under a guaranty or warranty, may with respect to a consumer product supplied by him avoid the obligations and liabilities of a guarantor under this Act by clearly and conspicuously stating such intention in writing in a way reasonably calculated to bring such avoidance to the attention of consumers;

(d) "services" means repair or other work actually costing more than $10 performed on consumer products;

(e) "supplier" means any person engaged in the business of making consumer products available to consumers, either directly or indirectly;

(f) "service contract" means an agreement, separate from and not a part of the basis of a bargain of the sale of consumer products or services, to make repairs upon defective or malfunctioning consumer products;

(g) "deceptive guaranty" means a guaranty or warranty that contains an affirmation, promise, description, or representation that is either false or fraudulent, or that, in the light of all of the circumstances, would mislead a reasonable man exercising due care; or fails to contain information that is necessary, in light of all the circumstances, to make the guaranty or warranty not misleading to a reasonable man exercising due care;

(h) "Commission" means the Federal Trade Commission.

DISCLOSURE OF GUARANTY AND WARRANTY PROVISIONS

SEC. 4. (a) In order to improve the information available to consumers, prevent deception, and improve competition in the marketing of guaranties and warranties, the Commission is authorized to establish regulations requiring the full and conspicuous disclosure of the terms and conditions of guaranties and warranties relating to consumer products, and disclaimers of guaranties and warranties, express or implied; and the manner and form in which such information must be provided for presentation or display or presented or displayed to the consumer, including representations in advertising, labeling, and point of sale information: *Provided, however,* That nothing in this section shall be deemed to authorize the Commission to prescribe the duration of guaranties or warranties given, to require that products or components be guaranteed or warranted, or to undertake similar action to prescribe the scope and substance of substantive terms of guaranties and warranties.

(b) Regulations pursuant to subsection (a) of this section shall provide that the guaranty or warranty—

(1) is expressed in simple and readily understood terms;

(2) clearly and conspicuously discloses the name and address of the guarantor and where applicable, the name and address of any person or persons, or the identification of any class of persons authorized to perform the obligations set forth in the guaranty or warranty;

(3) identifies the class or classes of persons to whom the guaranty or warranty is extended.

(c) Regulations pursuant to subsection (a) of this section may provide, among other things, that the guaranty or warranty—

(1) describe the parts of the product which are covered by the guaranty or warranty;

(2) state the nature of the damage and defects which are covered by the guaranty or warranty;

(3) disclose the duration of any obligations under the guaranty or warranty;

(4) state the conditions, if any, which the person claiming under the guaranty or warranty must fulfill and the expenses, if any which such person must bear before the guarantor will perform his obligations;

(5) state the time at which and the manner in which the guarantor will perform his obligations;

(6) state the period of time within which, after notice of malfunction or defect, the guarantor agrees to perform his obligations;

(7) disclose conspicuously the characteristics or properties of the products, the parts thereof, and the nature of the damage to the products that are not covered by the guaranty or warranty;

(8) not contain words or phrases which would render the guaranty or warranty deceptive; and

(9) state any means available, if any, for quick informal settlement of any guaranty or warranty dispute.

(d) Regulations established by the Commission under this section shall be effective after notice thereof is published in the Federal Register, interested parties are given an opportunity to comment thereon within a reasonable time, and such regulations are approved on a record after opportunity for a public agency hearing structured so as to proceed as expeditiously as practicable.

DISCLAIMERS OF IMPLIED WARRANTIES

SEC. 5. (a) If a supplier uses the term "guaranty" or "warranty" in advertising, labeling, point of sale material, or other representation concerning a consumer product or service, any attempted disclaimer or exclusion of warranties otherwise arising by law shall be deemed a deceptive guaranty and shall have no effect.

(b) Any supplier who disclaims or excludes warranties otherwise arising by law shall conspicuously designate his undertakings with respect to a consumer product as "Manufacturer's (or Supplier's) Limited Obligation". Failure to make such a designation shall be deemed a deceptive guaranty.

UNFAIR OR DECEPTIVE PRACTICES

SEC. 6. It shall be an unfair or deceptive practice within the meaning of section 5 of the Federal Trade Commission Act for any supplier (i) to make any deceptive guaranty, or (ii) to violate any regulation validly issued under the authority of section 4 of this Act.

RESTRAINING VIOLATIONS: FEDERAL TRADE COMMISSION

SEC. 7. Whenever the Commission has reason to believe that any person is engaged in, or is about to engage in, the making of a deceptive guaranty, or a violation of any

regulation validly issued under the authority of section 4 of this Act, and that injunction thereof pending the issuance of a complaint by the Commission under section 5 of the Federal Trade Commission Act, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 5 of the Federal Trade Commission Act, would be in the interest of the public—the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin said violation. Upon proper showing and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damages is granted by courts of equity: *Provided, however,* That if a complaint under section 5 of the Federal Trade Commission Act is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may upon motion, be dissolved.

RESTRAINING VIOLATIONS: ATTORNEY GENERAL

SEC. 8. The district courts of the United States shall have jurisdiction to restrain any guarantor from making any deceptive guaranty upon application by the Attorney General. The court may at any time grant such injunctive relief as it deems appropriate. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

VENUE

SEC. 9. An action which may be brought in a United States district court under this Act may be brought in any district in which the defendant resides, is found, has an agent, is licensed to do business, or is doing business.

CIVIL INVESTIGATIVE DEMANDS

SEC. 10. (a) Whenever the Attorney General has reason to believe that any person under investigation may be in possession, custody, or control of any documentary material, or may have knowledge of any fact, relevant to the making of any deceptive guaranty or warranty, he may prior to the institution of a proceeding under section 8, issue in writing, and cause to be served upon such person a civil investigative demand requiring such person to produce the documentary material for examination or to answer in writing interrogatories pertaining to such knowledge.

(b) Each such demand shall—

(1) state the nature of the conduct alleged to constitute the deceptive guaranty or warranty which is under investigation;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(3) propound with definiteness and certainty the written interrogatories to be answered;

(4) prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(5) identify the custodian to whom such material shall be furnished, or the person to whom such answers shall be made.

(c) No demand shall—

(1) contain any requirement which would be held unreasonable if contained in a subpena duces tecum issued by a court of the United States in a proceeding brought under section 8 of this Act or if propounded in an interrogatory directed to a defendant in any such proceedings; or

(2) require the production of any documentary evidence, or the disclosure of any information, which would be privileged from disclosure if demanded by a subpena duces tecum issued by a court of the United States, or by an interrogatory propounded, in any proceeding under section 8 of this Act.

(d) Demand may be served at any place within the territorial jurisdiction of any court of the United States.

(e) Service of any such demand or of any petition filed under subsection (g) of this section may be made upon a partnership, corporation, association, or other legal entity by—

(1) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association or entity;

(2) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association or entity to be served; or

(3) depositing such copy in the United States mails, by registered or certified mail duly addressed to such partnership, corporation, association or entity at its principal office or place of business.

(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(g) The provisions of sections 4 and 5 of the Antitrust Civil Process Act (15 U.S.C. 1313, 1314) shall apply to custodians of material produced pursuant to any demand and to judicial proceedings for the enforcement of any such demand made pursuant to this section: *Provided, however,* That documents and other information obtained pursuant to any civil investigative demand issued hereunder and in the possession of the Department of Justice may be made available to duly-authorized representatives of the Federal Trade Commission for the purpose of investigations and proceedings under this Act and under the Federal Trade Commission Act.

DESIGNATION OF REPRESENTATIVES

SEC. 11. Nothing in this Act shall prevent the guarantor from designating representatives to perform the obligations of any guaranty, but no such designation shall relieve the guarantor from his responsibilities under the guaranty or warranty made, or, without more, make such representative a co-guarantor.

SERVICE CONTRACTS

SEC. 12. Nothing in this Act shall be construed to prevent a supplier from selling a service contract covering parts and/or labor to the first purchaser at the time of sale.

LIMITATIONS OF DAMAGES

SEC. 13. Remedies for breach of implied warranties may be limited, liquidated or modified according to state law.

REPORTS

SEC. 14. (a) As part of their responsibilities to protect consumers, the Attorney General and the Commission shall annually report to the President and the Congress on the effectiveness of this Act.

(b) The Commission shall, in addition, undertake an inquiry into the marketing and performance of guaranties, warranties, and other post-sale service and repair obligations, the deficiencies attendant thereto of greatest economic significance to consumers, and the most effective means of improving the marketing and performance of such obligations consistent with maintaining a free, competitive, and dynamic interstate commerce. The Commission shall provide a report on these matters within two years from the date of enactment of this Act.

OTHER LAWS NOT AFFECTED

SEC. 15. Except as is provided in sections 5 and 6, this Act shall not annul, alter, or affect in any manner the meaning, scope, or applicability of any Federal or state law, including but not limited to the Federal Trade Commission Act and laws concerning the provision of goods and services to consumers; or add to or limit in any way the availability of rights or remedies under such law: *Provided, however,* That no requirement of any state law inconsistent with the requirements of this Act shall have effect.

EFFECTIVE DATES

SEC. 16. This Act shall take effect six months after the date of enactment. With respect to guaranties or warranties issued by manufacturers, any requirements of the Act, or rules promulgated hereunder, shall apply only to guaranties or warranties issued as to products manufactured after the date such requirements or rules become effective. With respect to suppliers other than manufacturers, any requirements of the Act, and rules promulgated hereunder, shall apply only to guaranties or warranties issued after the date of such requirements or rules become effective. The Commission may determine that rules promulgated may take effect up to six months after the publication date of final rules. The Commission may classify suppliers, and provide for different effective dates for different classes of suppliers.

WASHINGTON, D.C.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is enclosed for your consideration and appropriate reference a legislative proposal entitled the "Fair Warranty Disclosure Act of 1971."

This proposed legislation carries out in part the February 24 Consumer Message of the President. As more fully described in the accompanying explanatory statement, the proposed Act is designed to provide increased protection for consumers by providing full and complete disclosure of the terms of warranties and guaranties offered in connection with the sale of consumer products.

The proposed legislation avoids extensive legislative or administrative control over the substantive terms of warranties and guaranties, adopting instead a scheme which seeks to maintain markets which are as free and diverse as is feasible. Generally, so long as the buyer is informed of, and adequately understands, whatever services are offered, a supplier should be free to offer consumer products with no warranties, with comprehensive warranties, or with warranties limited in substantive content and duration to any extent he chooses. In turn, the consumer should have available for choice a flexible spectrum of post-sale services which sellers may offer. He should have the opportunity to buy cheap goods as well as expensive goods, and to buy a wide range of service obligations. The operation of free market choices should lead to an upgrading in the quantity and quality of warranties and guaranties.

The proposed legislation, by providing for full and complete disclosure of warranty terms, will tend to result in purchasing decisions by consumers who are better informed than at present and thus better able to exert an informed influence on the competitive system. At the same time, the Act provides effective sanctions against those who seek to misinform or mislead consum-

ers by making deceptive warranties or guaranties.

The Office of Management and Budget has advised that the submission of this legislation is in accord with the program of the President.

Sincerely,

———— ————,
Attorney General.

EXPLANATORY STATEMENT TO ACCOMPANY THE PROPOSED FAIR WARRANTY DISCLOSURE ACT OF 1971

Section 2. Contains a Congressional finding that the sale of consumer products and services and competition in guaranties related to those products and services are interdependent, and states that the purpose of the Act is to provide full disclosure of warranty terms and prevent sales by use of deceptive guaranties.

Section 3. Designates the types of warranties and guaranties to which the Act is applicable. Also defines consumer products and services as those costing more than $10 and sets forth what constitutes deceptive guaranty so as to give suppliers clear notice of the acts and practices which are prohibited.

Section 4. Authorizes the Federal Trade Commission to establish regulations requiring full disclosure of the terms and conditions of guaranties and warranties, while not authorizing the Commission to prescribe substantive terms of guaranties and warranties. It directs that such regulations shall provide that the guaranty or warranty be readily understood, clearly disclose the identity of the guarantor and identify the persons to whom the guaranty is extended. The regulations may provide that the guaranty or warranty state such other things as parts of the product covered, duration of the obligation, conditions to be fulfilled by a claimant under a guaranty and the time and manner of the guarantor's performance of obligations.

Section 5. Declares that any disclaimer of warranties by a supplier who uses the terms guaranty or warranty in connection with the sale of products or services shall be deemed a deceptive guaranty and have no effect. If a supplier disclaims any warranties as to a product, he must conspicuously designate his obligation as a Manufacturer's (or Supplier's) Limited Obligation.

Section 6. Declares that a deceptive guaranty or a violation of any Commission regulation issued under the Act shall constitute an unfair or deceptive practice under Section 5 of the Federal Trade Commission Act.

Section 7. Authorizes the Federal Trade Commission to seek preliminary injunctions in United States district courts to enjoin the making of deceptive guaranties and the violation of regulations issued under Section 4 of the Act, provided, that if a complaint under Section 5 of the Federal Trade Commission Act is not filed within a period specified by the court, the injunction may, on motion, be dissolved.

Section 8. Confers jurisdiction on the United States district courts to entertain actions brought by the Attorney General to restrain and guarantor from making a deceptive guaranty. The courts are further empowered to assure that all persons responsible for an alleged violation may be brought before them and be subject to their jurisdiction.

Section 9. Provides that suits under the Act may be brought in any district in which the defendant resides, is found, has an agent, is licensed to do business, or is doing business.

Section 10. Gives to the Attorney General an investigative tool similar to that provided in the Antitrust Civil Process Act. It provides that the Attorney General may issue a written civil investigative demand to any person under investigation requiring such person to produce documents or submit written answers to interrogatories.

Section 11. Allows guarantors to designate representatives to perform the obligations of a guaranty, but does not relieve the guarantor of his obligations or make the representative a co-guarantor.

Section 12. Allows a supplier to sell a service contract covering parts and/or labor to the first purchaser at the time of sale.

Section 13. Provides that remedies for breach of implied warranties may be limited, liquidated or modified according to state law.

Section 14. Requires the Federal Trade Commission and the Attorney General to report annually to the President and the Congress on the effectiveness of the Act. In addition, the Commission is required to conduct a study of the marketing and performance of guaranties and warranties and the most effective means of improving them. The Commission is to provide a report on this study within two years of the date of enactment of the Act.

Section 15. Contains a Congressional direction that, with the exception of Sections 5 and 6 of the Act, this legislation is not intended to affect in any way other state and federal consumer laws, rights or remedies. It provides, however, that no state law inconsistent with the Act shall have effect.

Section 16. Provides that the Act shall take effect six months after the date of enactment. With respect to manufacturers, the Act or rules issued pursuant to the Act shall apply only to guaranties or warranties on products manufactured after the effective date of the Act of the rules. With respect to other suppliers, the Act or rules shall apply only to guaranties or warranties issued after the appropriate effective dates. The Federal Trade Commission is allowed to determine when its rules take effect up to six months after final publication, and the Commission may classify suppliers and provide different effective dates for different suppliers.

By Mr. MAGNUSON (by request):

S. 1222. A bill to provide increased protection for consumers, prevent consumer fraud, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to provide increased protection for consumers, prevent consumer fraud, and ask unanimious consent that the letter of transmittal and statement of need be printed in the RECORD together with the text of the bill.

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

S. 1222

A bill to provide increased protection for consumers, prevent consumer fraud, and 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 "Consumer Fraud Prevention Act of 1971".

DEFINITIONS

SEC. 2. As used in this Act—

(a) "unfair consumer practice" means any of the following acts or practices committed by a supplier—

(1) offering goods or services intending not to sell them as offered for the purpose of inducing sales of other or different goods or services;

(2) advertising goods or services intending not to supply reasonably expectable public demand, unless the advertisement discloses a limitation;

(3) knowingly making false or misleading statements concerning the need for, or necessity of, any goods, services, replacements, or repairs;

(4) representing that the consumer will obtain any rights, privileges, or remedies knowing that the consumer will not;

(5) representing that goods are new knowing that they are not;

(6) representing that goods are of a particular standard, grade, quality, style, age, or model, knowing they are not, except that the conduct described in this paragraph shall not be an unfair consumer practice if the supplier shows that an affirmation merely of the value of the goods or services, or a statement of his opinion of the goods or services, or similar statements, did not take unfair advantage of the level of knowledge, ability, experience, or capacity of the consumer;

(7) knowingly making false or misleading statements concerning (i) the reason for, existence of, duration of, or amounts of price reductions, or (ii) savings in comparison to prices of competitors or one's own price;

(8) representing that goods or services are those of another, knowing they are not;

(9) failing to return or refund a deposit or advance payments for goods not delivered or services not rendered, when no default or further obligation of the person making such deposit or advance payment exists;

(10) knowingly representing that goods or services have sponsorship, approval, origin, characteristics of safety or performance, ingredients, uses, benefits, or quantities that they do not have, or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have, except that the conduct described in this paragraph shall not be an unfair consumer practice if the supplier shows that an affirmation merely of the value of the goods or services, or a statement of his opinion of the goods or services, or similar statements, did not take unfair advantage of the level of knowledge, ability, experience, or capacity of the consumer;

(11) taking consideration for goods or service intending not to deliver such goods or perform such services, or intending to deliver goods or provide services which are materially different;

(12) offering gifts, prizes, free items, or other gratuities, in connection with a sale of goods or services to a consumer, intending not to provide them as offered;

(13) knowingly making false or misleading statements concerning the existence, terms, or probability of any rebate, additional goods or services, commission, or discount offered as an inducement for the sale of goods or services to a consumer in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into any other consumer transaction;

(14) using physical force, threat of physical force, or undue harassment in dealing with a consumer;

(b) "knowing", "knowingly", and "knowledge" refer to actual knowledge, knowledge presumed where objective circumstances indicate that the supplier acted with knowledge, or knowledge presumed where circumstances indicate that the supplier acted in disregard of reasonable safeguards or care in ascertaining the truth of representations made;

(c) "consumer" means any natural person who is offered or supplied goods or services for personal, family, or household purposes;

(d) "supplier" means any person in the business of making goods or services available to consumers, either directly or indirectly;

(e) "goods" means tangible personal property but does not include securities, or interests in securities, or aircraft to the extent regulated in design and construction; "goods" includes personal property intended to be attached to or installed in any real property without regard to whether it is so attached or installed.

(f) "services" includes the provision of intangibles, other than—

(i) insurance services

(ii) credit services and services by common carriers and public utilities, to the extent that unfair consumer practices are prohibited with respect to these services under other Federal law or regulations; and

(g) "statement" means any representation in advertising, any oral or visual presentation, or any other conduct intended to communicate to consumers.

UNFAIR CONSUMER PRACTICES UNLAWFUL

SEC. 3. (a) It is unlawful for any supplier to commit any unfair consumer practice.

(b) An unfair consumer practice under this Act is an unfair or deceptive practice under section 5 of the Federal Trade Commission Act.

CIVIL PENALTIES

SEC. 4. A supplier who willfully commits an unfair consumer practice shall be subject to a civil penalty of not more than $10,000 for each such act. The civil penalty may be assessed in an action instituted by the Attorney General under section 5 of this Act.

RESTRAINING VIOLATIONS

SEC. 5. The United States district courts, the District Court of Guam, and the District Court of the Virgin Islands shall have jurisdiction to restrain violations of this Act in actions brought by the Attorney General. The court may at any time grant such injunctive relief as it deems appropriate. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

SUITS BY CONSUMERS ADVERSELY AFFECTED

SEC. 6. (a) When a supplier—(i) in an action brought by the Attorney General under section 5 of this Act, has been enjoined from committing any unfair consumer practice, whether after final adjudication or by consent decree, or (ii) in a proceeding brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act with respect to acts or practices alleged to be unfair consumer practice within the meaning of section 2 of this Act, has been ordered to cease and desist from such unfair consumer practice, and the order has become final within the meaning of section 5, either after adjudication or by consent decree—any consumer claiming to have been adversely affected by the act or practice may bring suit against the supplier in a United States district court, the District Court of Guam, or the District Court of the Virgin Islands, and may recover actual damages, and the costs of suit, including reasonable attorneys' fees, and, when appropriate, restitution, reformation, rescission, and other equitable relief.

(b) Irrespective of whether an attorney's fee is assessed against the supplier, the court may inquire into the reasonableness of the fee agreed upon between the consumer and his counsel, and revise that fee as the circumstances warrant.

(c) In any action brought under this section, a supplier may, before trial or within 30 days after a judgment of liability in the case of a separate trial on the issues of liability and relief, submit to the district court a plan for relief for consumers injured by the unfair consumer practice and on whose behalf the action is properly maintained. Such a plan may be approved by the district court if the court finds that such plan will reasonably assure that:

(1) it will be administered in a fair and impartial manner and adequate funds will be made available to pay for the costs and expenses of maintaining and administering the plan;

(2) reasonable notice will be provided to consumers who may have been damaged by unfair consumer practices;

(3) aggrieved consumers will be afforded an opportunity to apply for relief within a reasonable time, not in excess of one year from the date of approval of the plan; and

(4) adequate funds will be available, or other adequate arrangements will be made, for relief through the plan, and for this purpose a bond may be required.

Promptly upon the filing of a plan the supplier shall cause to be issued public notice as approved by the court advising of the submission of the plan. Within 20 days from the publication of such notice persons who may be financially interested in the proceeding may submit written comments on the adequacy of the plan to the court. Any party to the action may request a hearing on the adequacy of the plan.

Upon approval, such plan shall be entered as part of a final judgment and decree and the court shall retain jurisdiction to the extent necessary to supervise its operation. In the course of supervising the plan, the court may hold hearings and issue orders and opinions.

JUDGMENT IN FAVOR OF THE UNITED STATES AS EVIDENCE

SEC. 7. A final judgment or decree rendered in any proceeding brought by the United States under section 5 of this Act to the effect that a supplier has engaged in an unfair consumer practice within the meaning of this Act shall be prima facie evidence against that supplier in any action or proceeding brought by any consumer against the supplier under section 6 of this Act, as to all matters respecting which said judgment or decree would be an estoppel as between the supplier and the United States: *Provided, however,* That this subsection shall not apply to consent judgments or decrees entered before any testimony has been taken.

VENUE

SEC. 8. An action under this Act may be brought in any district in which the claim arose or in which the supplier resides, is found, has an agent, is licensed to do business, or is doing business.

LIMITATIONS OF ACTIONS

SEC. 9. Any action under section 6 of this Act shall be brought within one year after the termination of the proceeding under section 5 of this Act or under section 5 of the Federal Trade Commission Act on which it is predicated.

CIVIL INVESTIGATIVE DEMANDS

SEC. 10. (a) Whenever the Attorney General has reason to believe that any person under investigation for any violation of the provisions of this Act may be in possession, custody, or control of any documentary material, or may have knowledge of any fact, relevant to an unfair consumer practice within the meaning of this Act, he may, prior to the institution of a civil proceeding under section 5, issue in writing, and cause to be served upon such person, a civil investigative demand, requiring such person to produce the documentary material for examination or to answer in writing written interrogatories pertaining to such knowledge.

(b) Each such demand shall—

(1) state the nature of the conduct alleged to constitute the unfair consumer practice which is under investigation;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(3) propound with definiteness and certainty the written interrogatories to be answered;

(4) prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction or within which the interrogatories propounded may be answered; and

(5) identify the custodian to whom such material shall be furnished, or the person to whom such answers shall be made.

(c) No demand shall—

(1) contain any requirement which would be unreasonable if contained in a subpoena duces tecum issued by a court of the United States in a proceeding brought under section 5 of this Act or if propounded in an interrogatory directed to a supplier in any such proceedings; or

(2) require the production of any documentary evidence, or the disclosure of any information, which would be privileged from disclosure if demanded by a subpoena duces tecum issued by a court of the United States, or by an interrogatory propounded, in any proceeding under section 5 of this Act.

(d) Demand may be served at any place within the territorial jurisdiction of any court of the United States.

(e) Service of any such demand or of any petition filed under subsection (f) of this section may be made upon a partnership, corporation, association or other legal entity by—

(1) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association or entity;

(2) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association or entity to be served; or

(3) depositing such copy in the United States mails, by registered or certified mail duly addressed to such partnership, corporation, association or entity at its principal office or place of business.

(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(g) The provisions of sections 4 and 5 of the Antitrust Civil Process Act (15 U.S.C. 1313, 1314) shall apply to custodians of material produced pursuant to any demand and to judicial proceedings for the enforcement of any such demand made pursuant to this section: *Provided, however,* That documents and other information obtained pursuant to any civil investigative demand issued hereunder and in the possession of the Department of Justice may be made available to duly authorized representatives of the Federal Trade Commission for the purpose of investigations and proceedings under the Federal Trade Commission Act.

REPORTS BY THE ATTORNEY GENERAL

SEC. 11. The Attorney General shall annually report to the President and to the Congress on the effectiveness of this Act.

OTHER LAWS NOT AFFECTED

SEC. 12. This Act shall not annul, alter, or affect in any manner the meaning, scope, or applicability of any Federal or state law, including but not limited to laws concerning the provision of goods and services to consumers and the Public Health Cigarette Smoking Act of 1969.

SEPARABILITY

SEC. 13. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the

remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

WASHINGTON, D.C.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is enclosed for your consideration and appropriate reference a legislative proposal entitled the "Consumer Fraud Prevention Act of 1971."

This proposed legislation carries out in part the February 24 Consumer Message of the President. As more fully described in the accompanying explanatory statement, the proposed Act is designed to improve the legal machinery for consumer protection and to improve the ability of persons injured by unfair consumer practices to secure appropriate relief.

The Act explicitly sets forth the types of unfair consumer practices declared to be unlawful and would, for the first time, clearly define the rights of consumers and the respective obligations of suppliers. The proposed legislation would enable consumers who have been injured by unfair consumer practices to recover damages and other relief after the successful termination of a government proceeding.

The enactment of this legislation will constitute a significant step in protecting American consumers from fraud and deception.

The Office of Management and Budget has advised that submission of this legislation is in accord with the program of the President.

Sincerely,

———— ————,
Attorney General.

EXPLANATORY STATEMENT TO ACCOMPANY THE PROPOSED CONSUMER FRAUD PREVENTION ACT OF 1971

Section 2. Defines the types of unfair consumer practices which are prohibited. The commission of any such practice would subject a supplier to suits by the Attorney General for injunctive relief and civil penalties and to suits by aggrieved consumers for damages, restitution or other appropriate relief. This list of practices is similar to those recommended in the Federal Trade Commission's proposals for state legislation dealing with unfair and deceptive practices and includes certain practices which would have been prohibited under S. 3201, as reported by the Committee on Commerce during the 91st Congress. The definitions of unfair consumer practices are drawn so as to give suppliers clear notice of the acts and practices which are prohibited.

Section 3. Declares unlawful the unfair consumer practices defined in Section 2. In addition, this section also provides that the commission of any such unfair consumer practice shall also constitute a violation of Section 5 of the Federal Trade Commission Act, thus making clear that the FTC has enforcement responsibilities under the Act.

Section 4. Provides that civil penalties of up to $10,000 may be assessed for each offense against suppliers who commit unfair consumer practices.

Section 5. Confers jurisdiction on the United States district courts to entertain actions brought by the Attorney General to restrain the commission of unfair consumer practices and to assess civil penalties. The courts are further empowered to assure that all persons responsible for an alleged violation may be brought before them and be subject to their jurisdiction.

Section 6. Following successful termination of litigation instituted by the Attorney General or proceedings before the Federal Trade Commission, consumers would be enabled to bring suit for private recovery. The section authorizes all forms of relief appropriate to the circumstances, including reformation, restitution, and rescission and the court may award costs, including reasonable attorneys' fees. In such litigation the courts may also inquire into the reasonableness of attorneys' fees agreed to by consumer plaintiffs and revise such fees if found to be excessive. In federal courts, consumers may sue as a class when a group has been damaged by the same act or practice. This opportunity to participate in a class action should be of considerable benefit to consumers. The costs and other burdens of litigation are often too much for individual consumers to bear; but if consumers can sue as a group, the burdens of litigation will not weigh too heavily on any one member of the group.

This section further provides that a supplier being sued hereunder may submit to the Federal district court a plan for the relief of injured consumers. The district court is to pass upon the fairness and adequacy of the plan. These provisions are designed to provide prompt and effective relief with a minimum of judicial oversight in appropriate cases.

Section 7. Borrowed in substance from existing antitrust laws, this section provides that after the United States has obtained a judgment or decree under Section 5, consumers in private litigation need not prove that the unfair consumer practice was in fact committed by the same supplier. This *prima facie* case does not occur, however, if the supplier entered into a consent judgment or decree before the taking of any testimony in the action by the United States.

Section 8. Affords consumers the widest possible choice of courts in which to bring their suits. A suit may be brought in any district in which the unfair consumer practice is alleged to have occurred or where the supplier resides, is found, has an agent, is licensed to do business, or is doing business.

Section 9. Provides that private actions in the federal courts under Section 6 of this Act must be brought within one year after the termination of the suit by the Attorney General or the Federal Trade Commission proceeding on which they are predicated.

Section 10. Gives to the Attorney General an investigative tool similar to that provided in the Antitrust Civil Process Act. Provides that the Attorney General may demand certain information and documentary evidence from persons under investigation for possible violations of the Act.

Section 11. Requires the Attorney General to report annually to the President and the Congress on the effectiveness of the legislation.

Section 12. Contains a Congressional direction that this legislation is not intended to affect in any way other state or federal consumer laws, rights or remedies.

Section 13. Provides that if any portion of this legislation is declared unconstitutional the remainder shall not be affected.

By Mr. MAGNUSON (by request):

S. 1223. A bill to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard, and ask unanimous consent that the letter of transmittal and statement of need be printed in the RECORD together with the text of the bill.

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

S. 1223

A bill to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated for fiscal year 1972 for the use of the Coast Guard as follows:

VESSELS

For procurement and increasing capability of vessels, $15,446,000.

A. Procurement: (1) design of vessels.

B. Increasing capability:

(1) increase fuel capacity and improve habitability on high endurance cutters of the three hundred and twenty-seven foot class.

(2) rehabilitate and improve selected buoy tenders.

(3) modernize and improve wind class polar icebreakers.

(4) reweld hull and repair cutter (polar icebreaker) *Glacier.*

(5) increase oceanographic capability of cutter *Evergreen.*

(6) modernize communications capability in selected vessels.

(7) replace radio teletypes in selected high endurance vessels.

(8) install water pollution control equipment in vessels.

(9) install water pollution monitoring sensors in vessels.

AIRCRAFT

For procurement and extension of service life of aircraft, $29,364,000.

A. Procurement:

(1) three long range search aircraft.

(2) six medium range helicopters.

B. Extension of service life:

(1) repair outer wings on six HC–130 aircraft.

(2) replace center wing box beam on three HC–130 aircraft.

(3) reactivate six HU–16E aircraft.

(4) install water pollution monitoring sensors in aircraft.

CONSTRUCTION

For establishment or development of installations and facilities by acquisition, construction, conversion, extension, or installation of permanent or temporary public works, including the preparation of sites and furnishing of appurtenances, utilities, and equipment for the following, $51,690,000.

(1) Newburyport, Massachusetts: rebuild Merrimac River Station;

(2) Gloucester, Massachusetts: rebuild station;

(3) Marshfield, Massachusetts: construct barracks at radio station;

(4) Barnegat, New Jersey: improve station facilities (phase II);

(5) Wildwood, New Jersey: construct barracks at electronics engineering center;

(6) Yorktown, Virginia: construct barracks;

(7) Portsmouth, Virginia: relocate water main;

(8) Terminal Island, California: rebuild electronics repair building;

(9) Port Hueneme, California: relocate station;

(10) Portland, Oregon: relocate station;

(11) Westport, Washington: rebuild station;

(12) Honolulu, Hawaii: improve base facilities;

(13) Honolulu, Hawaii: construct new radio station;

(14) Boston, Massachusetts: improve base facilities (phase II);

(15) New London, Connecticut: construct science teaching facility at academy;

(16) Cape May, New Jersey: improve station facilities;

(17) Curtis Bay, Maryland: modernize yard facilities;

(18) Omaha, Nebraska: improve facilities at moorings;

(19) Miami, Florida: improve air station facilities;

(20) San Francisco, California: improve air station facilities;

(21) Guam, Marianas Islands: improve depot facilities;

(22) Various locations: abate pollution from stations;

(23) Various locations: transportable pollution control (oil recovery) equipment;

(24) Various locations: transportable pollution control (oil slick containment) equipment;

(25) Various locations: pollution monitoring equipment for offshore stations;

(26) Various locations: aids to navigation projects on selected waterways;

(27) Various locations: automate light stations;

(28) French Frigate Shoals, Hawaii: improve and modernize loran station;

(29) Various locations: modernize and improve tropical Pacific loran stations;

(30) Palau Island: repair airstrip;

(31) Various locations: develop and construct loran equipment;

(32) Pacific Islands: effect selected loran tower maintenance;

(33) Various locations: public family quarters;

(34) Various locations: advance planning, survey, design, and architectural services; project administration costs; acquire sites in connection with projects not otherwise authorized by law.

BRIDGE ALTERATIONS

For payment to bridge owners for the cost of alteration of railroad and public highway bridges to permit free navigation of the navigable waters of the United States, $3,000,000.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 23, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a bill, "To authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard."

This proposal is submitted under the requirements of Public Law 88–45 which provides that no funds can be appropriated to or for the use of the Coast Guard for the procurement of vessels or aircraft or the construction of shore or offshore establishments unless the appropriation of such funds is authorized by legislation.

The proposal includes, as it has previously, all items of acquisition, construction, and improvement programs for the Coast Guard to be undertaken in fiscal year 1972 even though the provisions of Public Law 88–45 appear to require authorization only for major facilities and construction. Inclusion of all items avoids the necessity for arbitrary separation of these programs into two parts with only one portion requiring authorization.

Not all items, particularly those involving construction are itemized. For example, those involving navigational aids, light station automation, public family quarters, and advanced planning projects of which would have unduly lengthened the bill.

There is attached a memorandum listing in summary form the procurement and construction programs for which appropriations would be authorized by the proposed bill. In further support of the legislation, the cognizant legislative committees will be furnished detailed information with respect to each program for which fund authorization is being requested in a form identical to that which will be submitted in explanation and justification of the budget request. Additionally, the Department will be prepared to submit any other data that the committees or their staffs may require.

It would be appreciated if you would lay this proposal before the House of Representatives. A similar proposal has been submitted to the President of the Senate.

The Office of Management and Budget has advised that enactment of this proposed legislation is in accord with the President's program.

Sincerely,

JOHN A. VOLPE.

Memorandum—Summary of fiscal year 1972 U.S. Coast Guard program for procurement of vessels and aircraft and for construction of shore and offshore establishments

VESSELS

For procurement and increasing capability of vessels:

Procurement: Design of vessels	$300,000
Increasing capability:	
Increase fuel capacity, rearrange living and work spaces, improve air conditioning on 327-foot high endurance cutters	760,000
Renovate berthing in two coastal buoy tenders; install generators in 5 river tenders; air condition 6 river tenders; replace deck and modify pilothouse in 3 river tenders; replace propulsion machinery in 1 river tender	1,290,000
Repair and replace major machinery components and systems, and correct structural deficiencies in selected wind-class polar icebreakers	5,250,000
Drydock *Glacier* and reweld hull, repair propulsion shafting and bearings, overhaul propulsion generators, and restore and reline tanks and voids	1,250,000
Remove aids to navigation handling equipment, rearrange and outfit interior spaces, install articulated cranes and bow thruster in *Evergreen*	1,450,000
Procure communication/electronic equipment, and complete prototype installations on selected vessels	300,000
Install multichannel radio teletype system in 10 high-endurance cutters	850,000
Procure and install sewage treatment or storage systems on selected vessels	3,200,000
Procure and install water pollution monitoring sensors on selected vessels	796,000
Total vessels	15,446,000

AIRCRAFT

For procurement and extension of service life of aircraft:

Procurement:	
3 long-range search aircraft	$13,440,000
6 medium-range helicopters	13,550,000
Extension of service life:	
Repair outer wings on 6 HC–130 aircraft	600,000
Replace center wing box beam on 3 HC–130 aircraft	600,000
Reactivate 6 HU–16E aircraft for pollution surveillance	900,000
Install pollution monitoring sensors in selected aircraft	274,000
Total aircraft	29,364,000

CONSTRUCTION

For establishment or development of installations and facilities by acquisition, construction, conversion, extension, or installation of permanent or temporary public works, including site preparation and furnishing of appurtenances, utilities, and equipment for the following:

Newburyport, Mass.: Rebuild Merrimac River station	$1,400,000
Gloucester, Mass.: Construct new station building and shop building, waterfront facilities	1,530,000
Marshfield, Mass.: Construct radio station barracks	200,000
Barnegat, N.J.: Construct garage/equipment building, new waterfront facilities	390,000
Wildwood, N.J.: Construct barracks at electronics engineering center	350,000
Yorktown, Va.: Construct barracks at training center	2,500,000
Portsmouth, Va.: Relocate water main to conform to new base development	410,000
Terminal Island, Calif.: Construct new electronics repair facility	200,000
Port Hueneme, Calif.: Construct station, shop, and storage buildings, waterfront facilities	670,000
Portland, Oreg.: Construct station buildings and waterfront facilities	1,840,000
Westport, Wash.: Construct new station buildings and waterfront facilities	1,340,000
Honolulu, Hawaii: Air condition base barracks, remodel interior	380,000
Honolulu, Hawaii: Construct radio station transmitter buildings and alter receiving site	4,610,000
Boston, Mass.: Renovate base building, procure base equipment	3,620,000
New London, Conn.: Construct new physical science building at academy	4,590,000
Cape May, N.J.: Increase capacity of station heating plant	210,000
Curtis Bay, Md.: Construct electrical - electronics building, medical-dental-BOQ building and procure crane at Coast Guard Yard	1,530,000
Omaha, Neb.: Replace old prefabricated building and make waterfront improvements	380,000
Miami, Fla.: Construct hangar, modify fuel system and procure air station equipment	750,000
San Francisco, Calif.: Modify air station fuel and pyrotechnic storage, water main improvements	230,000
Guam, Marianas Islands: Construct garage/storage building, utility improvements	500,000
Various locations: Construct sewage disposal facilities at selected stations	360,000
Various locations: Procure packaged pumping/storage equipment for air transport, drop, and at site use to avoid oil pollution spills from damaged vessels	1,600,000
Various locations: Procure oil slick barrier for transport and at site use for oil spill containment	1,900,000
Various locations: Procure and install at selected stations water monitoring equipment for pollution control	760,000
Various locations: Aids to navigation projects on selected waterways	1,400,000
Various locations: Automate light stations	1,000,000
French Frigate Shoals, Hawaii: Construct station buildings, utility systems	1,200,000

Various locations: Procure and install air-conditioning and electricity generating equipment at selected stations	650,000
Palau Island: Repair and resurface air-strip	100,000
Various locations: Continue development of solid state transmitting and other loran equipment; expand development facilities	$3,250,000
Pacific Islands: Replace guys and insulators on selected loran towers	350,000
Various locations: Public family quarters	5,740,000
Various locations: Advance planning, survey, design and architectural services, site acquisitions	1,500,000
Various project administration costs	4,250,000
Total construction	51,690,000
BRIDGE ALTERNATIONS	
Cape Fear River (near Wilmington, N.C.)	2,000,000
Calumet River (near Chicago, Ill.)	1,000,000
Total bridges	3,000,000

By MR. STENNIS (for himself and Mrs. SMITH) (by request):

S. 1225. A bill to amend section 209(a) and (b) of title 37, United States Code, to provide increased subsistence allowances for Senior Reserve Officers' Training Corps members. Referred to the Committee on Armed Services.

Mr. STENNIS. Mr. President, for myself and the senior Senator from Maine, (Mrs. SMITH) I introduce, by request, 3 bills: First, to amend section 2107 of title 10, United States Code, to provide additional Reserve Officers' Training Corps scholarships for the Army, Navy, and Air Force; second, to provide subsistence allowances for members of Marine Corps officer candidate programs; and third, to amend section 209(a) and (b) of title 37, United States Code, to provide increased subsistence allowances for Senior Reserve Officers' Training Corps members.

I ask unanimous consent that the letters of transmittal requesting introduction of the bills and the explanation of their purpose be printed in the RECORD immediately following the listing of each bill.

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

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., February 20, 1971.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of proposed legislation "To amend section 209 (a) and (b) of title 37, United States Code, to provide increased subsistence allowances for Senior Reserve Officers' Training Corps members."

This proposal is part of the Department of Defense Legislative Program for the 92nd Congress, and the Office of Management and Budget has advised that enactment of the proposal would be in accord with the program of the President. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to provide an adequate subsistence allowance to Senior Reserve Officers' Training Corps members enrolled in the advanced course and to recipients of financial assistance grants.

Section 209 (a) and (b) of title 37, United States Code, was enacted to provide members of the ROTC, appointed under sections 2104 and 2107 of title 10, United States Code, with a subsistence allowance. A member selected for advanced training under section 2104 of title 10, United States Code, is entitled to a subsistence allowance of not less than $40 per month nor more than $50 per month beginning on the day he starts advanced training. A financial-assistance-grant member appointed under section 2107 of title 10 is entitled to a subsistence allowance at the rate of $50 a month beginning on the day that he starts his first term of college work.

The allowance for the financial-assistance-grant member is derived from the Act of August 13, 1946, ch. 962, § 4, 60 Stat. 1058. This Act established the so-called "Holloway Plan" whereby certain Naval Reserve Officers' Training Corps students were provided with full tuition scholarships at selected colleges and universities. In addition to the payment of tuition, the Government paid for books and laboratory fees, and the student was provided with retainer pay at the rate of $600 per year.

Subsequent amendments changed the retainer pay from the rate of $600 per year to retainer pay at the rate of $50 per month. (See the Act of August 10, 1956, ch. 1041, 70A Stat. 421.) The purpose of the allowance—originally called retainer pay—was to help defray the cost of food, lodging, and incidental expenses. (See, for example, Sundry Legislation Affecting the Naval Establishment, Committee on Naval Affairs, House of Representatives, 79th Cong., 2nd Sess., Vol 2, pp. 3003, 3009, 3310.)

The Reserve Officers' Training Corps Vitalization Act of 1964, Pub. Law 88–647, Title II, § 202(2), 78 Stat. 1070, continued the $50 per month retainer pay for the "Holloway Plan" midshipman in his "revitalized" and expanded status as a financial-assistance-grant member. The same provision of the Vitalization Act provided retainer pay for a member selected for advanced training at a rate of not less than $40 per month or more than $50 per month. Prior to the Vitalization Act, the advanced-course student had received $27 per month as a subsistence allowance. This allowance was raised as an incentive and its character was changed from that of a subsistence allowance to the broader concept of retainer pay. (See Sundry Legislation Affecting the Naval and Military Establishment, Committee on Armed Services, House of Representatives, 87th Cong., 2nd Sess., Vol 2, pp. 6175, 6832, 6834, 6838; ROTC Vitalization Act of 1964, Hearing on H.R. 9124, Committee on Armed Services, Senate, 88th Cong., 2nd Sess., pp. 31–32.)

In 1965, the Vitalization Act was amended and the term "retainer pay" as it then applied to both financial-assistance-grant members and members selected for advanced training was changed to "subsistence allowance." (The Act of June 28, 1965, Pub. Law 89–51, 79 Stat. 173.) The Senate Report notes that in the Vitalization Act" . . . payments to ROTC students that had previously been designated as 'subsistence pay' were changed to 'retainer pay'. The change in terminology was not intended to alter the nature or purpose of the payment, which was to help students defray the cost of subsistence while in school and pursuing the ROTC program. Because of the change in terminology, however, it is possible that the recipients might incur income tax liability for the payments. Consequently, to avoid such liability this bill reverts to the old designation of 'subsistence allowance' whenever the term 'retainer pay' appeared in the ROTC legislation of 1964." (S. Rep. No. 315, 89th Cong., 1st Sess., as set out at 1965 U.S.C. Cong. and Admin. News 1806.) The question is presented as to whether there was an intention to change both the allowances for financial-assistance-grant members and advanced-course students to strictly subsistence allowances. It is submitted that such is not the case since, notwithstanding the language of the Senate report, there could be no reversion with respect to the financial-grant member since his "allowance" had always been called retainer pay. It appears that the action in the 1965 amendment was directed more toward avoiding tax liability than changing the nature of retainer pay.

Based on the fact that retainer pay had its genesis in the 1946 Holloway Plan and that its purpose then was to help defray the costs of food, lodging and incidental expenses, it is concluded that the allowance provided for in section 209(a) and (b) of title 37, United States Code, has as its purpose more than "subsistence" in the pure use of that term. (See generally, Hearings before and Special Reports made by the Committee on Armed Services, House of Representatives, 89th Cong., 1st Sess., Vol. 1, pp. 1606–1608.)

It has been noted above that the $50 allowance was originally established in 1946, and, for financial-assistance-grant students has remained unadjusted since that time. Attached is a table of comparative costs of room and board at NROTC colleges and universities for the years 1946 and 1970. The subsistence allowance provided full coverage of room and board expenses at 85 percent of these institutions in 1946. In 1970, the $50 per month allowance will not cover room and board expenses at any of the 53 schools.

The proposal recommends an increase based on the Consumer Price Index increase since 1946 and further recommends that the allowance be increased each time there is a 3 percent increase in the Consumer Price Index.

The following table compares the increase in Consumer Price Index (CPI) over the period since 1946.

	CPI	Percent	Rate
Aug. 13, 1946, Public Law 729 (Holloway program) enacted	70.4	100.0	$50.00
Oct 13, 1964, Public Law 88-647 (ROTC Vitalization Act of 1964) enacted	108.5	154.1	77.05
January 1970	131.8	187.2	93.60
June 1970	135.2	192.0	96.00
June 1971 (estimated)	141.8	201.4	100.70
June 1972 (estimated)	148.5	210.9	105.45

Since the ROTC program provides a significant segment of the armed forces officers, it is recommended that the proposed legislation be enacted to make the ROTC program responsive to current college room and board costs.

COST AND BUDGET DATA

Predicated upon the estimated number of financial-assistance-grant recipients enrolled in the basic course and all advanced-course members, the increased budgetary requirements of this proposal for fiscal year 1972 are as follows:

	Million
Army	$12.2
Navy	2.6
Air Force	7.8
Total	$22.6

Funds have been included for this purpose in the President's budget for fiscal year 1972.

Sincerely yours,

JOHN W. WARNER,
Acting Secretary of the Navy.

COMPARATIVE COST FOR ROOM AND BOARD

Institution	1946	1970	Increase Amount	Increase Percent
Auburn University, Auburn, Ala	$342–360	$600–720	$360	100.0
Brown University, Providence, R.I	620	1,080	460	74.2
University of California, Berkeley, Calif	NA	930–1,050	NA	NA
University of California, Los Angeles, Calif	NA	1,070	NA	NA
College of the Holy Cross, Worcester, Mass	600	1,170	570	95.0
University of Colorado, Boulder, Colo	530	890–1,020	490	92.5
Columbia University, New York, N.Y	NA	1,065	NA	NA
Cornell University, Ithaca, N.Y	NA	1,300	NA	NA
Dartmouth College, Hanover, N.H	520	970–1,250	730	140.4
Duke University, Durham, N.C	475	935–1,035	560	117.9
Georgia Institute of Technology, Atlanta, Ga	500	860	360	72.0
Harvard University, Cambridge, Mass	243–368	1,170	802	217.9
University of Idaho, Moscow, Idaho	324	880–920	596	184.0
University of Illinois, Urbana, Ill	500	885–1,035	535	107.0
Illinois Institute of Technology, Chicago, Ill	0	975	NA	NA
Iowa State University, Ames, Iowa	365	810	445	121.9
University of Kansas, Lawrence, Kans	423	950	527	124.6
University of Louisville, Louisville, Ky	(47–48) 416	850	434	104.3
Marquette University, Milwaukee, Wis	NA	1,000	NA	NA
Massachusetts Institute of Technology, Cambridge, Mass	NA	NA	NA	NA
Miami University, Oxford, Ohio	318	990	672	211.3
University of Michigan, Ann Arbor, Mich	493	1,040	547	111.0
University of Minnesota, Minneapolis, Minn	465	936–1266	801	172.3
University of Mississippi, University, Miss	360	1,000	640	177.8
University of Missouri, Columbia, Mo	437	850	413	94.5
University of Nebraska, Lincoln, Nebr	395	880	485	122.8
University of New Mexico, Albuquerque, N. Mex	400	894–996	596	149.0
University of North Carolina, Chapel Hill, N.C	500	1,270–1,470	970	194.0
Northwestern University, Evanston, Ill	$561	$1,000–1,100	$539	$96.1
University of Notre Dame, Notre Dame, Ind	480	1,050	570	118.8
Ohio State University, Columbus, Ohio	450	969	519	115.3
University of Oklahoma, Norman, Okla	400	750–950	550	137.5
Oregon State University, Corvallis, Oreg	375	900 / 800	525	140.0
Prairie View A&M College, Prairie View, Tex				
Pennsylvania State University, University Park, Pa	486	1,330	844	173.7
University of Pennsylvania, Philadelphia, Pa	395	1,250	855	216.5
Princeton University, Princeton, N.J	435–760	1,160	400	52.6
Purdue University, Lafayette, Ind	510–550	1,100	550	100.0
Rensselaer Polytechnic Institute, Troy, N.Y	NA	1,000–1,250	NA	NA
Rice University, Houston, Tex	381	1,030	649	170.3
University of Rochester, Rochester, N.Y	390	1,250	860	220.5
University of South Carolina, Columbia, S.C	370	840	470	127.0
University of Southern California, Los Angeles, Calif	550	1,050–1,100	550	100.0
Stanford University, Palo Alto, Calif	615	1,210	595	96.7
University of Texas, Austin, Tex	[1] 120	[2] 700	580	483.3
Tufts College, Medford, Mass	450	1,220	770	171.1
Tulane University, New Orleans, La	NA	[3] 960	NA	NA
University of Utah, Salt Lake City, Utah	400	921	521	130.3
Vanderbilt University, Nashville, Tenn	450	1,050	600	133.3
Villanova College, Villanova, Pa	NA	840–1,000	NA	NA
University of Virginia, Charlottesville, Va	NA	860–1,030	NA	NA
University of Washington, Seattle, Wash	NA	1,000	NA	NA
University of Wisconsin, Madison, Wis	430–510	950–1,150	640	125.5
Yale University, New Haven, Conn	NA	1,250	NA	NA

[1] Room only.
[2] Or more.
[3] Or less.

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 1226. A bill to amend section 2107 of title 10, United States Code, to provide additional Reserve Officers' Training Corps scholarships for the Army, Navy, and Air Force. Referred to the Committee on Armed Services.

DEPARTMENT OF THE ARMY,
Washington, D.C., February 12, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of legislation "To amend section 2107 of title 10, United States Code, to provide additional Reserve Officers' Training Corps scholarships for the Army, Navy, and Air Force."

This proposal is a part of the Department of Defense Legislative Program for the 92d Congress, and the Office of Management and Budget advises that the enactment of this proposal would be in accord with the program of the President. The Department of the Army has been designated the representative of the Department of Defense for this legislation. It is recommended that the proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to increase the number of Army, Navy, and Air Force Reserve Officers' Training Corps scholarships from 5,500 to a number equal to 10% of the total active duty officer personnel ceiling in the Five Year Defense Plan, four years from the budgeted year. In addition, the draft legislation includes a provision which provides authority for the services to use, at their discretion, up to 50% of their annual authorization for students enrolled in the two-year ROTC program. The services require this increase in scholarships in order to meet officer manpower commitments subsequent to the cessation of hostilities in Vietnam.

The largest single program of officer procurement is the Reserve Officers' Training Corps program. In 1964, Congress revitalized the role of the Reserve Officers' Training Corps as a means of procuring both highly qualified Reserve officers and career-minded Regular officers. In order to make the program more attractive to college youth, Congress provided a program for financial assistance by which highly motivated college men would be granted scholarships including subsistence, tuition, books, and miscellaneous fees. In return for this assistance, scholarship students agree to serve a minimum of four years on active duty.

This program is highly effective. For example, the termination rate of original scholarships since the program's inception compares most favorably with the termination rates of other officer procurement programs. Further, scholarship students' cumulative scholastic average as compared to all male sudents at participating institutions is appreciably higher.

Historical experience has proven that in times of national crisis, such as Korea, Berlin, and Vietnam, Reserve Officers' Training Corps enrollments rise to high levels. In the periods subsequent to these crises interest in the military wanes and enrollments in the program decline. It is apparent that draft pressure, patriotism, and a desire to serve one's country in a position commensurate with one's education and ability come to bear on college youth in times of world trouble. In subsequent periods, these factors are lacking and thus, particularly in light of the contemporary trend of universities to make the program voluntary, Reserve Officers' Training Corps enrollments should sharply decline in the Post-Vietnam period. Therefore, in order to enhance the program, and meet Post-Vietnam requirements, an increase in scholarships is necessary. By increasing the number of scholarships in a ratio that relates to the varying service needs for ROTC graduates, ROTC production and officer procurement in general will be significantly aided. This is especially important since the draft motivation which caused college graduates to apply for pre-commissioning programs such as officer candidate schools will diminish as we move toward zero draft calls.

COST AND BUDGET DATA

The increased budgetary requirements of the Department of Defense resulting from the enactment of this proposal are estimated to be as follows:

Fiscal year:	Cost million
1972	$6.3
1973	16.1
1974	26.0
1975	33.4
1976	41.0

Funds for this purpose have been included in the President's Budget for Fiscal Year 1972.

Sincerely,

STANLEY R. RESOR,
Secretary of the Army.

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 1227. A bill to provide subsistence allowances for members of the Marine Corps officer candidate programs. Referred to the Committee on Armed Services.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., February 20, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of proposal legislation "To provide subsistence allowances for members of Marine Corps officer candidate programs."

This proposal is a part of the Department of Defense Legislative Program for the 92nd Congress, and the Office of Management and Budget has advised that enactment of the proposal would be in accord with the program of the President. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to provide financial assistance to certain Marine Corps officer candidates while they are pursuing a baccalaureate degree, in order to procure required future Marine officer accessions.

Marine Corps officers have historically been acquired through a broad range of sources: ROTC programs, the U.S. Naval Academy,

Officer Candidate Class programs, in-service programs for enlisted Marines, and the Platoon Leaders Class program. This multitude of sources determines a wide variance of Marine officer's social attitudes, educational disciplines, geographic sources and military experience. Approximately 85% of Marine officers come from civilian college campuses. To have such diversity assures a cross-section of national character among Marine officers and is considered essential in maintaining a strong, stable Marine officer corps.

The Marine Corps failed to meet its officer procurement requirements during fiscal years 1968, 1969 and 1970. Study has determined causes to be:

a. Easy public identification of the Marine Corps with the Vietnamese conflict.

b. Assured service in the Vietnam conflict if commissioned in the Marine Corps.

c. Inability of Marine officer recruiters to gain public visibility on college campuses due to college administrator's acquiescence to minority anti-military student groups (thus divorcing the Marine Corps from the source of the majority of its officers).

Although the Vietnamese conflict-related factors above are forecast to diminish in relevance, anti-military sentiment on campus can be predicted to continue. With the administration's announced goal of all-volunteer armed forces, one result will be an absence of draft pressure on college graduates. Since the advent of the random selection draft, the Marine Corps has determined the draft to be a major motivation in Marine officer program enrollments. Long-lead, or undergraduate programs then appear to offer the best possibility for improvement. The major long-lead program of the Marine Corps is the Platoon Leaders Class program (as ROTC programs are for other services).

The Platoon Leaders Class program was organized in 1935 and is the oldest Marine Corps sponsored officer procurement program for civilian college students. Formal training is accomplished at the Officer Candidates School in two six-week courses for those candidates approved while enrolled as college freshman or sophomores. Those who have only one summer period prior to completion of baccalaureate studies are ordered to a single ten-week training course. Through the years, the Platoon Leaders Class program has provided a dependable "base" for officer accessions, although often augmented by other short-term programs when officer requirements increased. Marine Corps reliance on the Platoon Leaders Class program is illustrated by the following recent statistics of officers commissioned through civilian source Marine male officer programs.

[In percent]

Fiscal year	Percent PLC-source officers	Percent all others
1968	40	60
1969	37	63
1970	33	67

During the many years the Platoon Leaders Class program has been in existence it has remained virtually unchanged in basic concept. The college undergraduate enlists as a Class III inactive reservist, completes two periods of active duty for training during the summer vacation, is commissioned upon receipt of a baccalaureate degree, and is subsequently ordered to active duty unless further delayed for an advanced degree. Each member of the Platoon Leaders Class program accrues longevity from the date of enlistment. He receives pay and allowances only for the period of active duty for training. He has never received financial assistance of any type during the academic year except such as may have occurred as a result of his being eligible for pay by virtue of injuries incurred during training.

Experience over the years has shown that significant benefits are derived from the Platoon Leaders Class program. Among these benefits are the following:

(1) The Platoon Leaders Class program produces a well-rounded highly motivated officer for ground, aviation and law assignment.

(2) The retention rate among Platoon Leaders Class (Reserves) is 27%, the same as other Reserve ground procurement programs, while retention of Platoon Leaders Class (Regulars) is 65%, highest of any source including the United States Naval Academy.

(3) As a long-lead program (1–3 years), the Platoon Leaders Class program provides a solid base of predictable officer accessions on which to calculate requirements to be met by short-range programs.

(4) There is no investment in an instructional staff or facilities during the academic year.

(5) Academic time during the school year is unencumbered with military subjects; consequently, the Platoon Leaders Class candidate can devote full time to other academic subjects.

(6) The Platoon Leaders Class summer training is concentrated, has continuity and occupies the candidates' undivided attention. It is therefore considered to be especially effective.

The Platoon Leaders Class program has recently experienced increasing shortages of new candidates:

[In percent]

Fiscal year	1968	1969	1970
PLC quota attained	97	77	72

In order to continue the necessary input of Platoon Leaders Class candidates, service-connected incentives are required. It is considered that monetary subsidization of Platoon Leaders Class applicants would greatly increase the enrollment incentive.

The Present Platoon Leaders Class program poses a financial problem to those students who are not financially well-to-do. The student is required to devote a portion of his summers to training which reduces his earning power to assist in paying for his education. Accordingly, considering the high cost of a college education, many qualified and desirable officer candidates are lost. If the proposed legislation were passed, the financial assistance provided in the Platoon Leaders Class program would offset the loss of earning power and, therefore, make the program more attractive to qualified undergraduates.

It is envisioned that under normal circumstances, financial assistance would be provided to a selected Platoon Leaders Class candidate only during the school year (nine months) and then only if he satisfactorily completes the required military training during the previous summer. There would be no additional clothing, training or travel expenses beyond those currently existing in the present Platoon Leaders Class. A stipend equal to that paid to members of the Senior Reserve Officers' Training Corps is considered an appropriate amount to provide partial assistance in defraying educational costs, though not so much as to be the main attraction for enrollment. In return for acceptance of financial aid, individual candidates would become liable for a minimum of 2 years enlisted service should they fail to complete the program by acceptance of a commission, with an increasing service obligation of six months for each part or whole school year during which financial assistance was received. With acceptance of a commission, an officer's initial period of active duty would be increased by six months for each academic year during which he received subsidy, commencing with a two and one-half year obligation for those who complete the program without drawing any subsidy.

The program as envisioned would be phased into operation to reach a maximum goal of 3,000 officer candidates drawing a stipend at any one time. The cost of the program would reach a maximum of $2,700,000 annually. Authority for the program is required for five years, with extension to be the subject of future study and recommendations.

Membership on stipend would represent about 1/2000th of the current national four-year college population and a number equal to less than 3% of the total Army, Air Force and Navy ROTC population in FY 70. The small size of the proposed program would, therefore, give minimal threat to officer programs of other services. The personal benefits received through service academy or Scholarship ROTC programs exceed those available through the proposed program. Nonscholarship ROTC is somewhat less financially rewarding to its membership, but requires only two years of active duty upon commissioning for Army, three years for Navy and four years for Air Force.

COST AND BUDGET DATA

Year	Number of officer candidates	Cost
1	1,000	$900,000
2	1,500	1,350,000
3	2,000	1,800,000
4	2,500	2,250,000
5	3,000	2,700,000

The above figures are based on the assumption that the subsistence allowance authorized for members of the Senior Reserve Officers' Training Corps will be increased to $100.00 per month as is currently proposed. Funds have been included for this purpose in the President's budget for fiscal year 1972.

Sincerely yours,

JOHN W. WARNER,
Acting Secretary of the Navy.

By Mr. ALLOTT (for himself, Mr. ANDERSON, Mr. BURDICK, Mr. CANNON, Mr. HANSEN, Mr. HATFIELD, Mr. JACKSON, Mr. JORDAN of Idaho, Mr. MCGOVERN, Mr. Moss, and Mr. STEVENS):

S. 1228. A bill to restore the golden eagle program to the Land and Water Conservation Fund Act. Referred to the Committee on Interior and Insular Affairs.

EXTENSION OF THE GOLDEN EAGLE PASSPORT PROGRAM

Mr. ALLOTT. Mr. President, I introduce, for appropriate reference a bill to extend the Golden Eagle passport program under the Land and Water Conservation Fund Act.

I call to the attention of the Senate that this measure enjoys wide bipartisan cosponsorship. In alphabetical order, the cosponsors are as follows: Senators ANDERSON, BIBLE, BURDICK, CANNON, HANSEN, HATFIELD, JACKSON, JORDAN of Idaho, MCGOVERN, METCALF, Moss, and STEVENS.

In the 91st Congress Senator JACKSON introduced a similar bill and Senator Moss introduced an amendment to increase the annual fee from $7 to $10. Senator Moss' amendment also allowed

for advertising and promotion of the entrance or user fee program. In addition, it deleted the exemption of Corps of Engineer projects by repealing section 210 of the Flood Control Act of 1968.

The Moss amendments were adopted in committee and the Jackson bill, as amended, was reported by the Senate Interior Committee. A floor amendment was adopted which more clearly defined the circumstances upon which a user fee was to be collected.

The bill as further amended passed the Senate and went to the House of Representatives. The House struck all of the Senate language and extended the Golden Eagle passport program only until December 31 of 1971. It should be noted that under previous law the Golden Eagle passport program expired on March 31, 1970, however, the extension was not signed into law until July 7, 1970. Therefore, the Golden Eagle passport program had expired by law and was not reinstituted and extended until more than 3 months after its expiration. Such a situation is an administrator's nightmare.

The purpose of the bill I introduce today is to carry out the will of the Senate Interior and Insular Affairs Committee and the Senate when S. 2315 was approved in the 91st Congress.

Support for the continuation of the Golden Eagle program has come from thousands of letters received by Members of Congress from citizens throughout the Nation. Many, if not a majority of these citizens, were retired people living on fixed incomes who have discovered an enjoyable way of spending their retirement years in the out-of-doors at a price they can afford. Those with large families have found the program to be beneficial to them since the Golden Eagle passport is not based upon a per-person charge. Thus, family vacations are encouraged and the costs are reduced.

During the 1969 hearings on the extension of the Golden Eagle passport program, a Forest Service witness capsulized the benefits of the program by stating that:

> The fee system has led to significant improvement in administration of use of National Forest recreation developments, facilities and services provided at public expense.
>
> Particularly, we believe recreation users have had greater interest in and respect for the areas they visit. In turn, the emphasis of the program has encouraged us to continue to provide high quality recreation opportunities.

Certainly, the provision of higher quality recreational opportunities is a significant part of improving our environment and the quality of life for our citizens.

Mr. President, the sponsors of this measure are not unmindful of the language inserted by the House, as enacted into the law last year, requiring that a survey be completed by the Secretary of the Interior with regard to a policy for entrance and user fees. I am confident that this survey, when it is received, will be useful to the Congress in its further consideration of the Golden Eagle passport program. However, it is deemed appropriate that the measure, so overwhelmingly adopted in 1969 by the Senate, be reintroduced and presented to the Senate for its further consideration.

The sponsors of this measure believe that the Golden Eagle passport program is a good program and ought to be continued; however, we are open to all suggestions which would tend to improve the program.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 1230. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Stockbridge Munsee Community, Wis. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of myself and the senior Senator from Colorado (Mr. ALLOTT), I introduce, for appropriate reference, a bill to declare that certain federally owned lands shall be held by the United States in trust for the Stockbridge Munsee Community, Wis.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 1, 1971.

Hon. SPIRO T. AGNEW,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft of a proposed bill "To declare that certain federally owned lands shall be held by the United States in trust for the Stockbridge Munsee Community, Wisconsin."

We recommend that the bill be referred to the appropriate committee for consideration and that it be enacted.

This proposal transfers 13,077 acres of federally owned submarginal land to the Stockbridge Munsee Indian Community with the title to be held in trust by the United States. It also provides protection to any person who may have vested rights in the land. It further provides that the Indian Claims Commission will determine the extent to which the value of the beneficial interest conveyed should or should not be set off against any claim against the United States Government determined by the Commission.

These lands were acquired during the middle 1930's under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and subsequent relief acts, at a cost of $69,546, or an average cost of $5.32 per acre. The facts leading up to their purchase are briefly these.

The Indians of the Stockridge Munsee Community were moved to their present location in 1856. Reservation lands were allotted, and in 1909 the Indians received patents in fee for their allotments. By the middle 1930's little more than 100 acres remained in Indian ownership. The lands, for the most part, were subject to delinquent taxes and foreclosure. The Resettlement Administration accepted options and approved the purchase of 13,077 acres of submarginal land within the former reservation before the program was closed. Certain tracts within this area were not submarginal in character and could not be purchased under the submarginal program, but could be and were purchased under the authority of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984). All plans submitted for purchases under authority of the Indian Reorganization Act took into consideration the desirability of purchasing, insofar as possible, desirable tracts of land which would effect a more complete blocking of the submarginal lands. In fact the Resettlement Administration handled this phase of the work for the Bureau of Indian Affairs and recommended the purchase of some 3,000 acres in order to block out the entire area. With the funds available at that time, purchases of 1,249.86 acres were completed and a reservation was proclaimed on March 19, 1937, for the use and benefit of the Stockbridge and Munsee Band of Mohican Indians of Wisconsin. Subsequent funds made available under authority of the Indian Reorganization Act enabled the Bureau of Indian Affairs to purchase an additional 1,000 acres of land for these Indians.

The purchase of the submarginal lands was but a small part of the submarginal land program undertaken by the Federal Government for the benefit of Indians. In Circular No. 1, issued on June 7, 1934, by the Federal Emergency Relief Administration, to govern the acquisition of submarginal lands, it was stated that the land acquisition program of the Federal Government would be of three major types, the third type being "Demonstration Indian lands projects," which would include lands to be purchased primarily for the benefit of Indians. It was further stated that the objectives of the program include "Improvement of the economic and social status of 'industrially stranded population groups', occupying essentially rural areas, including readjustment and rehabilitation of Indian population by acquisition of land to enable them to make appropriate and constructively planned use of combined land areas in units suited to their needs." The circular set forth the following five types of demonstration Indian areas to be included in the program: (1) checkerboarded areas, (2) watershed or water control areas, (3) additional lands to supplement inadequate reservations, (4) lands for homeless Indian bands or communities now forming acute relief problems, and (5) lands needed for proper control of grazing areas.

In a memorandum of understanding between the Federal Resettlement Administration and the Office of Indian Affairs, approved by the Administrator of Resettlement Administration on October 19, 1936, it is stated that:

"Whereas, the lands being acquired under this program are situated almost entirely within existing Indian Reservations to which they are intended for addition for the purpose of providing subsistence farm sites and consolidated grazing areas for the exclusive use of Indians; and

* * * * * *

"2. Pending the transfer of the lands within those projects to the Office of Indian Affairs for permanent administration for the exclusive benefit of Indians, the Commissioner of Indian Affairs is hereby authorized to exercise, and hereby agrees to assume the responsibility for exercising, temporary supervision over the administration and maintenance of those projects, subject to the following stipulations:

* * * * * *

"4. Upon the consummation of its land acquisition program in connection with the projects listed in paragraph 1, the Resettlement Administration will recommend to the President that the lands within those projects be transferred to the Office of Indian Affairs for permanent administration for the exclusive benefit of Indians."

The records disclose a complete under-

standing between the Federal Agencies involved in the acquisition and administration of submarginal lands on or near Indian reservations. It was that the lands were being selected for acquisition in connection with demonstration Indian projects; that they were needed by the Indians; that they would be utilized by the Indians in connection with the use of Indian-owned lands; and that proper recommendations would be made at the appropriate time for the enactment of legislation to add these lands permanently to Indian reservations.

Jurisdiction over the Stockbridge Munsee submarginal lands was transferred by Executive Order 7868, dated April 15, 1938, from the Department of Agriculture to the Department of the Interior for the use and benefit of these Indians, insofar as consistent with the conservation purposes for which the lands were acquired.

The full legal and equitable title to the lands is in the United States. Technically they are not subject to the provisions of Title III of the Bankhead-Jones Farm Tenant Act of July 22, 1937 (50 Stat. 522), because they were transferred to the Department of the Interior about two months before most of the submarginal land projects were placed under the Act. Nevertheless, that Act was intended to and did control all of the submarginal land projects under the jurisdiction of the Secretary of Agriculture on June 9, 1938, including Indian projects that were transferred to the Department of the Interior after that date. Under Title III submarginal lands could be sold or donated to public agencies on condition that they be used for public purposes, or the lands could be transferred by the President to any Federal or State agency for administration in a manner that would further the land conservation and land utilization program authorized by the act.

As neither Title III of the Bankhead-Jones Farm Tenant Act nor the original recovery or relief acts under which the lands were acquired, contemplate the transfer of program lands to private owners, the lands in question have been administered by the Department of the Interior for more than 30 years for the dual purpose of conservation and benefit to the Indians.

The vegetative cover of the submarginal lands is 70 percent second growth hardwoods with scattered areas of coniferous reproduction. The remainder is agricultural in character except for some brush and swamp areas. The reservation lands are contiguous to submarginal lands and the Indians have been effectively utilizing both tribal and submarginal lands. There is no known mineral value, and no indication that minerals are being given much consideration in the sale and exchange of lands in and adjacent to the reservation, other than deposits of gravel and rock at locations strategic to road construction.

Based on records in this Office and on the assumption that these lands would be operated in conjunction with present tribal lands for timber management, recreation, residential and farming purposes, their value is estimated at $355,000 or about $42.50 per acre. These lands are without value for minerals, either metalliferous or nonmetalliferous.

There are 152 Indians residing on submarginal land and 92 Indians living on tribal land. The Indians occupying homesites on both the Community and submarginal lands were given assignments by the Community Council for this purpose. Assignments on the submarginal land provide for the right of inheritance, and, under stipulated conditions, for the removal of buildings added while the lands are held under assignment. There are approximately 30 families comprising 125 individuals living within four miles of the tribal and submarginal lands. Some of these families would like to obtain individual homesites on the submarginal land if it is given to the Community.

To date forty residences have been placed on the submarginal land. Twenty-seven of these are used year round, but only slightly more than half of them are in good condition. Thirty-five residences are located on tribal land, eighteen of which are of stone construction. In addition to these residences, the Mohican Housing Authority has constructed twenty low-rent units on tribal land. Also, efforts are being made to program twenty mutual-help units for the Stockbridge Munsee Indians.

The average annual family income of the residents on the submarginal lands is $4,000 compared to $3,500 for families living on tribal land. This income is substantially lower than the average annual family income for the State of Wisconsin, which is over $6,000. Most of the adult Indians living on the tribal and submarginal lands are employed. Several are retired on Social Security or Veteran Administration pensions. There is some supplementary income obtained through aid to dependent children, old age assistance, and disability aid. A few of the Indians depend upon seasonal employment for their livelihood.

The Bureau of Indian Affairs has worked with the Indians on their summary development program which has resulted in the Stockbridge Munsee Arts and Crafts Shop being opened in January 1964; a forest management program that was approved in November 1963; low rent and mutual self-help housing programs; the Black topping of reservation roads; as well as expansion of employment assistance services and education programs. Other programs that have been proposed but are only in the preliminary stages involve recreational development; construction of truck trails for fire protection; the proposed consolidation of the land base including submarginal lands; a maple syrup project; and the Red River development dam and fish hatchery project.

As was originally contemplated, it is our view that the most logical use of this submarginal land is in conjunction with the tribal land. Conversely, proper planning and development of the tribal land is dependent upon the submarginal land, and the planning that has taken place heretofore has been on the basis of the integrated use of submarginal and tribal lands. In view of the Indian improvements that have already been placed on this land, and the many advantages that the Stockbridge Munsee Community will derive from this transfer of the submarginal land to it, we urge that these lands be held in trust for the Community.

The Office of Management and Budget has advised there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary of the Interior.

By Mr. BURDICK (for himself, Mr. ALLOTT, Mr. MANSFIELD, Mr. METCALF, and Mr. YOUNG) (by request):

S. 1231. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Pembina Band of Chippewa Indians in Indian Claims Commission docket Nos. 18–A, 113, and 191, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BURDICK. Mr. President, on behalf of several other Members of the Senate and myself, I introduce for appropriate references a bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Pembina Band of Chippewa Indians in Indian Claims Commission dockets Nos. 18–A 113, and 191, and for other purposes.

Mr. President, this legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication from the Secretary of the Interior accompanying the proposal be printed in the RECORD at this point in my remarks.

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

U.S. DEPARTMENT,
OF THE INTERIOR,
Washington, D.C., February 11, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Pembina Band of Chippewa Indians in Indian Claims Commission dockets Nos. 18–A, 113, and 191, and for other purposes.

We recommend that the bill be referred to the appropriate committee for consideration, and that it be enacted.

On June 18, 1962, the Indian Claims Commission entered an amended final award in its consolidated dockets Nos. 18–A, 113, and 191, in favor of the Red Lake and Pembina Bands of Chippewa Indians as such bands were constituted on October 2, 1863, for the sum of $3,369,726.00, less $635,774.87 representing payments on the claim and $699,062.57 representing allowable gratuitous offsets, leaving a net judgment of $2,034,888.56. The judgment represented additional payment for 7,488,280 acres of land in Minnesota and North Dakota which those bands ceded to the United States by the Treaty of October 2, 1863 (13 Stat. 667).

In accordance with the mandate of the Court of Claims following an appeal to that Court, the Commission amended its final judgment on April 24, 1964, to reflect the one-third interest which the Pembina Band had in the land ceded and to deduct offsets exclusively for the benefit of that band. This resulted in an award to the Pembina Band in the sum of $237,127.82. Funds to cover the award were appropriated by Congress on June 9, 1964 (78 Stat. 204, 213). The funds were deposited to the credit of the Pembina Band in the Treasury of the United States at four percent interest. Attorney fees in the amount of $23,712.78 were allowed by the Commission by order dated August 13, 1964, as modified March 23, 1966, and paid from the judgment funds. Attorney expenses in the amounts of $17,736.18 and $222.42 were allowed by the Commission by orders dated June 25, 1968, and June 26, 1968; however, only the first sum has actually been paid.

The Pembina Band is interested in eight cases still pending before the Commission (dockets Nos. 18–J, 18–K, 18–L, 18–M, 221, 246, 113, and 191). The award completed all claims of the Pembina Band in docket No. 18–A, but completed those in dockets Nos. 113 and 191 only as concerns land overlapping the area in 18–A.

The Chippewa (Ojibwa) are an Algonquian-speaking people who originated in the northern Great Lakes area. Subsequent to the period of European contact the Chippewa became divided generally into Woodland and Plains groups, the Woodland element being older, much larger, and situated in what are now Michigan, Wisconsin, Minnesota, and bordering areas in Canada. Other Chippewa, by the mid-19th century, had become full-fledged Plains Indians, adopting the buffalo hunting, equestrian culture and spreading from the Red River-Turtle

Mountain area in North Dakota well into the Canadian Plains. The Pembina formed the easternmost band of the Plains Chippewa.

Today, as is illustrated below, there are three distinct reservation-based entities that may be considered to be comprised in part of Pembinas or descendants of Pembinas. These are the Minnesota Chippewa Tribe, particularly White Earth Reservation; the Turtle Mountain Band of Chippewa Indians of the Turtle Mountain Reservation, North Dakota; and the Chippewa-Cree Tribe of Rocky Boy's Reservation, Montana.

The Pembina Band, at the time the treaty of 1863 was negotiated, was led by two principal chiefs, Little Shell and Red Bear, each with his own following. The Pembinas were promised a reservation in what is now North Dakota, but because of difficulty encountered in selecting a suitable site a township was purchased for the band on June 20, 1873, on the White Earth Reservation in Minnesota. During the next few years a substantial number of Pembinas settled in that township where they continued to receive 1863 treaty annuities. All other bands associated with White Earth Reservation are Mississippi and Pillager groups (Woodland Chippewas), the Pembina element forming a distinct minority. By an agreement of August 11, 1886, the Pembinas of White Earth Reservation exchanged their separate township for incorporation in an organization formed by the other bands resident there and are entitled ". . . to share all the benefits of the consolidation equally with them; and, in turn, the consolidated bands are made equal owners in the Pembina township, and in any claims the Pembinas may have against the United States on account of lands elsewhere."

The total White Earth Reservation group subsequently joined five other Minnesota Chippewa reservation groups to form the Minnesota Chippewa Tribe, organized under the Indian Reorganization Act of 1934 (48 Stat. 984). The Red Lake Band, the seventh Chippewa reservation group in Minnesota, is a separate political entity.

Other Pembinas, including Little Shell (son of the treaty chief) and Red Bear, settled on Turtle Mountain Reservation following its establishment by Executive Order of December 21, 1882. By that time large numbers of people generally known as Metis had become associated with the band, or were residing in the Turtle Mountain area and other places in northern North Dakota, Minnesota, and Montana. The presence of the Metis and their confusion with the Plains Chippewa groups, particularly with the Pembina Band, have formed some of the principal obstacles to the development of a just and realistic legislative proposal for the disposition of the award.

Metis (French for "half") does not merely mean "half blood" or "half breed", but has a much broader connotation, referring to a large cultural and sociological element formed during the buffalo hide trading era in the northern Plains. The Metis have French and other European ancestry, and Plains Chippewa, Plains Cree, and other Indian ancestry. By the early part of the last century the Metis had developed a distinct culture, marginal to that of the tribal peoples and the anglicized societies of both the United States and Canada. They were also linguistically distinct, having developed the "'Metis jargon" which is sometimes called "Cree' but is predominantly French with many Chippewa and Cree elements.

By late 1880's the Turtle Mountain area became inundated with Metis who had fled Canada after unsuccessful rebellions in 1869–70 and 1885. These people, together with some Metis who have evidently long been associated with the Pembina Band, and the conservative (called "full blood") Turtle Mountain or Pembina Chippewas formed the modern Turtle Mountain Band, the political entity constituted in 1932. The non-Metis or original Pembina form a small, conspicious conservative Indian minority on the reservation or in the Turtle Mountain area. It is not known how many other members of the Turtle Mountain Band will be able to trace Pembina ancestry to any useful rolls. Research does indicate, however, that annuity payments made under the 1863 treaty involved, almost exclusively, Chippewa Indian names, the well-known French or other European names of the Metis being absent. Some Metis, apparently those who have long been associated with the Pembinas, are able to trace their ancestry to persons whose names were distinctly Chippewa and who were undeniably Pembina.

Chief Little Shell, evidently the son of the 1863 treaty signatory, and other leaders, protesting the presence of the Metis, the resultant overcrowding of Turtle Mountain Reservation, and other unfavorable aspects of existence there, took some of their followers to Montana and Canada. Little Shell returned to Turtle Mountain, but a pattern had developed of sojourning between Turtle Mountain, northern Montana and adjacent areas in Canada.

Rocky Boy, one of the successors to Red Bear, followed this pattern, ultimately joining with some Crees under Little Bear who were fugitives from the Riel Rebellion of 1885 (Little Bear was the son of the Cree chief of the only tribal group which had joined either of the Metis rebellions). This Ricky Boy-Little Bear band lived something of a pariah existence in Montana, individuals and families often scattered throughout the State and across the international boundary, until a reservation named for the Chippewa chief was established in northern Montana by the Act of September 7, 1916 (39 Stat. 739). The resultant Chippewa-Cree Tribe of Rocky Boy's Reservation has organized under the Indian Reorganization Act of 1934. Rather painstaking research (including interviews with aged Rocky Boy's residents), also adding to the delay in developing a legislative formula, reveals that the majority, perhaps over 75 percent, of the tribal members have Pembina Chippewa ancestry. Although the specific designation "Pembina" does not appear on any Rocky Boy's records (it appears only on old annuity records or on band rolls maintained by the Minnesota Chippewa Tribe), the Bureau of Indian Affairs is satisfied that the designation "Chippewa", as applied to rolls of persons among Rocky Boy's following made prior to the establishment of the reservation, or as found on early Rocky Boy's agency rolls, is synonymous with Pembina Chippewa.

A nonreservation-based element must also be considered in the disposition of the award. Pembina descendants, in unknown numbers, are found among the group generally called "Landless Indians of Montana". Most of these people are Metis, and as mentioned previously, some Metis will be able to trace Pembina ancestry to old annuity rolls. Some of the landless people are traditional Chippewas, who, for a variety of reasons, were unwilling or unable to enroll with the organized Turtle Mountain and Chippewa-Cree groups. An area called "Hill 57" in Great Falls is probably the best known community of the landless people. Others are found elsewhere in Great Falls, and in Hays, Wolf Point, Helena, Chinook, other towns and cities, and among various reservation-based groups, generally as the spouses of enrolled tribal members.

Past efforts to enroll the landless people with organized reservation-based groups have been largely unsuccessful, although some were enrolled in the 1930's with the Chippewa-Cree Tribe. There have been several organizations among them such as the "Little Shell Band of Chippewa Indians of Montana", also known as the "Landless Indians of Montana", petitioners in Indian Claims Commission docket No. 191, and the "Montana Landless Indians, Inc." It should be emphasized here that while rolls of landless Indians of Montana have been developed and are available to the Bureau of Indian Affairs, such rolls were made primarily in an effort to seek means of obtaining Federal services and land for these people and to assist them in affiliating with reservation-based tribes. While they are relied upon to reflect the Indian blood of the persons listed thereon, they are not of value in determining Pembina ancestry.

The proposed bill provides that the Secretary shall prepare a roll of all persons of Pembina Chippewa ancestry, applications for enrollment to be filed with the Area Director of the Aberdeen Area Office in South Dakota. There is little doubt that most applications will be received from individuals in the Turtle Mountain reservation area, within the jurisdiction of the Aberdeen office.

The proposed bill further provides that persons in certain categories not be enrolled: those who are noncitizens (in consideration of the proximity of the international boundary and the history of Plains, Chippewa, and Metis relations with Canada); those who are members of the Red Lake Band of Chippewa; and those who participated in the provisions of the Act of September 27, 1967 (81 Stat. 230).

There is some evidence that Pembinas, or at least persons of Pembina ancestry, are enrolled members of the Red Lake Band of Chippewas in Minnesota. The modern organized entity, as a full successor to the Red Lake Band of 1863, has received its share of the award granted in dockets Nos. 18–A, 113, and 191 under the provisions of the Act of October 13, 1964 (78 Stat. 1093).

The Mississippi, Pillager, and Lake Winnibigoshish Chippewa awards were distributed to members of the Minnesota Chippewa Tribe under the provisions of the Act of September 27, 1967. While it is quite possible for an individual member of the Minnesota Chippewa Tribe to have ancestry with two or more historic Chippewa bands, the tribe, on the basis of both tradition and enrollment procedure, limits identity to one band.

The Bureau of Indian Affairs is in agreement with the Minnesota Chippewa Tribe in that an individual member enrolled as a Mississippi descendant, or as a Pillager descendant (Lake Winnibigoshish begin a subdivision of Pillager), should not be encouraged to change the band descendancy designation. All members of the tribe have a historic band designation, these being Mississippi, Pillager, Pembina, Lake Superior, or subdivisions thereof, and it is apparent that there is full acceptance of such designations.

The draft bill provides that funds shall be apportioned to the Minnesota Chippewa Tribe, the Turtle Mountain Band, and the Chippewa-Cree Tribe on the basis of the numbers of descendants found to be enrolled with the tribes, such funds to be expended as authorized by the governing bodies of the tribes and approved by the Secretary. In order to ensure the involvement of the White Earth Pembina descendants, who form a small minority within the Minnesota Chippewa Tribe, it is provided that the tribal council shall act in concert with what is known on White Earth as the General Council of the Pembina Band of Chippewas.

Language has been included in the proposal to provide for payment of shares to those descendants who are not enrolled with any of the three cited tribes. Proper provision is made for the protection of the interests of minors and legal incompetents; however, it should be noted that these shares,

and any per capita shares paid to descendants who are enrolled tribal members, as authorized by any of the tribal governing bodies, will undoubtedly be rather small. If large numbers of Metis descendants are also able to establish Pembina ancestry, any per capita shares will be meager indeed.

Programing potential is present in terms of the sums accruing to the Turtle Mountain and Chippewa-Cree groups, and particularly the latter in view of the fact that so many tribal members are Pembina descendants, all land is tribal, and the tribe has lately demonstrated its eagerness to explore socio-economic developmental approaches. No program plans involving the present award have yet been developed by any of the tribes. The proposed bill attempts to accomplish the most good with what is a relatively small award involving a plethora of interested individuals and entities.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary of the Interior.

PEMBINA CHIPPEWA JUDGMENT FUND

Indian Claims Commission Dockets 18–A, 113, and 191, Statement as of June 2, 1970

Net award (14X7076) awards of Indian Claims Commission, Pembina Band of Chippewa Indians	$237,127.82
Accrued interest on above fund through Dec. 31, 1969	+63,401.04
Expenditures:	
Attorneys' fees	23,712.38
Attorneys' reimbursable expenses	17,736.18
Reproduction of Rocky Boy's Roll for research purposes	20.00
Total	−41,468.96
Total judgment funds available	[1] 259,059.90
Balance on deposit in the U.S. Treasury	27,367.38

[1] Of this sum, $231,692.52 is invested in U.S. Treasury bills maturing Jan. 31, 1971, in the face amount of $249,000, (interest rate—7.746 percent).

By Mr. INOUYE (for himself, Mr. COOPER, Mr. COTTON, Mr. DOMINICK, Mr. EASTLAND, Mr. GURNEY, Mr. HATFIELD, Mr. HOLLINGS, Mr. MAGNUSON, Mr. MANSFIELD, Mr. METCALF, Mr. MONTOYA, Mr. MUSKIE, Mr. RANDOLPH, Mr. STEVENS, Mr. THURMOND, and Mr. WILLIAMS):

S. 1233. A bill to amend the Internal Revenue Code of 1954 to provide the same tax exemption for servicemen in and around Korea as is presently provided for those in Vietnam. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, in behalf of myself and Senators COOPER, COTTON, DOMINICK, EASTLAND, GURNEY, HATFIELD, HOLLINGS, MAGNUSON; and also Senators MANSFIELD, METCALF, MONTOYA, MUSKIE, RANDOLPH, STEVENS, THURMOND, and WILLIAMS, I am introducing a bill to amend the Internal Revenue Code of 1954 to provide the same tax exemption for servicemen in and around Korea as is presently provided for those in Vietnam. The bill will amend section 112 by adding a new subsection exempting from Federal taxation servicemen's combat pay earned in the Korea area.

This bill is a companion bill to legislation sponsored by Congressman LESTER WOLFF, of New York. Last year the House version gathered more than 200 cosponsors. I am hopeful that we shall have an opportunity to consider it this year.

This legislation is prompted by the unhappy fact that Korea continues to be a hostile area. Fighting near the demilitarized zone and in adjacent waters has increased considerably in the last few years, as North Koreans send trained infiltrators across demarcation lines. Outside of Vietnam the members of our armed services stationed in Korea are subjected to a degree of immediate danger greater than any in the world.

It is because of our great concern that so many Representatives and my colleagues feel that this exemption is justified as a small form of financial compensation for those men who are risking their lives in a zone where combat activities are being carried on.

By Mr. INOUYE (for himself, Mr. BIBLE, Mr. BURDICK, Mr. BYRD of Virginia, Mr. CANNON, Mr. COOPER, Mr. CRANSTON, Mr. EASTLAND, Mr. GURNEY, Mr. HATFIELD, Mr. HARRIS, Mr. HART, Mr. BAYH, Mr. HOLLINGS, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MATHIAS, Mr. MCGOVERN, Mr. MILLER, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mrs. SMITH, and Mr. STEVENSON):

S. 1234. A bill to establish limits on the assignment of a member of the Armed Forces to a combat zone and for other purposes. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, as our troop commitment in Southeast Asia gradually declines I would like to focus on one aspect of the Department of Defense's personnel policies. In the last Congress I introduced a bill which would have limited assignments of members of the same family in combat zones.

I am reintroducing that bill today and urge that it be given expeditious treatment. The measure provides that except during a war or a national emergency no member of the Armed Forces whose father or mother or brother or sister was killed in action or died in line of duty while serving with the Armed Forces of the United States or subsequently died as a result of injuries received or disease incurred during such service shall be assigned to duty in a combat zone. Second, no member of the Armed Forces shall be assigned to duty in a combat zone at any time when a father or mother or brother or sister of such member is serving in a combat zone, unless the member volunteers for such duty. By establishing exceptions for national emergencies and in cases of voluntary actions, I believe that the bill gives to the Department of Defense adequate flexibility in less than total wartime conditions.

I introduced the bill because I was concerned about the unequal burdens which families with military-age sons bear. In spite of the changes in Selective Service regulations, many men are able to defer their military service through the period of their college education and longer. Others enjoy exemptions because of family support obligations. Clearly as the debate on the Selective Service Act has shown, the burdens of military service have been unevenly distributed, with the brunt falling on the lower-income and less well-educated groups.

Some families have been compelled to risk two or more members of their family, while other families remain virtually untouched by the tragic conflict in Vietnam. I am certain that each Member of the Senate knows personally of cases where a single family has suffered two or more casualties as a result of the Indochina conflict. There have been instances in my own State of Hawaii, where two men within a single family were killed as a result of this war.

Current Department of Defense regulations exempt servicemen from a Vietnam assignment in three instances: first, if the servicemen in question is a sole surviving son, that is, one who is the only remaining son of a family of which the father or one or more sons or daughters have been killed or died as a result of wounds; second, if another member of the same family is serving in a combat zone; and third, if another family member is killed or dies from injuries as a result of service in a designated hostile fire zone. In each of these instances, however, the eligible serviceman must request the exemption.

In a letter to the chairman of the Armed Services Committee, the acting general counsel of the Department called the regulations liberal and urged that no change be made in these policies. He further alleged that my bill would usurp an individual's current prerogative to volunteer for combat duty or to present himself for an unrestricted career in the Armed Forces.

I believe that the requirement which compels the eligible serviceman to initiate the application for noncombatant duty places an unfair burden on him. I am certain that all of us comprehend how a young man filled with espirit de corps after training with his unit could unthinkingly waive his right for noncombatant duty. Although this waiver could easily be effected it would be natural for him to believe that his peers would consider his leaving a cowardly act.

A young serviceman is often motivated by a deep sense of patriotism and pride. Each of these pressures might make him forego his right to noncombatant service.

In 1969, I had the support of 35 of my colleagues. The DOD, however, was strongly opposed to the enactment of this bill. I believe that conditions have changed sufficiently to justify a change in the Department's stand. Large troop withdrawals have been made from South Vietnam. In late March 1969, when I first introduced the bill there were approximately 540,000 men in Vietnam. This number has been reduced to 338,000 today. By the first of May the United States will have only 284,000 men in Southeast Asia. This drastic decrease in the number of American forces assigned to Vietnam means that the demand for personnel is far less than it was only a few months ago. I have encountered many situations in which a serviceman has requested duty in Vietnam and the Army could not grant his request be-

cause there were too many eligible men available.

Not only the serviceman's interests but also the interests of his loved ones are involved. Part of the right to make a decision must be freedom from coercion and conflicting social pressures. With a decision of such far-reaching life or death implications, and in view of the availability of replacements, no coersion should be permitted. Out of consideration for his family and for the serviceman himself, I am introducing this bill with the cosponsorship of 24 of my colleagues. I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 1234

A bill to establish limits on the assignment of the Armed Forces to a combat zone and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 53 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1041. Limitations on assignments to combat zones

"(a) Except during a period of war or a national emergency declared by the Congress after the date of enactment of this section—

"(1) No member of the armed forces whose father or brother or sister or mother was killed in action or died in line of duty while serving in the armed forces of the United States, or subsequently died as a result of injuries received or disease incurred during such service, shall be assigned to duty in a combat zone.

"(2) No member of the armed forces shall be assigned to duty in a combat zone at any time when a father, brother, or sister or mother of such member is serving in a combat zone, unless such member volunteers for such duty.

As used in this section the term 'combat zone' means any area which the President by Executive order designates, for purposes of this section, as an area in which the armed forces are engaged in combat; the term 'brother' includes a half brother; and the term 'sister' includes a half sister.

"(b) The provisions of subsection (a) of this section shall be administered under regulations prescribed by the Secretary of Defense."

SEC. 2. The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following:

"1041. Limitations on assignments to combat zones."

By Mr. TUNNEY (for himself, Mr. BAYH, Mr. ANDERSON, Mr. BIBLE, Mr. BROOKE, Mr. BURDICK, Mr. CRANSTON, Mr. EASTLAND, Mr. GRAVEL, Mr. GURNEY, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCGEE, Mr. MCGOVERN, Mr. MILLER, Mr. MUSKIE, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. SPONG, Mr. STEVENS, Mr. TOWER, Mr. WILLIAMS, and Mr. CHILES):

S. 1237. A bill to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster. To the Committee on Public Works.

Mr. TUNNEY. Mr. President, I introduce today legislation intended to amend the Disaster Relief Act of 1970, to allow Federal grants for the reconstruction or repair of nonprofit private medical care facilities which are damaged or destroyed by a major disaster. This extends to those facilities the same kind of Federal aid which is now offered to their public counterparts.

This bill is vital to the areas in California which were hit by the recent disastrous earthquake. It is also important to the medical care system of any area in this country struck by disaster.

I am delighted this proposal has received such widespread support. It is cosponsored by Senator BAYH, under whose leadership the Disaster Relief Act of 1970 was passed by the Senate last year; by my fellow Californian Senator CRANSTON; and by several others of my distinguished fellow Senators.

Under the proposed legislation, the President would be authorized to make grants for the post-disaster repair, reconstruction, or replacement of any damaged or destroyed medical care facility which is operated on a nonprofit basis by an organization exempt from Federal income taxes under section 501 (c), (d), or (e) of the Internal Revenue Code.

The President would be authorized to grant up to 100 percent of the net cost of restoring the medical care facility to its predisaster condition, in conformity with currently applicable codes, specifications and standards.

If the medical facility was under construction when the disaster occurred, then Federal grants may cover 50 percent of the cost of restoring the facility to its predisaster condition, and may also help defray increases in construction costs which are due to changed conditions resulting from the disaster.

Medical care facilities covered by this proposal would include any hospital, diagnostic or treatment center, rehabilitation facility, and mental health facility.

This proposed legislation leaves open the question whether Federal grants should be made available to repair or reconstruct nursing homes which are damaged or destroyed in a disaster. In my judgment, the possible inclusion of nursing homes should be carefully explored by the committee to which this bill is referred.

For this reason, and in view of the overriding need to secure prompt enactment of vitally needed legislation, the present bill is limited in the ways I have described.

I believe there is need for further—and separate—legislation. I am now preparing, and will shortly introduce, additional legislation to bring more effective rapid Federal assistance to the private homeowner in California whose home has been damaged or destroyed. I hope that this legislation will also receive full and prompt consideration in light of its present importance to California and potential significance to any disaster-struck area.

In the meantime, I hope that the legislation I introduce today will receive prompt consideration. I understand that similar legislation will be offered shortly in the other body. With this broad effort, I am confident that there will be an excellent chance for action on this proposal in the near future.

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

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

S. 1237

A bill to provide Federal financial assistance for the reconstruction or repair of private non-profit medical care facilities which are damaged or destroyed by a major disaster

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the Disaster Relief Act of 1970 is amended by adding at the end thereof the following new section:

"PRIVATE MEDICAL CARE FACILITIES

"SEC. 255. (a) The President is authorized to make grants for the repair, reconstruction, or replacement of any medical care facility which is operated on a nonprofit basis by an organization exempt from taxation under section 501(c), (d), or (e) of the Internal Revenue Code of 1954 and which is damaged or destroyed by a major disaster. Such assistance shall be made available only on application, and subject to such rules and regulations as the President may prescribe.

(b) A grant made under the provisions of subsection (a) shall not exceed—

"(1) 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with applicable codes, specifications, and standards; or

"(2) in the case of any such facility which was under construction when so damaged or destroyed, 50 per centum of the net cost of restoring such facility substantially to its condition prior to such disaster, and of completing construction not performed prior to such disaster to the extent that the cost of completing such construction is increased over the original construction cost due to changed conditions resulting from such disaster.

"(c) For purposes of this section, 'medical care facility' includes, without limitation, any hospital, diagnostic or treatment center, or rehabilitation facility as such terms are defined in section 625 of the Public Health Service Act, and any similar facility offering diagnosis or treatment of mental or physical injury or disease."

SEC. 2. The amendment made by the first section of this Act shall take effect as of January 1, 1971.

ADDITIONAL COSPONSORS OF BILLS

S. 942

At the request of Mr. BIBLE, the Senator from Colorado (Mr. DOMINICK), the Senator from Alaska (Mr. STEVENS), and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 942, a bill to establish a temporary commission on cargo security and safety.

S. 950

At the request of Mr. DOMINICK, the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. FANNIN), the

Senator from Nebraska (Mr. HRUSKA), the Senator from Montana (Mr. METCALF), and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 950, a bill to amend the Gun Control Act of 1968 relating to the importation into the United States of sporting rifles and sporting shotguns.

S. 1053

At the request of Mr. HOLLINGS, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1053, a bill to authorize a program to develop and demonstrate low-cost means of preventing shoreline erosion.

S. 1099

At the request of Mr. MCINTYRE, the Senator from Montana (Mr. MANSFIELD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 1099, a bill to amend the Public Health Services Act to encourage physicians, dentists, optometrists, and other medical personnel to practice in areas where shortages of such personnel exist, and for other purposes.

ADDITIONAL COSPONSORS OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 34

At the request of Mr. SCOTT, the Senator from Georgia (Mr. TALMADGE) and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of Senate Joint Resolution 34, a joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of voluntary prayer or meditation in public schools and other public buildings.

INTEREST EQUALIZATION TAX EXTENSION ACT OF 1971—AMENDMENT

AMENDMENT NO. 18

Mr. MAGNUSON. Mr. President, I submit, for appropriate reference, an amendment, intended to be proposed by me, to the bill (H.R. 5432) to provide an extension of the interest equalization tax, and for other purposes. My proposal would add a new subsection to the proposed extension of the interest equalization tax which is presently being considered by the House and will be taken up in the near future by the Senate. This subsection would exempt from taxation purchases made during the initial retroactive period of July 18, 1963, to September 2, 1964, if and only if purchases of securities were made with funds held by U.S. taxpayers outside of the United States on July 18, 1963. In such instances, there was no export of capital from the United States, and the purpose of the interest equalization tax—namely to prevent future outflows of capital after July 18, 1963—was not violated.

The following is the text of the new subsection:

That (a) section 4914 of the Internal Revenue Code of 1954—relating to exclusion for certain acquisitions—is amended by adding at the end thereof the following new subsection:

"(k) certain acquisitions before September 2, 1964. The tax imposed by section 4911 shall not apply to an acquisition made before September 2, 1964, by a United States person of stock or a debt obligation if such acquisition was made—

"(1) from funds held by such person on July 18, 1963, and,

"(2) from funds held by such person on July 18, 1963, which were on deposit outside the United States with persons carrying on the banking business, and,

"(3) from the proceeds of the disposition of stock of foreign issuers, or debt obligations of foreign obligors, held by such person on July 18, 1963, and,

"(4) from the proceeds of the disposition of stock of foreign issuers, or debt obligations of foreign obligors, acquired by such person after July 18, 1963, in an acquisition to which paragraph (3) applied, or

"(5) from credit obtained in a foreign country."

(b) The amendment made by subsection (a) shall apply with respect to acquisitions of stock and debt obligations made after July 18, 1963.

TAX IMPACT

During the retroactive period many persons, who had funds invested in foreign securities for many years prior to July 18, 1963, continued to manage those investments by making sales and purchases, not knowing whether the interest equalization tax would ever actually be enacted, what countries would be exempted, and what rates of tax would apply if it ultimately did become law. Since there was no actual prohibition of trading in foreign securities, and no tax actually enacted, as I say, many persons consummated purchase transactions prior to enactment and with funds located outside the United States prior to July 18, 1963.

Some persons in this category no doubt assumed the tax would not apply in those instances where no capital was exported after July 18, 1963. Not until shortly after the act became law did they realize that such transactions were taxable not only in those instances where capital was not exported, but also in those instances where capital was exported. We fit the first category.

For many years prior to July 18, 1963, Mr. Purvis had funds in Canada and funds invested in Canadian securities, and had actively traded in listed stocks on Canadian exchanges. He was, of course, aware of President Kennedy's request that Congress enact this tax retroactively, but assumed it would not apply to funds located outside the United States prior to July 18, 1963. As I understood it, the purpose of the interest equalization tax was to curb the further transfer of capital, not to penalize those persons who had relied on existing law for many years.

As a consequence, Mr. Purvis continued to manage his investment portfolio in Canadian securities during the retroactive period, and made some purchases during that period, but with funds located outside the United States prior to July 18, 1963. In other words, he did not export any capital, yet the tax was applied to the same extent as if there had been a direct transfer of capital.

The following is a list of persons in Washington State who have paid retroactive taxes in the amounts indicated opposite the name of each. In all of these instances the purchases of foreign securities were made July 18, 1963, and September 2, 1964, and the purchase price was paid with funds or credits located outside the United States prior to July 18, 1963. No capital was exported within the period in order for these persons to consummate the purchases:

Ralph F. Purvis, Star Route 1, Box 221, Bremerton, $14,377.12.

Arthur Ward, 6535 18th Avenue, NE, Seattle, $11,461.

Dr. C. E. Marshall, 1221 Minor, Seattle, $833.97.

Eugene Vallat, Box 1010, Port Angeles, $1,825.06.

John Harkoff, Box 709, Lynden, $7,135.01.

Marianne Harkoff, Box 709, Lynden, $299.94.

Helen Sue Harkoff, Box 709 Lynden, $299.94.

Martin H. Jensen, Lynden, $1,454.04.

Erling Crabtree, Lynden, $876.

Adoption of my proposed new subsection would enable Mr. Purvis and other persons in the same very limited category to obtain refunds of such taxes paid.

LEGISLATIVE HISTORY

President Kennedy in an effort to stem the further flow of capital to foreign countries, proposed the interest equalization tax on July 18, 1963. Following more than a year of consideration, Congress enacted the tax on September 2, 1964. The tax on the purchase of foreign securities was made retroactive to July 18, 1963, and applied to all purchases subsequent to that date. With regard to purchases within the retroactive period of 13 months the act makes no distinction between purchases financed with capital already located outside the United States prior to July 18, 1963, and purchases made with capital exported from the United States between July 18, 1963, and September 2, 1964.

I have carefully searched the record of all prior legislative hearings in connection with the interest equalization tax, and I am certain the impact of the retroactive feature with respect to ininstances of purchases made within that period, and with funds located outside the United States prior to the effective date, was never discussed or considered by any committee of Congress.

The ostensible purpose of the tax, as expressed by President Kennedy when first suggested, and the act itself, was to prevent any further outflow of dollars after July 18, 1963.

CONCLUSION

I respectfully submit that there was both executive and congressional oversight of this matter when the legislation was first considered. I would hope that the Senate would agree that unintended inequities have resulted and

would see fit to adopt the suggested proposal set out above or a similar proposal to provide relief.

The PRESIDING OFFICER (Mr. McINTYRE). The amendment will be received, printed, and appropriately referred.

The amendment (No. 18) was referred to the Committee on Finance.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Sidney E. Smith, of Idaho, to be U.S. attorney for the district of Idaho for the term of 4 years, vice Sherman A. Furey, Jr., resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, March 19, 1971, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

SAFETY STANDARDS FOR NURSING HOMES

Mr. MOSS. Mr. President, I take the floor this morning to try to clarify the provisions of one of the Moss amendments to Public Law 90–248 which was intended to raise standards in title 19, medicaid skilled nursing homes. I refer specifically to section 234(28)(F)(i) which requires medicaid nursing homes to comply with such provisions of the life safety code of the National Fire Protection Association as apply to nursing homes.

The application of this section in the law has become controversial Mr. President, because of the overbroad, if not erroneous application given to it by the Social Security Administration. SSA has required that all medicare institutions, hospitals as well as nursing homes comply with the provisions of the Life Safety Code and that all of these institutions install sprinkler systems. This requirement of sprinklers has produced severe hardship on many facilities because there is no Federal program which provides loans or grants to help these facilities purchase the required fire protection equipment. This hardship has been effectively demonstrated by the distinguished majority leader of the Senate.

The same type of hardship is created in my own State. I have letters telling me that many new hospitals will have to undergo expensive renovation if SSA's sprinkler requirement is enforced. These letters blame the present situation on my amendment which required nursing homes to be in compliance with the Life Safety Code. At the same time I have letters from the State indicating that SSA's requirement of sprinklers is laudable.

By way of unraveling this controversy a few words might be appropriate about the history of my amendment which requires the incorporation of the Life Safety Code. The amendment was introduced after our investigation of the Fitchville, Ohio, and Fountaintown, Ind., nursing home fires in which we learned from the National Fire Protection Association that nursing home residents statistically are most susceptible to death by fire. In general terms, the elderly constitute 10 percent of the population but account for 25 percent of the deaths by fire. The investigation of the nursing home fires also revealed that State fire codes are often inadequate and that there is a great disparity among the codes of different States. For this reason I looked for a uniform code to serve as the model for all States.

In 1966 and 1967 the only such standard that could be found which was accepted by fire safety experts was the Life Safety Code of the National Fire Protection Association. The 21st edition of the code was in existence at the time the legislation—Public Law 90–248—was passed and the Finance Committee and the Congress had ample opportunity to survey its contents before incorporating the code into law. I emphasize that the law reads that nursing homes "meet such provisions of the Life Safety Code of the National Fire Protection Association—21st edition 1967—as are applicable to nursing homes."

The statute does not say, "the Life Safety Code as revised." The statute spells out a specific edition of the code and until it is changed by the Congress the 21st edition will remain the point of reference for the States. The National Fire Protection Association might meet tomorrow and suggest changes in the code but these changes in the code would have no effect on the statute. Accordingly, there has not been the delegation of authority to a nongovernmental body.

During our investigations of the recent Marietta, Ohio, nursing home fire, I was glad to note that medicaid did have an excellent set of standards—the Life Safety Code. At the same time I was disappointed to learn that title 18, the medicare nursing home program had no fire standards at all. Section 405:1134 of the conditions of participation in an extended-care facility provides only guidelines; essentially these guidelines simply refer States back to their own fire codes some of which are good while others are much less than adequate.

When I discovered this vacuum with regard to medicare fire standards I considered legislation to make the medicare nursing home program congruent with the medicaid program. I intended to ask for the application of the Life Safety Code to the medicare title 18 program. At that time I was informed that new legislation would be unnecessary because of the application of section 1863 of the Social Security Act which requires that medicare standards for nursing homes be at least as high as the State's standards. With the enactment of my amendment the Life Safety Code became the State standard and medicare nursing homes had to meet this higher standard. In effect section 1862 makes the Life Safety Code applicable to medicare nursing homes.

I want to emphasize that I have been talking only about nursing homes. My amendment affects only title 19, medicaid skilled nursing homes and section 1863 refers only to medicare nursing homes, title 18. There is nothing in my amendment nor in section 1863 which would allow or demand the regulation of hospitals. Nor is there anything in the law which allows or demands that SSA pick out one provision of the Life Safety Code—like the requirement for sprinklers—and to apply it absolutely.

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

Mr. BYRD of West Virginia. Mr. President, if the Chair will recognize me, I shall be happy to yield my 3 minutes to the able Senator from Utah.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. MOSS. I thank the Senator from West Virginia.

In short, Mr. President, under the guise of implementing my amendment, the Social Security Administration has required the installation of sprinklers in every medicare facility, hospitals as well as nursing homes. I know not by what kind of magic my amendment to title 19 can be stretched to apply to hospitals nor do I know why SSA has sought to insist on the absolute incorporation of sprinklers.

While it is true that the Life Safety Code does require sprinklers throughout nursing homes except in those of "fire resistive, 1 hour, noncombustible construction," this requirement found in sections 10–1361 and 10–2341 of the code must be applied in the light of section 1–6111 of this same code. This latter section authorizes the State agency to grant exceptions to the code's provisions in the case of practical difficulty in compliance or severe hardship. These waivers may be granted if the State agency finds that on the basis of the total environment reasonable protections are provided for the patient. The language of my amendment itself also authorizes States to issue waivers in the case of unreasonable hardship.

None of the provisions of the code are meant to be applied absolutely. A State fire marshal knowing the requirements of the code would evaluate the compliance of each individual nursing home. In the case of an old nursing home made out of wood and without other protections, sprinklers might very well be required. In the case of concrete and steel new construction with suitable precautions, then smoke detection devices or the like might suffice.

I am hoping that the Life Safety Code can be retained as the point of reference for nursing homes and that this standard can be applied to nursing homes after looking at the total environment of the nursing home. Medicaid and medi-

care should have the same fire standards. Significantly, the repeal of the application of the Life Safety Code and I refer always to the 21st edition, would mean that there would be virtually no fire safety standards at all for nursing homes.

Nursing homes should be required to meet the provisions of the Life Safety Code which is presently the law and the Code should be applied as above and not absolutely. And now to discuss briefly SSA's requirement of sprinkler systems for hospitals.

Doubtlessly, SSA does have authority to regulate hospitals but it cannot be found in my amendment to title 19. Whether or not the Life Safety Code should be applied to hospitals is a significant question. Congress has not acted on this issue but even if the code were applied there would not be significant changes required of hospitals because the Hill-Burton standards are very much the same as the Life Safety Code. What is problematic again is the absolute insistance of SSA on the need for hospitals to install sprinklers. There is a great debate as to the value of sprinklers which I do not propose to settle. I know this, SSA's present requirement will cause severe hardship on many hospitals and I suggest that SSA's application of the Life Safety Code—if such is their intent—be on a total environment basis much as I have recommended for nursing homes.

The foregoing position reflects my belief that no single protection, be it sprinkler systems, smoke detection devices of whatever is an absolute protection against fire. The Life Safety Code—21st edition—provides adequate protections and if applied and enforced after an assessment of the needs of each individual facility by the State fire marshal's office, I believe will provide our patients and elderly with more than adequate protection. It is my hope that SSA will alter their position and thus make unnecessary the bill introduced by the distinguished majority leader, S. 595, which would remove the Life Safety Code as the standard for medicare and medicaid nursing homes. I support the majority leader in his efforts to enact Senate Resolution 44 calling for the study of what standards are needed in institutional facilities.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. MOSS. I ask unanimous consent, Mr. President, to have printed in the RECORD two letters that I have received from the fire marshal of the State of Utah and from Utah's director of health.

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

STATE FIRE MARSHAL,
Salt Lake City, Utah, February 23, 1971.

Senator FRANK E. MOSS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: Over the years the State of Utah has been very fortunate in that there has not been a loss of life from fire in our hospitals and extended care facilities. Over 50% of the Nursing Homes in Utah are equipped with automatic sprinkler systems. The balance are of fire resistive construction or one-hour protected construction.

In the November meeting of the Fire Marshal's Association of North America, this organization endorsed and approved action taken by the Honorable Robert M. Ball, Commissioner, Social Security Administration in adopting the Life Safety Code (N.F.P.A. Standard 101) as a standard for those facilities participating in the Medicare Program.

Efforts are being made in Congress to remove life safety standards as adopted by the Department of Health, Education, and Welfare and leave fire safety standards to the discretion of health officials even though the State Fire Marshal's office is charged with this responsibility. This office has worked closely with the State Health Department in the past and will continue to do so.

Even in buildings of fire-resistive construction the flammable contents pose a life threat from fire to the patients and the Marietta, Ohio, Nursing Home fire clearly demonstrated that detection alone is not the answer. Automatic extinguishment (sprinkler systems) have proved to be the sure way to protect the patients.

All new construction of hospitals and nursing homes in Utah in the future will be completely sprinklered as this is a requirement of the 1970 Uniform Building Code and goes beyond the regulations as adopted by HEW. This applies even though the building is of fire-resistive construction.

Senate Bill 595 and its companion measure HB3640 would permit state health agencies to waive any fire safety regulations established by the Secretary if in their opinion the regulations will cause undue hardship. Such a practice could be dangerous. The Chief Fire Officials of our cities and communities and the staff of the State Fire Marshal's Office are trained to recognize and eliminate conditions dangerous to life from fire.

The Utah Fire Chiefs Associations and the State Fire Marshal's Office urge that Senate Resolution 44, SB595, and HR3640 be defeated.

Sincerely,

ROBERT A. TANNER,
State Fire Marshal.

STATE OF UTAH—DEPARTMENT OF SOCIAL SERVICES, DIVISION OF HEALTH,
Salt Lake City, Utah, February 16, 1971.

Hon. FRANK E. MOSS,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: I am writing to you to urge your support of Senate Resolution 44 and Senate Bill 595 sponsored by Senator Mansfield of Montana (Congressional Record of February 4, 1971).

Senator Mansfield's comments reflect the problems that will be encountered by the State of Utah if the requirements of the Social Security Administration are to be met.

Several new hospitals, just completed, would have to undergo extensive renovation if this requirement of sprinkler systems is insisted upon. In many cases, this renovation is not financially feasible.

I urge your support of realistic fire safety regulations, but with all agencies getting together. Various agencies with different codes make enforcement extremely difficult.

Sincerely,

LYMAN J. OLSEN, M.D.,
Director of Health.

QUORUM CALL

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE DEATH OF WHITNEY YOUNG—A TRAGIC LOSS

Mr. GRIFFIN. Mr. President, the death of Whitney Young is a tragic loss for all America. In a decade of service as executive director of the National Urban League, Whitney Young labored unceasingly for the betterment of black people and of other minority groups. To his everlasting credit, he did so in the American way. He believed that social progress would inevitably flow from economic equality, and for that reason he directed a large part of his efforts toward erasing racial barriers in employment.

He once said:

> The only criterion by which I want to be measured is whether I have helped to improve the economic, political, health, and social future of the black people—not on the basis of how many white people I curse out.

Mr. President, Whitney Young was remarkably successful. His dedicated, untiring efforts have left this a better country, and his leadership will be greatly missed.

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

Mr. GRIFFIN. I yield.

Mr. BYRD of West Virginia. Mr. President, I join with the able Senator in his expression of sympathy and condolence and regret with respect to the passing of Whitney Young.

In the death of Whitney Young, I think the country has lost a voice for moderation. He was responsive to the needs of his people and responsible in his leadership.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR BYRD OF WEST VIRGINIA ON TUESDAY, MARCH 16, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, following the recognition of the two leaders or their designees under the standing order, I be recognized

for not to exceed 15 minutes, for the purpose of introducing a resolution to amend rule XVI of the Standing Rules of the Senate.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TELEVISION NEWS REPORTING

Mr. BROCK. Mr. President, like many of our colleagues, I have been aware of the antagonism which many news reporters seem to have for the Nixon administration. One needs only to tune in the evening news to see this bias in action.

Still, it was a shock to view the series of news clips from network news shows which is now running over in the Old Senate Office Building. These clips are a complete screening of all network reports on the Laos operation aired during the past month.

It is one thing to see network bias demonstrated on a night by night basis; it is entirely different to see the cumulative effect of unfair reporting. When one considers the huge audience which views these shows every night, it is little wonder that so many people question whether the administration is telling them the truth about the war. That is exactly the impression that the neworks have apparently tried to convey.

I cannot help but wonder where lies our future if the enormous power for good which lies in modern communications is diverted to destroy faith in the elective process of a free society. This has not happened yet, but occasional danger signs should not go unheeded.

Mr. DOLE. Mr. President, I associate myself with the remarks of the distinguished Senator from Tennessee, who has indicated, as I did yesterday, that in addition to bad news from time to time in Southeast Asia, there are signs of great progress that fail to be reported not only on network television but many times in the written press as well.

I would think that it is time we examined some of the indices of success. We have heard primarily about the difficulties which have been experienced in South Vietnam and Cambodia and Laos.

Perhaps we should have listened a little closer when Vice President AGNEW tried to warn us about the dangers inherent in biased news reporting. The film clips of news shows being shown today in another part of the Capitol are damning evidence that the TV media are not using their great power responsibly.

The essential bond between the media, the people and the government should be one of trust. It rests on the implicit assumption that the news media will report events fairly and objectively, and we have every right to expect that this will be done.

However, the documentation that is being shown on Capitol Hill today proves that in reporting the operations in Laos the TV networks have violated that trust. This is not an isolated instance where a reporter might have had a bad day and is just taking it out on the administration. It is a heavy-handed and thoroughly consistent attack on the administration's policies in Indochina in general and in Laos in particular.

For those who do not believe that this kind of thing can happen in America, I ask them to take a look at these films themselves. It just might change your mind.

Let me add that these films are now being shown in room 457 of the Old Senate Office Building, and they will be shown continuously until 4 p.m. today. I would certainly encourage any of my colleagues who have not seen these film clips to do so between now and 4 o'clock.

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

Mr. DOLE. I yield.

Mr. GRIFFIN. I am glad the Senator has provided that information.

Is my understanding correct that this is the complete coverage by the networks of the so-called Laos operation? Is that what is available?

Mr. DOLE. That is correct.

Mr. BROCK. Mr. President, if the Senator will yield, I should like to respond.

Mr. DOLE. I yield.

Mr. BROCK. These were compiled at Vanderbilt University in the course of a study they are doing which covers two network news broadcasts at 6 or 6:30 p.m. This has been going on for a year or two. Network broadcasts covering this particular operation were pulled from the original. There is no editing and no reduction in source material. It is a complete compilation of every statement by two networks made with regard to the Laotian operation in the past 30 days.

Mr. GRIFFIN. This record was kept by Vanderbilt University, was it not?

Mr. BROCK. Yes.

ADDITIONAL STATEMENTS

TRIBUTE TO SENATORS ON PASSAGE YESTERDAY OF THE REGIONAL DEVELOPMENT PROGRAMS

Mr. MANSFIELD. Mr. President, yesterday the Senate passed S. 575, continuing the Appalachian regional development program and the Economic Development Act that includes five additional regional programs designed to increase assistance to specific areas in need. For this outstanding achievement, the Senate is indebted deeply to the very able and distinguished Senator from New Mexico (Mr. MONTOYA), the chairman of the Subcommittee on Economic Development of the Committee on Public Works. He, as much as any Senator, can be justly proud of this success. The vote was overwhelming and that fact speaks clearly for the effectiveness of the advocacy of Senator MONTOYA. We are deeply indebted to him for his excellent presentation yesterday, for his leadership and guidance on this issue, and for his tireless devotion.

Equally to be commended for his strong efforts in behalf of this proposal is the distinguished Senator from West Virginia (Mr. RANDOLPH). As the chairman of the Committee on Public Works, he placed his full and able support behind this measure and assured its swift approval. The Senate is grateful.

The Senate is grateful as well to the distinguished and very able Senator from New Hampshire (Mr. COTTON). His contributions to the debate made possible a dialog on the issues involved that enabled a greater understanding and appreciation of the measure on the part of all of us. I wish to thank Senator COTTON for his sincere and thoughtful cooperation and consideration. It was only characteristic of him, but it was indispensable to the efficient disposition of the bill.

I wish to thank, finally, the distinguished senior Senator from Kentucky (Mr. COOPER), the ranking member of the committee, the distinguished senior Senator from Tennessee (Mr. BAKER), the distinguished Senator from Michigan (Mr. HART), and the other Senators who cooperated so well with their support and assistance. It was greatly appreciated.

IN MEMORIAM—RICHARD BREVARD RUSSELL

Mr. GAMBRELL. Mr. President, it would seem only fitting that remarks on my behalf be included among those offered on the floor of the U.S. Senate in memory of the late Richard B. Russell, of Georgia.

At the same time, I feel inadequate to the task. The expressions of respect, admiration, affection, and outright love, offered by his former colleagues in this body, have done homage to Senator Russell in a manner to which I do not feel equal. Yet I doubt that any of those who have previously spoken have any greater assurance within themselves than do I of the esteem in which this great man is held.

The facets of my relationship with Senator Russell and his family are too numerous and too personal to dwell upon at length. It is sufficient at this time to say that they commenced when I was a very small boy and he was the Governor of Georgia. They continued through the circumstances in which he had a large part in my becoming acquainted with the girl whom I later married. And now they have brought me here to Washington to occupy the vacancy created by his passing.

Among the people of my State, there are thousands upon thousands of citizens who could relate similar stories of ways in which Senator Russell touched

their lives during the course of his 50 years of public service. Many who never had the occasion to meet him felt him to be a warm personal friend, because on some occasion he had taken the time, in spite of his position of importance, to respond to a visit, call, or letter in a direct and personal way. After all those years, he remained simply as "Dick Russell" to Georgia citizens.

And this was in spite of the fact that they recognized his position as a man of respect in the highest councils of national and world affairs. They knew him to be a mentor and confidant of Presidents, and one who walked easily with captains and kings. But they also knew that his proudest achievement was the establishment of the school lunch program for needy children during his early years as a Senator.

They knew him to be a public servant who placed nothing before the interests of the people of his State.

They had confidence in him because of the monumental quality of his character. In an era when there is much cynicism about the character of public figures, never was there any doubt as to that of Senator Russell. No one questioned his motives, nor doubted the sincerity of his convictions.

Mr. President, a great man has passed through these halls and now abides with his trusted Maker. No one will replace him, and it may be many years before another like him comes this way again.

As the era of Richard B. Russell passes from the scene, let us take inspiration from the life and character of this distinguished American in establishing goals for ourselves in years to come.

THE SHOULD-COST METHOD OF CONTRACT COST ESTIMATING

Mr. PROXMIRE. Mr. President, in May 1969, the Subcommittee on Economy in Government of the Joint Economic Committee recommended that the General Accounting Office study the feasibility of employing the should-cost method of contract cost estimating in its reviews. The essence of the should-cost approach is the quantification of avoidable costs, or fat, in contract costs. The more usual methods of cost estimating place greater emphasis on contractors' past cost experience on the same or analogous programs, which tends to build in and perpetuate excess costs.

On February 26, 1971, the General Accounting Office issued its report entitled "Application of 'Should Cost' Concepts in Reviews of Contractors' Operations." We were gratified that the Comptroller General's principal finding was:

> On the basis of four trial reviews applying should-cost techniques, GAO has concluded that such reviews can be extremely beneficial and that it should make should-cost reviews in the future.

Based on testimony we have received from responsible officials of all three military services, reductions of about one-third of proposed contractor costs appear attainable. Some implications of such potential savings are clear. The military services' procurements could become much more effective and efficient. The potential savings, if captured, could lighten materially the terrible burden of economically nonproductive weapons buying.

Some other implications may not be so obvious. The possibility of reducing weapons costs by one-third is sure to arouse the opposition of the weapons buying community. The Department of Defense's current pricing policies offer positive incentives for noncompetitive contractors to increase costs, since profits are negotiated as a percentage of expected costs. In other words, the higher the expected costs, the higher the negotiated profits.

Therefore, it is natural to expect the large, essentially noncompetitive contractors to oppose this potential threat to their near-term sales and profits, even though important long-term benefits could accrue to them if their operating efficiency were improved. Based on past experience with proposed procedural improvements, the nature of the opposition may be anticipated.

If the usual pattern is followed, opposition initially will take the form of emasculating the approach rather than open, head-on opposition. Later, of course, when the emasculated approach has been applied at great expense and little or no savings, the potentially useful but discredited procedures can be successfully opposed by beneficiaries of current practices.

Unhappily, the Joint Economic Committee staff has already seen signs of this sort of opposition to should-cost applications in the military procurement community. Because of our concern in this area, I wrote to Assistant Secretary of Defense Barry Shillito on February 16, 1971, in part to caution against erosion of benefits of should-cost. A portion of the letter follows:

> Erosion of benefits could take several forms. Three come to mind immediately. The first entails a redefinition of the focus of should cost away from minimizing the price paid by the Government for the instant contract to "general" improvements in the future whose cost effects cannot be quantified. Second, the issuance of unnecessarily costly contractual modifications after initial agreement could dissipate savings that might have been realized.
>
> Third, cost study teams lacking proper motivation and direction could go through the motions of analysis and "find no evidence" of latent cost reduction potential.

In addition, I asked Secretary Shillito to provide us copies of the Department of Defense's major recent should-cost studies and other pertinent information.

We have also requested the GAO to provide us with copies of the four should-cost reviews they conducted as part of their feasibility study. After the Joint Economic Committee staff has received and reviewed the requested studies, we will take further followup actions to make sure that money-saving opportunities are not lost.

THE PRESIDENT'S HEALTH MANPOWER PROPOSALS

Mr. DOMINICK. Mr. President, I have been following with great interest the testimony emerging from the Senate Health Subcommittee. I certainly do not want to be an ostrich and stick my head in the sand saying that no financial crisis exists among some of our institutions that train our Nation's future physicians, but I feel that the administration's well-thought-out health manpower proposals should not be dismissed out of hand as inadequate before they are even introduced and examined.

If the President's health manpower legislation is enacted with the requested appropriations, the Nation will have almost $545 million as the Federal share of the health manpower bill in fiscal year 1972. This will be more than 55 percent higher than the $350 million that was obligated in 1970 and more than 27 percent higher than the 1971 amounts which, I understand, will amount to $428 million.

I would ask the officials of our country's great medical teaching institutions like Drs. Russell Nelson and David Rogers to examine how their institutions might gain a greater sense of financial stability by adapting their practices to make the most out of the administration's far-reaching health manpower proposals.

The $6,000 for each graduate of medical school provides a splendid incentive for any school to increase its production of physicians while at the same time obtaining increased Federal funding for its successful efforts.

In this one area alone, medical student education, the administration is proposing increases that amount to almost 250 percent of the 1970 funding levels. In 1970, only $59 million was obligated for this support. This year the figure will rise to $73 million, and next year, medical education will receive more than $149 million. This is just for medical student education and does not include additional support which medical schools stand to gain from their participation in the proposed expansion of health maintenance organizations and establishment of area health education centers.

The statements that refer to the financial distress of schools that we hear from testimony really need some further explanation since medical centers are in a poor position to provide information on the operating costs of their various programs. The sad fact is that many of these institutions may not even know these costs themselves and therefore may not even know why they are losing money.

I understand that a study is now underway in a group of these institutions which will provide more factual information. The most recent information from the Bureau of Health Manpower Education of the NIH is that for this year some 45 institutions have applied for continuing, new or supplemental support for schools in financial distress and not the 61 as stated in the testimony before the Health Committee.

I do not have the total budget figures from Johns Hopkins University Medical School but I do know that in the field of health manpower education, that institution received grants totaling $629,000 in 1970, and will probably receive in-

creased grants totaling $785,500 in 1971—certainly not a downward trend for medical education.

All great medical educational institutions in the Nation, like Johns Hopkins, will, I hope, constantly reevaluate their mission. It is so essential that these schools recognize the needs of society. As they respond to these appropriately, they will receive the support of society. Research at such institutions must continue and even expand but an even greater expansion in manpower production must occur if we are ever to solve our health care problems. The great educational institutions must recognize this need and adapt their programs to these balanced objectives.

SENATOR RICHARD B. RUSSELL

Mr. CHILES. Mr. President, I did not know Senator Richard Russell. I met and visited briefly with him in the company of my predecessor, Senator Spessard Holland. I shall always cherish being able to attend the funeral services in his hometown of Winder, Ga., at a time when bad weather unfortunately made it impossible for most of his colleagues to be there. I had the privilege of meeting members of his family at the time. But I did not know him.

One of the deepest regrets of my life is missing the opportunity of being associated with Senator Russell and learning from the bottomless well of knowledge that was his. He was indeed a statesman, and his loss will long be felt by this country and by the Senate which he so loved. He was a giant of a man in principle, in dedication and in performance that stood as an example to newcomers to the Senate for many years, and this I will sorely miss.

It is my understanding that Senator Russell was in the U.S. Senate for more than half of his life, 38 out of 73 years. It is my understanding that he never took a wife; that his marriage was to the Senate. It is my understanding that there was no harder-working man in the Senate. And it is my understanding that while his seniority, his unlimited ability and knowledge, and his dedicated effort gave him enormous power, he was noted for never taking advantage of that power. No greater tribute can man receive.

The State of Georgia has certainly produced many great men, many great Senators. It will undoubtedly continue to do so, but none will replace Richard B. Russell. They may follow in his footsteps, but they cannot take his place.

He left his mark. I am happy to add my respect and devotion to that of all America.

NEWS FROM SOVIET UNION IS ANYTHING BUT SOOTHING

Mr. ALLOTT. Mr. President, it may be true, as has been said, that we have moved from an era of confrontation into an era of negotiations.

And it may be true, as has been said, that, after Vietnam, this Nation will have no more wars.

While both of these notions are soothing, the news from our most formidable enemy, the Soviet Union, is anything but soothing.

Once again the evidence of an incipient detente between the United States and the Soviet Union has turned out to be evidence of a new dimension of the Soviet menace. Last year the opponents of the Safeguard ABM system argued that the slowdown in Soviet deployment of the huge SS–9 missile—a weapon comparable to nothing in the U.S. arsenal—indicated that the Soviet Union was undergoing a conversion to peaceful intentions. We were industriously plied and belabored by this notion, which was advanced with real sincerity by some persons who frequently discover emerging detentes.

Unfortunately, the most recent detente existed only in the eyes of the practiced beholders. It now appears that the Soviet slowdown in SS–9 deployment presaged the introducion of a formidable advanced generation of counterforce missiles.

Mr. President, I do not need to belabor the signficance of this ominous development. We will have ample opportunity to examine this when we come to consideration of the prudent expansion of our limited ABM system.

Meanwhile, so that all Senators may consider one reflective judgment on this matter, I invite attention to a column by Mr. Joseph Alsop in today's Washington Post. There is room for intelligent reservation regarding some of the details of Mr. Alsop's report. But his reasoning is neither conjectural nor excessively pessimistic. I ask unanimous consent that his column be printed in the RECORD.

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

BITTER SALT FOR OPTIMISTS

(By Joseph Alsop)

The end of the cold war, limitations on nuclear weapons, an agreement to terminate the arms race—these have been the understandable dreams of a great many virtuous Americans. They have been, indeed they are, being nourished by the SALT talks.

Anyone with the sometimes bitter salt of realism in his makeup must now abandon the dream, however, at least for the time being. That is the real meaning of the fairly dire fact that the Soviets are beginning to deploy a whole new generation of intercontinental ballistic missiles, far more powerful than any in the American arsenal. This was first disclosed by Sen. Henry M. Jackson of Washington.

"Scoop" Jackson's necessary disclosure all too sadly and ironically explains the earlier announcement of Secretary of Defense Melvin Laird that the Soviets had suspended deployment of their SS-9 missiles. It is now clear, in fact, that SS-9 deployment was suspended, not as a "signal," but simply because the Soviets had a far better weapon already in production.

Thus far, the American reconnaissance satellites have only seen the new silos that are being dug for the new missiles. These resemble the silos of the SS-9 missiles, with their 25-megaton warhead-capacity. Hence it is all but certain that the new missiles belong to the same family of weapons.

There are significant differences in the configurations of the new silos, however. Hence it is again all but certain that the new missiles, which will eventually fill the silos, will be the second generation of the SS–9 family. In sum, they will be improved in several ways, and most importantly improved, no doubt, by having more numerous warheads.

That means that the new missiles, so clearly implied by the new silos, will be what the Pentagon calls "counterforce weapons." The SS–9 is another counterforce weapon. With its gigantic warhead-capacity, in other words, the SS–9 has no rational purpose except to destroy America's Minuteman missiles, and thereby to break the back of the American nuclear deterrent.

Before SS–9 deployment was suspended, 300 of these gigantic weapons had been put in place. All have pretty certainly been retrofitted with the triple warhead the Soviets have already tested. That means that the existing SS–9 force is probably sufficient, at this moment, to destroy about three in every four of the U.S. Minuteman missiles.

The new missiles for which the new silos are destined are all but certainly much-improved versions of the SS–9, as stated. That means, quite simply, that each one of them must be expected to have the capability of destroying several more of our Minuteman missiles than any one of the SS–9 missiles can now destroy.

In sum, the back of the American nuclear deterrent is in fairly urgent danger of being broken in the near future. It will not happen all at once. From the first spadeful of earth being turned, to an operational Soviet missile in a silo, about 18 months are required. And as yet, so far as we know, none of the new missiles is actually operational.

By the same token, however, there is a far longer time lag between any possible American decision to take counter-measures, and the counter-measures becoming effective. It is a matter to thank God for, in view of this ugly news from the Soviet Union, that the ignorant and willful opposition to the American ABM was narrowly overcome.

"Safeguard" deployment should obviously be speeded as much as possible, instead of being slowed down. But that is the least of the lessons to be drawn from the rude interruption of the happy political opium dream in which virtuous persons have been wallowing.

If you think about it, the whole story is disgraceful. Long ago, when SS–9 deployment began, the alleged experts at first denied that this missile really was what it quite obviously is. Then they repeatedly set arbitrary limits, saying deployment would not go beyond this or that non-fatal number. Yet deployment proceeded remorselessly.

Then the halt in SS–9 deployment was tearfully welcomed as a "signal"—a message of sweetness and light, in fact. Instead, this halt has now proved to be a message of menace and darkness. In short, all these virtuous persons have been proven a set of wishful fools.

What must now be considered, furthermore, is the decision whether to proceed with a second-generation American deterrent. Against what the Soviets have and are building, what we have is becoming obsolete and useless. And no sane American can want a deterrent that does not deter.

ENACTMENT OF SMALL BUSINESS SECURITIES BILL BY THE 91ST CONGRESS

Mr. BIBLE. Mr. President, it is my pleasure today to offer some commendations on the enactment of a small business securities bill, which should strengthen capital markets for many small corporations by raising the maxi-

mum permissible amount of a small business stock issue under regulation A to $500,000.

Those familiar with the background of S. 336 know that this action crown 15 years of effort on behalf of the small business community. It was in 1954 that the Senate first passed a similar bill. Shortly thereafter, the measure was recommended by a Cabinet committee headed by Arthur Burns in 1956.

On August 13, 1970, the Senate approved the bill for the second time.[1] On December 2, 1970, the House also passed S. 336.[2] President Nixon signed the bill on December 19, placing on it the stamp of approval of the executive branch and making it the law of the land.[3]

The author of this bill was the Senator from Alabama (Mr. SPARKMAN). In many capacities—chairman of the Senate Small Business Committee from 1950 to 1967, and presently chairman of its Subcommittee on Financing and Investment, as well as chairman of the Committee on Banking and Urban Affairs, which has legislative jurisdiction over small business and securities matters—Senator SPARKMAN has continued to devote his time and energies to the problems of small businessmen, even as his other responsibilities in the Senate have increased. The Small Business Securities bill, S. 336, is a very good illustration of this.

The legislative history should be clear in this matter. It should be pointed out that Senator SPARKMAN originated this bill and introduced it in both the 90th and 91st Congresses.

I was glad to join with the ranking minority member of the Senate Small Business Committee (Senator JAVITS) requesting House hearings on the bill last year. When they were scheduled, I was pleased to join with Senator SPARKMAN in submitting testimony before the House Commerce Committee in support of S. 336.

Thus, Senator SPARKMAN continued to fight for the proposal when chances for its prospect seemed remote as well as at the times when support would make a difference. This interest and determination accounts more than anything else for the enactment of this bill into law.

SIGNIFICANCE OF S. 336

The increase in the regulation A exemption will give small, new, and growing firms a little more latitude in raising capital. Since 1945 when this statute was last amended, all major indexes of business costs have risen more than 100 percent. Capital costs for new businesses and expansion have also risen steeply in the past 25 years and appear to be headed higher in the future because of new technology and the necessity of complying with more stringent environmental and consumer standards.

The new securities law will allow a small firm to float stock issues up to $500,000 by the simplified and less-costly regulation A filing, which can be made at the nine regional offices of the Securities and Exchange Commission without the necessity of dealing with the Washington headquarters. For instance, Senator SPARKMAN's State of Alabama and my own State of Nevada are not at the center of the Nation's capital markets. Small firms constitute the overwhelming majority of businesses in our two States, as shown by the following table:

BUSINESS STATISTICS PROFILES

[From Dun & Bradstreet]

BY EMPLOYMENT

	Under 10	10 to 19	20 to 49	50 to 99	100 to 499	500 to 999	Over 1,000	Not available
Nevada	4,389	627	305	87	76	13	14	783
Alabama	25,072	3,355	2,003	631	621	71	50	4,832

BY SALES VOLUME

[In thousands]

	Under 100	100 to 500	500 to 1,000	1,000 to 10,000	Over 10,000	Not available
Nevada	2,024	1,605	215	210	21	1,710
Alabama	16,095	8,521	1,515	1,459	126	6,048

BY NET WORTH

[In thousands]

	Under 50	50 to 200	200 to 500	500 to 1,000	Over 1,000	Not available
Nevada	259	203	57	13	11	5,242
Alabama	1,923	1,447	450	143	170	29,628

It is, therefore, apparent that local means of raising equity funds are vitally important to existing firms, to new and expanding companies and to the overall economy of our parts of the country.

There are regional offices of the SEC in both Atlanta and Denver. It would seem to be far more convenient to new, small, and growing companies, and to their lawyers and accountants in the Southeast and the Mountain States, to deal with these branches than to come to Washington on small stock issues.

This law will also be of direct benefit to small securities brokers and dealers, who now underwrite about half of the regulation A offerings. This may be an increasing source of income to the smaller segments of the securities industry in years to come.

WILL STRENGTHEN CAPITAL MARKETS FOR SMALL FIRMS

I, therefore, believe this new law will generally build capital markets for the 1½ million small corporations, and the new firms of the future. These small businesses can improve goods, services, and processes to make life in America more livable and more pleasant.

However, I feel the significance of this legislation goes beyond the passage of a single bill. The securities markets are the arena of the aspiring company. Long-established corporations with large quantities of depreciation and internal cash flow are not so dependent on public securities markets as are smaller firms. The securities markets are thus a very important area for small business, and it its heartening that congressional attention has turned in this direction once more. We on the Select Committee on Small Business will do what we can to encourage this.

As chairman of the Senate Small Business Committee, I feel that it would thus be in order to thank as well as to commend the House of Representatives; its Commerce Committee Subcommittee on Securities under the chairmanship of Representative JOHN MOSS, of California; the able subcommittee counsel, Theodore Focht; and especially the father of this bill, Senator JOHN SPARKMAN, of Alabama, for their efforts in behalf of small business during a busy congressional session.

[1] See S. Rept. 91-1082, Aug. 10, 1970.
[2] H. Rept. 91-1654, Dec. 2, 1970.
[3] Public Law 91-565, Dec. 19, 1970.

THE PEOPLE'S RIGHT TO KNOW MUST BE SERVED

Mr. MILLER. Mr. President, the Washington Evening Star for March 11 contains a timely and perceptive article by the distinguished long-time columnist Crosby Noyes, entitled "The Press Shouldn't Hamstring the President." Mr. Noyes makes it plain enough that the people's right to know must be served, but he points out that journalism has a higher function to perform and a better purpose to serve than the promotion of personal views on how the country should be run or the insistence on a God-given right to frustrate, hamstring, and, if possible, destroy the elected leadership of the country.

It is refreshing to see an outstanding member of any profession constructively consider whether some of the members of that profession are serving the public interest by living up to the ethics of their profession or are, instead, thinking more of themselves than the common good. Only those on whom the shoe fits will be heard to complain.

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

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

THE PRESS SHOULDN'T HAMSTRING THE PRESIDENT

(By Crosby S. Noyes)

A lot of my respected colleagues around town think that their primary purpose in life is to make the job of the President—or any lesser member of the administration—as hard as possible. It is known in fashionable circles as the "adversary" relationship of the press to the government.

There are plenty of newspapermen who take this relationship very seriously indeed. To hear them tell it, they have a role to play which is an integral part of the governmental process, less specific but no less important, say, than that of the Senate.

It starts, one gathers, with the Constitution. Since this document forbids anyone, including the President and the Congress, to abridge the freedom of the press, it follows, quite correctly, that the press cannot be the creature of any government. And what better way is there of demonstrating one's independence of the powers that be than to carp at, criticize and question everything that the government does?

Everybody, of course, has to represent somebody or something. The President can claim to be the only public official who represents "all of the people," even though he may have been elected by fewer than half of them. People in Congress represent their districts and their states.

The press, even though it was elected by no one, claims to represent a "public interest" or an undefined "people's right to know" with an authority calculated to put the fear of God into mere elected officials.

But, beyond this, the "adversary" relationship is specifically aimed at cutting the President down to size. People have been worrying about the powers of the President since the days of George Washington. But it is only fairly recently that the fourth estate has begun to take itself seriously as a part of the system of checks and balances within the American government.

The fact that the President cannot be called before congressional committees, for instance, is held to be a defect in the system which the press has a duty to repair. It is argued that the presidential press conference is the American equivalent of the British parliamentary question period, in which a prime minister is subject to long and often searching inquiry by the opposition.

American newspapermen agonize endlessly over whether or not they are performing their vital function effectively enough. They note that the format of a presidential press conference is pretty well slanted to make the man look good and they wrack their brains for variations that will give them a better opportunity to give him a hard time.

Yet it is fair to ask whether all this is really necessary, whether the adversary definition of journalism is valid or whether, in fact, it distorts and corrupts the basic purposes of a free press.

For it is possible, after all, that journalism has a higher function to perform and a better purpose to serve than bugging the President. An independent press does not necessarily impose systematic opposition as a necessary ingredient of good government.

Yet opposition has in fact become an axiom in American journalism today. On some papers, it affects everybody from the editor down to the copyboys. Everyone, it seems, enters the profession these days to promote his personal views of how the country should be run. And if, in the process, it makes it a good deal more difficult to run the country at all—why, that's the way the ball bounces.

Reporters, of course, can and should give public officials a hard time when it comes to the problem of finding out what's going on. All administrations have things that they would rather not talk about, and it is a rare politician who will explain himself in a less than favorable light.

Yet insisting on the people's right to know is not exactly the same thing as insisting on a God-given right to frustrate, hamstring and, if possible, destroy the elected leadership of the country. The obligation of newspapers to inform their readers does not necessarily imply an obligation to inform them that their government is being run by a pack of fools.

For when this is done systematically and as a matter of principle, reality has a way of getting bent out of shape and the public can wind up being very badly misinformed about many things. Which is, withal, a fairly dubious contribution to good government or good journalism.

RICHARD RUSSELL

Mr. TUNNEY. It has been said that one who is a politician in life can become a statesman only in death. This analogy must be disregarded when thinking of the late Senator Richard Russell, of Georgia. For the last 37 years Richard Russell was the statesman of the Senate. Though I did not have the opportunity to sit with Richard Russell on the floor of the Senate, I have benefited from his inspiring leadership, unquestioned honesty, and sense of purpose. His ability as a legislator made him the supreme master of Senate rules, both written and unwritten.

The history of the Senate contains the names of many great Members, and surely Richard Russell's will be added to it. The journals of this body have recorded many occasions when Richard Russell rose to lend his support to causes which many felt to be hopeless and unpopular. Yet, he was always respected and always listened to with the knowledge that what he said was thoughtful and sincere. When he spoke it was with a voice of authority, careful to preserve the standards of the Senate, but unafraid and always articulate in defense of his convictions.

Richard Russell's service on the Armed Forces, Appropriations, Aeronautical and Space Sciences, and Joint Atomic Energy Committees will be sorely missed. His expertise in military and economic affairs made him one of this body's acknowledged leaders. The Senate looked to him for guidance in a host of matters; in peace and war, prosperity and depression. The Presidents with whom he served, from Franklin Roosevelt to Richard Nixon, looked to him for constructive criticism and needed support.

Though Richard Russell's style was low keyed, his actions produced an undercurrent throughout the Senate, the federal system, and the entire Nation that will long be felt.

History will be his final judge. However, I believe he secured a high mark in life that cannot be undone by the ages. The spirit of Richard Russell shadows over each of us, guiding our thoughts and tempering our actions.

SENATOR RICHARD BREVARD RUSSELL

Mr. CRANSTON. Mr. President, Richard Brevard Russell, striding tall and purposefully, with an air of utter confidence and commitment, across the Senate floor.

That is as I first saw him, as I sat in the Senate gallery in 1939—that is my first memory of this great Senator.

A little while later, I came to know him and to see and sense his deep understanding of the uses of Senate power when representing on Capitol Hill an organization seeking fair play for immigrants and the foreign born in our country, I dealt with him in his capacity as chairman of what was in those days the Senate Immigration Committee.

One day, it was discovered that unless a bill was introduced and passed by the Senate and House and signed by the President within 48 hours, thousands of naturalized Americans, most of them Jewish, trapped by the outbreak of World War II in Europe and the Near East, would lose their American citizenship.

I knew that only with the help of Richard Russell could I get that bill that far that fast. To my dismay, I discovered that he was ill, lying in a hospital in Atlanta.

I got through to him on the telephone, explained the situation to him, and at once caught his attention, aroused his sympathy, enlisted his support. Under his long-distance guidance, the bill was introduced, enacted, and signed in those 48 hours.

This constitutes one little glimpse of one of the vast number of unknown, never to be fully recorded deeds of Richard Russell that meant so very much to so very many.

Richard Russell was tremendously helpful to me personally, as he was over the years to so many other Senators, in the time—unhappily so brief—that it was my privilege to serve with him in the Senate.

He was of incalculable assistance on committee assignments, on the uses of the Senate rules at vital moments, and in general guidance regarding the myriad and wondrous ways the Senate works.

I prize, too, the opportunity I shared with others to listen to and join in talks with the Senator in the Senators' dining room as he sat in his traditional seat at the head of the Democratic table. I shall never forget his reminiscences of great hours in the Senate—like the historic part he played after Korea in cooling off the MacArthur controversy; and his memories of moments in his own rich life—like the first time, when a child, that he ever saw a real live Republican, and peeked at him in astonishment through a mail slot in the Winder Post Office.

I only wish that all Americans could have seen and known Richard Brevard Russell as did those who served with him in the Senate, and as did those who grew up with him and lived with him in his days and years down in Georgia.

OCEAN POLLUTION OFF DELAWARE

Mr. BOGGS. Mr. President, The Subcommittee on Air and Water Pollution will hold a hearing on Friday, March 26, into the pollution caused by ocean dumping. The hearing will take place at Rehoboth Beach, Del.

Rehoboth Beach was selected for this important hearing because of its proximity to several major dumping sites off the Atlantic coast. In particular, the city of Philadelphia barges its sewage sludge to an area approximately 12 miles off the resort communities of Rehoboth Beach and Cape May, N.J.

While there is no indication this has created any harm to the swimming beaches in that area, the sludge had a marked impact on the clam industry. An area of many square miles has been closed to clamming.

Dr. Gordon MacDonald, a member of the President's Council on Environmental Quality, recently visited that area of the Atlantic Ocean now utilized for dumping of sewage sludge.

He took samples from the ocean bottom discovering that bottom life appears to have been destroyed. According to news reports, one "very sick clam" was the only live sealife discovered by Dr. MacDonald's party.

Mr. President, this is a most regrettable situation. It will require careful and intensive analysis in our hearing.

Prior to that hearing, however, I would like to bring to the attention of my colleagues two newspaper articles that pertain to the dumping area off Rehoboth Beach.

One article appeared in the Delaware Coast Press subsequent to Dr. MacDonald's visit to the area. It describes most graphically what Dr. MacDonald and his team of experts found in their investigation. In addition, an editorial recently appeared in the Christian Science Monitor on this subject. I ask unanimous consent that both articles be printed in the RECORD.

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

INSPECTION TRIP MADE—"VERY SICK CLAM" ONLY LIFE FOUND

A "very sick clam" was the only sign of life that federal environmental experts could find on a Friday visit to a sludge dumping site about seven miles off the Delaware coast.

The ailing clam was in samples of sludge dredged from the ocean bottom in a 120-square-mile area that has been used as a dumping site for partially treated sewage conveyed by barges from Philadelphia, Camden and Bridgeton.

Empty clam shells and other evidence of deceased marine life were found in the samples examined by Gordon J. F. MacDonald, a member of the President's Council on Environmental Quality, and David D. Dominick, commissioner of the Water Quality Administration of the Federal Environmental Protection Agency.

The samples were described by MacDonald and Dominick as a "decaying, toxic mess having the odor of rotten eggs".

"Whatever it is, it seems to have killed the total marine community in the area, even the small organisms", said Dominick.

Upon return to Wildwood, both MacDonold and Dominick advised that they would recommend an immediate, systematic study by the Environmental Protection Agency of present and potential dangers of the area.

MacDonald noted that the Food and Drug Administration just last year had designated the dumping site as being contaminated and had disallowed further fishing or clamming in the area.

MacDonald and Dominick visited the site at invitation of the Stop Ocean Dumping Association, a Wildwood-based organization having as its basic goal the curtailment of all dumping in offshore waters.

They flew into Cape May County Airport on Thursday evening and met with S.O.D.A. officials for a briefing. The trip to the dumping site was made in Capt. Eric Kirkberg's commercial clamming boat.

Among those who accompanied MacDonald and Dominick in their tour of the offshore dumping site was Harry E. Derrickson, Rehoboth Beach businessman and legislative chairman of the resort community's Chamber of Commerce.

WHY COWARDLY ABOUT CLAMS?

In Delaware Bay, which divides Delaware from New Jersey, the clam industry has run afoul of sewage sludge barged from cities upriver like Philadelphia. The Food and Drug Administration said last year that clams from the ocean off the bay couldn't be marketed. But, according to reports, the federal government says it is powerless to halt the dumping which is ruining the beds.

On the other side of the continent, the federal government found it in itself to halt the operations of the one U.S. whaling company—whose work took it way beyond the three-mile limit at which, officials say, their jurisdiction ends. If the government can in effect halt clamming, if it can halt the ocean operations of an industry wholly without regard to distance, why can it not end the ocean dumping of municipalities?

There are solutions to the municipal waste problem. Wastes could be hauled to strip-mined regions in nearby states and used to restore the land. And if wastes must go to the sea, President Nixon has proposed legislation that would make dumpers prove they aren't hurting the environment. But it is thought an actual end to coastal pollution is some years away.

Again, this doesn't make sense. Given the recent decisive actions of the government to end other off-shore threats, the implied impotence of the nation to end seafood-bed pollution cannot be accepted.

ECONOMICS OF WATER TRANSPORTATION

Mr. HOLLINGS. Mr. President, on March 2, John A. Creedy, president of the Water Transportation Association, spoke before the Southwestern Transportation Round-Up, sponsored by the Delta Nu Alpha Transportation Fraternity, concerning the challenge and opportunities of water transportation to accommodate the increased commerce of our Nation. Mr. Creedy pointed out that the economics of water transportation underscored a philosophy that we really cannot afford not to develop this type of transportation. As transportation costs are one of the major factors in the private enterprise system, I commend these remarks to this body as an interesting analysis.

I ask unanimous consent that Mr. Creedy's remarks be printed in the RECORD.

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

MONEY

Before coming to this meeting, I asked a very famous member of the Houston business community how to approach the topic we have been given this morning.

In Houston, talk about money, he said.

But they want me to talk about intermodal transportation and government regulatory policies, I said.

Talk about money, he said.

But what about water transportation and the ports of Houston-Galveston? They want me to talk about ports.

In Houston, all they want to hear about is money, he said.

And after all that's not a bad way to get into this subject because the water carriers, as the lowest cost carriers of commodities adapted to water movement, make a substantial difference in the efficiency of production and distribution of industrial and agricultural products—tens of millions of dollars in difference for those very commodities for which transportation is a very substantial portion of the total price. So water transportation means bigger profits—and that means money.

You've been reading in the local papers about the dedication of the new Arkansas waterway. I assisted in that dedication in Tulsa on February 20th. There is quite an excited group of farmers and businessmen in Arkansas and Oklahoma. They call the waterway a "window on the world." They've saved $50,000,000 in freight rates on wheat in the last three years from rate reductions in anticipation of the opening of the waterway. That's big money. Steel rates out of Pittsburgh are down $12 a ton, paper rates down $4 a ton, fertilizer down $2 a ton. That's money, and big money. Armco Steel's plant in Oklahoma is just getting on stream a doubling of its capacity because of the waterway. That means money.

If I were to offer you $26 in return for one dollar, you'd think I had gone out of my mind. But the Senate Appropriations Committee brought up to date recently the benefit to cost ratio of the Gulf Intracoastal Waterway and that's what the new ratio is, $26 in savings for every tax dollar invested. That's big money.

There are two aspects to making money out of intermodalism—to get to the topic—one is that it is essential to keep up with the dramatic changes in technology which are taking place and the other is you have to insist that the Government use the powers the Congress gave it so that intermodalism is made available to you.

I'd like to spend a few minutes on the technology problem because it probably has more relevance here on the Gulf coast than anywhere else. The reverse of what's happening up in Oklahoma may well be about to happen to the Gulf Coast. Oklahoma has for years, as its Congressmen said at the dedication of the new waterway, been sitting on a very high rate plateau. There was no water competition so the farmers paid $7 and $8 a ton to transport wheat compared to $3 and $4 a ton for river-competitive corn for the same or longer distances. The Gulf coast could be the victim of the same kind of high rate plateau unless something is done about modernizing the navigation facilities—what the economists call the transport "infrastructure."

The new technology of the supertankers and super ore and grain carriers of 200,000 to 300,000 tons can't make money for you if the ships can't get to you. The new technology of the big river towboats can't make money for you if the towboats can't get to you along the Gulf Canal.

I'm not criticizing for a minute all the work that has been done on the ports in

the Gulf region. I'm just saying that a talk with the operators of these big ships would really shake everyone up. There's a key problem of intermodalism in connecting the Gulf ports to the big ship technology.

Congressman Jack Brooks of the 9th District made an analysis of the situation in a speech last October. He has since asked the public works committee to authorize a study of the problem and this study will be made. Congressman Brooks told me last week that he had been over in Rotterdam studying the Dutch superport and has had discussions with the U.S. firm of engineers which designed the Port of Rotterdam. If everyone will get behind him, he said, the Texas ports can be the first to benefit from the big ship technology.

Rotterdam is an important case study because the Dutch are a lot like the people in Houston—they think in terms of making money. Beginning in 1967, they decided that Rotterdam was going to be the first to have a deep port—60 to 70 feet deep. They dredged a channel 27 miles out into the North Sea—out of sight of land—and they haven't finished yet. They've even sent survey teams to determine whether the English Channel needs a little dredging and the removal of wrecks.

The payoff has been substantial. The Port of Rotterdam reports that refinery capacity has more than doubled in less than five years. The big ships are forcing a concentration of refineries in Holland and that means money. But the refineries are only the beginning of industrial expansion. The Dutch are going to make a lot of money because they were firstest with the deepest.

For example, the German steel industry naturally resisted the idea that they had to move to a deep water port. "We can't afford to do that," the industry people said. They took another look and came back with the conclusion that they couldn't afford not to. The Japanese steel industry is all on deep water. The Dutch and the Japanese are out there digging and so far we're still thinking.

Everybody talks about the tremendous success of the Gulf Intracoastal Canal. The engineers predicted in 1925 that it would carry 5,000,000 tons a year. It carried over 100 million tons last year. But it's an obsolete waterway, much too narrow and too shallow to make the kind of money for you that it should be making.

We call it a four barge waterway which means that only four barges can be pushed along the canal at a time. They are pushed in line one ahead of the other, four to six thousand tons of cargo. The Mississippi, by contrast, can accommodate 40 or more barges. The barge lines build towboats up to 9,000 horsepower which can push over 40,000 tons of cargo at a time. Now the economics of a four-barge operation is very different from a 40-barge operation.

Central Gulf Steamship Lines got quite a shock when it started running the Lash barges all over the Mississippi-Gulf Canal system. Whereas with a Mississippi tow, a barge line can hang as many of those 400 ton barges as have been available on a regular tow, on the Gulf Canal, 12 of the small barges occupy the entire allowable space of a tow and require an extra boat. Costs are different; rates have to be different.

I stress this point because the Lash system and the Lykes Seabee system soon to come have tremendous significance as money makers for Texas. Our members who have worked with Central Gulf are enthusiastic about the future for these new systems. They predict that they will make as big an impact as containerization and produce as radical a change in the handling of goods in international trade.

They could make a lot more money for Texas if the Canal were modernized.

Containerization, piggy back, Lash and Seabee systems have sparked greater interest in intermodalism than we have had in many years. Our Association is actively working to improve rail-water coordination. Our studies suggest that there are tremendous economies to be achieved by joining the best efficiencies of rail and the best efficiencies of water transportation.

The barge line industry, joined by the domestic coastal operators, and the Great Lakes independent carriers, have been fighting this battle for 25 years before the ICC and in the courts. We believe, very shortly, at the conclusion of one or two more cases, we will have ended the dodging and weaving of the rail carriers and introduced for certain a new dimension for competition in the transport industries, which paradoxically we believe will do the railroads a lot of good.

In a typical situation, the railroad will resist making joint rates with a water carrier and will be adamant in its refusal if by making the joint rate and allowing the water carrier to participate, it gets a shorter haul. Typically also, a railroad will give rate preference to a connection with another railroad over a connection with a water carrier.

Our studies have shown that savings of from 10 to 30 per cent are possible when the best efficiencies of rail are joined to the best efficiencies of water. But they cannot be achieved because the rail rates to the river, lake and ocean ports are maintained at such a high level, cost and distance considered, as to completely shut out water carrier participation. Instead of sharing in the inherent efficiencies of water transportation and broadening its markets, the railroad effectively cancels out the efficiencies and shuts itself out of participation in the savings with an artificially high rate.

Now this, as the Commission and the Supreme Court have found time and time again, aside from the fact that it is poor business policy for the railroads, is strictly illegal. It is an anti-competitive device almost identical to the "price squeeze" problem which got Alcoa into hot water with the antitrust division of the Justice Department many years ago. Like the railroad, in a typical intermodal dispute, the manufacturer of aluminum ingots, Alcoa, was both a supplier of ingots to its own fabricating plant and to a non-integrated fabricating plant of a competitor. By manipulating the price of ingots, Alcoa could favor its own fabricating plant and so disadvantage a competitive fabricating plant dependent on Alcoa for its ingots that, in effect, Alcoa could shut out its competition.

The railroad can keep its rates to the port so high as to totally shut out the competition of the combined rail and water route. The rail carrier captures the business simply because it abuses its position as exclusive supplier of transportation on the rail leg of the rail-water haul so as to totally and forever shut out the water carrier. It thus is in the indefensible position of being able to determine what competition it shall face and of effectively frustrating the incentives for both rail and water carriers to compete on the basis of efficiency.

We're nailing that principle to the mast in transportation, I hope, before too long. When we do, there'll be some substantial new money to pick up in transport savings.

On a much happier note, our Association has been out selling the railroads on what we call "willing partner" propositions. A water connection is very often much more advantageous to a railroad than is a railroad connection. With a water connection, the railroad gets better car utilization, doesn't have his cars go off line, often can get a better division and certainly has a better chance to broaden the market because the overall transport cost is lower. The new railroad marketing people who are more interested in making money than in fighting old legal battles are increasingly receptive.

I am often asked wouldn't this rail-water coordination work much better if the railroads were allowed to own water carriers?

The answer is that there is a very high risk involved. The risk is that competition between water and rail would be destroyed. The stakes are high. The rail rate reduced to meet water competition is often reduced in half. We try to imagine a railroad investing in more powerful towboats so that river efficiency is improved and rail rates reduced and traffic even diverted from the railroad and we can't quite make it seem true. Shippers would lose the opportunity to play one mode off against the other, and both modes would lose the substantial prod to improved efficiency which results from vigorous competition.

Once intermodal ownership is allowed, the egg could never be unscrambled. Within six months, probably less, of a change of policy, the rivers would be dominated by railroad-owned barge lines.

The history of railroad ownership of water carriers is very bleak. The rail-owned water carriers weren't used to benefit the public. They were destroyed. We are told that could not happen today. But why risk it? Especially when all the benefits ascribed to common ownership can be achieved through voluntary coordination—if the Commission will knock a few heads together to start a good trend going. Competition would take care of expansion and development of such a trend.

In the light of the obvious risk to competition from common ownership, it is very strange to read the Council of Economic Advisers advocating common ownership. They and the Justice Department should be concerned about encouraging such a drastic increase in concentration in the transportation industry and yet they seem to invite it when they urge common ownership.

I have recommended to my railroad friends that they join with us in our "willing partner" campaign and go the voluntary route for a period of time—perhaps five years—in which they would get to know the potentialities of the water business better. If, in the interim, the public interest is served by the development of truly intermodal movements on a broad scale and the principle and economics of intermodalism firmly established, the climate for intermodal ownership might be quite different.

There is great pressure for intermodalism. The Secretary of Transportation believes that transport capacity will have to double within the next twenty years. As the economy expands, and as labor and material costs rise, we are increasingly going to have to insist that scarce capital be used in the most efficient manner possible. The geography of the rivers and canals is such that for many important movements the combination of rail and water makes the most sense of all because it costs the least and—to get back to my opening theme—makes the most money for the shipper.

RICHARD BREVARD RUSSELL

Mr. MATHIAS. Mr. President, it has often been said that the proper study of mankind is man. If this be true, it follows that the proper study of nobility and honor is a noble and honorable man. In this quest the United States Senate has been privileged by the opportunity over 38 years to study, admire, and emulate such a man. No Member of this body in good conscience could have been unmoved by this experience, for this man's character transcended ordinary boundaries. It rose above the political and

philosophical delineations which distinguish the ordinary Member from his colleagues. And it went beyond the warmth and charm of his personality. Above all it resided in the high spheres of a standard of conduct which broached no deceit, allowed no pretension, and shirked no duty. It was a testimony to this man's integrity and humility that he said:

When the time comes for me to go out of this chamber . . . I hope it will at least be possible to say of me that I was an honorable man. I do not know of anything that might be said that would better please me.

There never has been, and there never will be, any doubt of this man's honor. It has been rightfully asserted that he was a master legislator, that he might have been President if he had come from another region of the country, and that he was a giant among giants. Never to be forgotten, however, is that he was a man like other men; but he was a man who taught us, by example, that a capability for greatness lay within each one of us—regardless of our varying talents and intellects. He taught us that nobility of the soul and spirit is achievable.

Like all good teachers he was fair and perceptive. At a time when the Nation was unsteady in its allegiance to an unpopular President and a popular general he was the paragon of impartiality and firmness. At another time his beloved South was deeply injured by the final passage of legislation which he had long and vehemently opposed. But it was law, and he counseled restraint and obedience. It was his duty to do so.

He left behind him a tradition, a legacy, and a concept that will never be outdated and that will influence every man who follows him into this hall. Politics and parties are transitory things, mutable and compromising by nature. High character, however, practiced day after day, month after month, year after year—always in the most trying and tempting circumstances—is not so easily dismissed or ignored. His presence will always be felt and his political heirs will be sobered and humbled by his memory. If we who follow him are able to continue to strive for honor and nobility in our actions and words, it will be due in no small measure to Richard Brevard Russell, of Winder, Ga.

THE GOOD SCHOOL AND THE GOOD TEACHER

Mr. MILLER. Mr. President, in the Washington Evening Star for March 11, the distinguished columnist James J. Kilpatrick strikes a timely and well-balanced blow for the "good school and the good teacher" whose constructive work in our society seems too often to be overshadowed by the undue publicity given to shortcomings in our educational system. His article, entitled "It's Time for a Kind Word About Our Schools," merits attention. I ask unanimous consent that it be printed in the RECORD.

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

It's Time for a Kind Word About Our Schools

(By James J. Kilpatrick)

A recent bulletin from the Council for Basic Education offers a gentle reminder for those of us who make a living by thrashing around in the prize rings of punditry: When it comes to the world of education, let us recognize, now and then, that there are good teachers and good schools, and let us give them an occasional pat on the back.

This is sound advice. It is downright astonishing, when one pauses for a long breath, to reflect on the changes that have taken place in editorial attitudes toward our school system totally, from elementary education through the graduate schools.

Fifteen or 20 years ago, if I am not mistaken, there seldom was heard a disparaging word. To be sure, there were faint rumbles of controversy over the teaching of reading, but this was distant thunder. Once in a while a dyspeptic editor complained of "frills." At the college level, one denounced fraternity hazing and muttered at the high cost of campus construction.

That was about the size of it. Otherwise we molders and shapers of public opinion were whooping it up for the schools—for higher teacher salaries, for bigger bond issues, for better libraries, for decent pay for professors. We glorified the image of Mr. Chips and Miss Dove, and when a college president died, we sent him off to the angels with columns of praise.

What has happened to this happy state of affairs? A point has been reached at which the very mention of "public schools" causes many taxpayers to salivate like Pavlov's dogs. The image is of an inner-city school, with a dozen windows broken and a cop on duty outside. Within the classrooms, we envision chaos—brought on by new floods of permissiveness in which all discipline has drowned. When the pupils are not clobbering each other, they are stabbing the teachers.

Still more: Today's image postulates a school in which little or nothing of value is really taught. Students are promoted and finally graduated without having mastered elementary skills of reading, writing and spelling. The textbooks, it is widely supposed, are mere instruments of liberal propaganda. The typical public school teacher is seen as a hot-eyed militant, striking for higher pay and less work.

The colleges—but everyone knows about the colleges: Their faculties are composed of Commies, radiclibs, and great names who are too busy moonlighting to bother with classroom teaching. The doped-up students are all barefoot, beaded and bearded. When they are not blowing up buildings, they are writing dirty papers.

Enough. The image is not without substance. Militant teacher unions have indeed forfeited enormous measures of public good will. Many textbooks are in fact slanted. Disciplinary problems, especially in schools subject to a coerced and artificial integration, have caused justified concern. Parents and taxpayers have valid complaints.

Yet the good teacher and the good school, as the Council for Basic Education observes, have suffered unfairly in the torrents of criticism that have swept American education. These are the teachers and schools that seldom get into the news. Year in and year out they carry on the indispensable function of teaching, and they turn out millions of youngsters who have learned at least some measure of respect for the learning process.

It never has been easy to be a good teacher. The work is exhausting, frustrating, filled with disappointments. And the good teacher today has to cope with problems unknown to Miss Dove—with professional and political and social pressures from a dozen quarters. Pay scales are much better than they used to be, especially for the starting teacher, but most teacher retirement plans are disgraceful.

This isn't Be Kind to Teachers Week, and I disclaim any thought of renouncing the critical function. All I am suggesting is that perhaps our image of education needs to be brought into sharper focus. Under the angry foam of militancy and permissiveness lies an ocean of dedication and discipline. Between rounds, as it were, we owe the good school and the good teacher a word of recognition—and thanks.

WHITNEY M. YOUNG, JR.

Mr. CRANSTON. Mr. President, I wish to pay tribute to Whitney M. Young, Jr., who died March 10, 1971, in Nigeria. Mr. Young was former executive director of the National Urban League, an organization unsurpassed in its efforts to improve the lives of disadvantaged Americans. Moreover, he was a triumphant crusader for justice and equality for blacks and all other Americans. The time for eulogies is always tragic. We too often fail to measure a man's worth until after his death. If his life was bountiful—and bountiful is the word for Whitney Young's—then when we must pause to pay it tribute, we suddenly realize how great our loss has been.

We are all aware of the momentous contributions to the quest for equal rights and justice made by Whitney Young. His voice was calm in the midst of clamor. His plea for justice and equality was the first ripple in a long-awaited wave. His attempts to make democracy work for all evidenced his unshakable belief in its principles and ideals.

We have suffered a great, great loss. We have lost a man who strove constantly to help America live up to its promises. We have lost a man who fought to better the lives of millions of Americans. And we have lost a man who worked to calm the voices of outrage whenever our society turned a deaf ear to legitimate grievances. His persistence and pragmatism in the struggle for civil rights was an inspired, absolute dedication, with no room for the luxurious indulgence of emotional abandon. It is with a great deal of respect that I pay tribute to a matchless man, a man whose democratic convictions were spurred to fruitful action through unwavering courage and tireless work.

WOMEN'S RIGHTS AN INTERNATIONAL CONCERN

Mr. PROXMIRE. Mr. President, the late Dag Hammerskjold stated:

Among all the achievements of the past century, including those discoveries and developments that have transformed the lives of men, and altered the very meaning of time and space, it may be doubted whether any is so profoundly significant and in the long run beneficial as the emancipation of women.

Progress can occur only if women consciously and constructively share in the making of effective decisions. No one can deny the positive contribution women have made to the political, social, economic, and religious life of our Nation The Convention on the Political Rights of Women is primarily concerned with po-

litical rights such as suffrage and the right to hold public office. It will insure to women those political rights men have held for years.

The United States, as we all well know, granted women suffrage in 1920. Yet we have failed to ratify a Human Rights Convenant of the United Nations which hopes to guarantee on an international scale what we, and most other countries, have guaranteed domestically. In failing to become a party to the Convention on the Political Rights of Women, our moral posture abroad is weakened with regard to the political status of women.

Recently, an editorial published in the Washington Post discussed the recent vote in the principality of Liechtenstein defeating a women's suffrage amendment. For the proponents of women's political rights, this was a step backward. Unfortunately, the United States cannot feel superior to Liechtenstein in this respect precisely because of our failure to ratify the Convention on the Political Rights of Women.

The matter of women's political rights is not a subject we can simply dismiss as a domestic matter. What happens in Liechtenstein, though perhaps not as important as what happens in Moscow or London, certainly should concern us. If our pledge to uphold the Charter of the United Nations means anything, we must be concerned with the status of human rights abroad, as well as in our own Nation. The political rights of women are an international concern. If we are to succeed in bringing about changes in the domestic affairs of nations, I can see no better method than by ratifying and adopting the Human Rights Convenants including the Convention on the Political Rights of Women.

I 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:

[From the Washington Post, Mar. 2, 1971]

THE NON-LIBERATION OF LIECHTENSTEIN

With a majority of 80 out of a total of 3,714 votes cast, the all-male electorate of the Principality of Liechtenstein defeated a women's suffrage amendment the other day. We are, of course, indignant, every bit as indignant as the angry *Liechtensteinerinnen* who picketed the government building in Vaduz, Liechtenstein's capital, as soon as this anachronistic manifestation of male chauvinism had been tallied with placards saying, "We Doubt Your Virility."

But our indignation is somewhat tempered, frankly, by the thought that the tiny majority of this tiny principality has at least given Liechtenstein an identity. There hasn't been much of late to distinguish the little country, since it entered a customs union with Switzerland and abolished its own army back in 1868, except its own postage stamps. Now it has the distinction of being the only place in the Western world, if you discount a few Arab countries, where women are excluded from political affairs. Liechtenstein, furthermore, should now make Switzerland feel proud, superior and progressive, inasmuch as Swiss men granted women the vote almost a month ago.

And it ought to make us feel superior, too, The United States after all, has no trouble recognizing the political equality of women. We have all of one female senator and 12 congresswomen. And we have had two women cabinet members in our history. And . . . Well, at any rate, Liechtenstein is obivously a pretty backward place.

WHITNEY YOUNG

Mr. DOLE. Mr. President, all Americans of good will join in mourning Whitney Young, executive director of the Urban League. His premature death has cut short a lifetime dedicated to serving his fellow man.

Mr. Young was consistently in the forefront of the forces for social justice in America. His quiet, self-effacing manner belied a deep, uncompromising devotion to human rights and human dignity.

Many of Whitney Young's greatest achievements were not gained in the public spotlight. He was more concerned with getting results than with getting publicity, and, year after year, he and his organizations continued their uphill battle against the forces of injustice and intolerance.

When history books recount the struggle for human rights in the 20th century America, Whitney Young will stand high on the honor roll of men and women whose sacrifices gave us all a better future.

My sympathy, and the sympathy of decent Americans of all races goes out to the Young family. The loss of this courageous, decent man is sorely felt by us all.

OVERCAPACITY OF U.S. AIR TRANSPORT SYSTEM

Mr. CANNON. Mr. President, I am pleased to note that the Civil Aeronautics Board yesterday approved a plan advanced by some of the Nation's air carriers to reduce the troubling over capacity now existing in the U.S. air transport system.

The health of the Nation's airlines has been of special concern to me particularly in recent weeks as the Senate's Aviation Subcommittee has been holding lengthy hearings on the economic condition of the U.S. air transportation industry. One of the most severe problems that has been amply demonstrated to the committee is the tremendous overcapacity now existing in the system. This overcapacity, or a surplus of available seats, has resulted from a number of factors, the most important of which is the economic recession currently plaguing the Nation.

The recession has caused an actual decline in the growth of airline traffic ironically during a period when the carriers are acquiring a new generation of large aircraft ordered long before the present economic difficulties began to be felt. Adding to the problem, the system has been hampered by excess competition among the carriers in certain markets and together these factors have led to substantial losses for them. The current problem, Mr. President is severe. Based on current projections, the airlines, in the aggregate, may lose more than $180 million in 1971.

In terms of restoring the airlines to health, there can be no substitution for a revitalized economy which in turn would stimulate airline travel. However, before that occurs, the carriers must seek in every way to reduce their operating costs consistent with declining traffic.

I strongly believe that the control of excess capacity is the best immediate weapon at the disposal of the carriers in their attempts to reduce costs. For example, neither the public nor the airlines are well served by 33 daily nonstop flights between New York and Los Angeles when only a third of the seats are filled on each flight. Capacity simply has to be brought more in line with demand, even with the unpleasant consequences of employee furloughs, low aircraft utilization, and deferral or cancellation of aircraft now on order.

On the other hand, I recognize it is sometimes difficult and even risky, in a competitive sense, for the carriers acting as individuals, to reduce their capacity on a unilateral basis.

The carriers have taken recent action deferring delivery of new aircraft on order, and in several cases, canceling new equipment which was to have been delivered in the next several years. This, too, is a very painful experience—especially for the aircraft manufacturers who are also experiencing great economic difficulty. But, again, prudent management would conclude that much of this equipment, ordered 3 or 4 years ago—was bought, based on assumptions of traffic growth which simply but unfortunately are proving to be invalid.

Unilateral capacity reductions, or—schedule cutbacks, and reevaluation of equipment needs, are in the long term public interest, the best way to proceed.

I also believe, however, that in some instances where certain markets have a great excess of capacity and where three or four carriers are scrambling to maintain share of the market, that capacity control agreements among them can be useful.

In certain markets unilateral schedule cutbacks may impose a serious penalty on the carrier making the reduction, because as TWA has argued persuasively, a carrier's share of the revenues derived from a given market is directly related to the amount of service offered.

Mr. President, in a speech several weeks ago I urged the CAB to approve discussions among the airlines, aimed toward achieving a limited capacity control agreement, where the carriers are given antitrust immunity to sit down together and work out mutual scheduling reductions in markets where overcapacity can be demonstrated.

I urged the Board to approve such an agreement for a relatively short period of time and subject to the CAB being a party to all discussions directed toward reaching the agreement. I am happy to note the Board has just approved a plan much like that which I outlined, and has granted the industry permission to seek to reduce scheduling on a collective basis.

The Board, wisely I think, restricted its approval of such scheduling discussions to markets where the carriers can prove excessive capacity and limited any agreement to 6 months duration. The time limitation is important because it

will ensure that these capacity agreements, only to be viewed as temporary remedies, will be discarded when better economic health is evident.

Mr. President, the CAB should be congratulated for the timely step it has taken in an effort to provide a more favorable economic climate during this period of severe trial in the airline industry.

TRIBUTE TO WHITNEY M. YOUNG, JR.

Mr. PERCY. Mr. President, the tragic death yesterday in Lagos, Nigeria, of Whitney M. Young, Jr., for the past decade the executive director of the National Urban League, is a serious loss for all Americans—white and black.

In the decade of the 1960's, Whitney Young was one of this country's most articulate and perceptive spokesmen for social justice. Though he was first and foremost a champion of equality for black America, he also understood the necessity of keeping lines of communication open with the white community. He moved with equal ease among corporate leaders and the black poor, and earned the respect of all races and classes. Throughout his life, he never deviated from his commitment to integration of the races, and his steadfast belief in this principle often brought him unjustifiable criticism.

Whitney Young once said:

> The difference between myself and some others is that they have given up on the American system.

He never gave up. He understood that compromise and conciliation are important ingredients in the recipe for progress. At a time when many other black leaders were preaching revolution, his was a voice of moderation. He knew that persuasion can succeed where hatred can only inflame.

Whitney Young set this standard for himself:

> The only criterion by which I want to be measured is whether or not I have helped to improve the economic, political, health and social future for black people—not on the basis of how many white people I curse out.

As the tens of thousands of blacks who found employment through his untiring efforts as the leader of the National Urban League can testify, Whitney Young's all-too-brief life was a success, by his standard or any other. His work is far from finished, but the fact that a significant beginning has been made is a tribute to his inspired leadership.

The death of a man of Whitney Young's extraordinary talents and vision at any age would be a serious loss; to have him taken from us at the relatively young age of 49, when he seemed to have so many productive years ahead of him, is doubly cruel.

No memorial tribute can adequately repay Whitney Young for his contributions to the struggle for dignity and equality for all Americans. He was a man of courage, of compassion, and of uncommon dedication, a man I was proud to call my friend. If we truly wish to honor his memory, we must join together and make his goals our goals.

I extend particularly my deepest sympathy to his beloved wife Margaret and to my close friends, Dr. and Mrs. Paul Boswell, Whitney Young's devoted sister, and highly respected brother-in-law, both prominent civic leaders in Chicago.

MORE POWER WITH LESS POLLUTION

Mr. METCALF. Mr. President, the Montana Legislature has taken official notice of the opportunity to develop more power with less pollution through magnetohydrodynamic—MHD—power generation.

The legislature notes that MHD technology is advancing in Japan, West Germany, and Russia—where a pilot plant is now nearing completion—while the United States has not even begun the construction of a pilot plant.

Despite the record developed by the Office of Science and Technology and before the 91st Congress for a meaningful MHD research program, the administration budget includes only $1 million for the program. The buck has been passed to the Appropriations Committees and particularly the Subcommittees on Interior and Related Agencies.

Senators or others who wish to help reverse our present trend toward less power with more pollution would do well to familiarize themselves with the two-volume hearings on MHD conducted during the 91st Congress by the Senate Interior Subcommittee on Minerals, Materials, and Fuels and the materials in the CONGRESSIONAL RECORD, volume 116, part 33, pages 44400–44405.

I hope that some of the readers of this RECORD who are concerned about the energy-environmental crises will acquaint themselves with the virtual immobilization of this Nation's MHD research program, because of Government and industry's "Alphonse and Gaston" routine of waiting for each other to make the major moves. I hope the subcommittees will receive the support which is important to them in making vital additions to a deficient budget.

Mr. President, I ask unanimous consent to have printed in the RECORD, House Resolution No. 5 adopted by the 42d Legislative Assembly of the State of Montana.

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

HOUSE RESOLUTION 5

A resolution of the House of Representatives of the State of Montana to the Congress of the United States, the Montana congressional delegation, the Interior Committee of the United States Senate, the Interior Committee and the Interior Subcommittee of the Appropriations Committee of the United States House of Representatives requesting the passage of legislation and appropriations supporting the construction of a large magnetohydrodynamics (MHD) pilot power plant to implement the techniques which have been developed through intensive research since 1957.

Whereas, magnetohydrodynamics (MHD) power generation would provide new opportunities for utilizing the vast, untouched coal resources of the state of Montana and the northwest region, and

Whereas, MHD power generating plants operate without the need for the large amounts of water required by conventional steam and turbine systems, MHD electric power generating plants would offer new opportunities for developing the economic resources of the state of Montana and other areas lacking water needed to sustain conventional generating systems, and

Whereas, the MHD method of producing electrical energy would raise the efficiency use of coal from forty percent (40%) by conventional methods to sixty percent (60%), and

Whereas, there are present or planned conventional power generating plants in the region to which a MHD pilot plant could be attached for experimental testing as well as switchyard facilities, and

Whereas, this more economical method of producing electrical energy is also being advanced by other nations such as Japan, West Germany and Russia where a pilot plant is now nearing completion, and

Whereas, the MHD electric generating system eliminates water and air pollution common to conventional steam turbine and nuclear systems and reduces air pollution to a minimum.

Now, therefore, be it resolved by the House of Representatives of the State of Montana: That the Congress of the United States appropriate funds for the development work leading to the construction, at the earliest possible time, of a MHD pilot plant.

Be it further resolved, that the chief clerk of the House of Representatives be instructed to send copies of this resolution to the Congress of the United States, the Montana Congressional Delegation, the Interior Committee of the United States Senate and the Interior Committee and Interior Subcommittee of the Appropriations Committee of the United States House of Representatives.

WHITNEY M. YOUNG

Mr. ALLOTT. Mr. President, today we mourn the death of a distinguished and public-spirited American, Whitney M. Young.

As executive director of the National Urban League, he made a unique contribution to American leadership in difficult times. He has been taken away before his time, but the millions who loved and respected him can be consoled by the knowledge that he lived his allotted years with a singular grace and dignity.

Whitney Young's distinction derived in part from his ability to make distinctions. He was clearheaded in an age of muddled thinking about effective political action.

Whitney Young always distinguished between moral exhibitionism and real moral concern. He distinguished between rhetoric and a real revolution in living conditions. He distinguished between political posturing and real political achievement.

Most important, Whitney Young distinguished between the chimeric promise of vague revolutionary fevers, and the real promise inherent in the American Nation's responsiveness to determined pressure on behalf of a just cause.

Whitney Young had an enormous talent for practical action in the politics of our pluralistic republic. He mastered the art of getting things done. The black community benefited from this directly, and the rest of the American community benefited almost as directly because all

Americans benefit from an expansion of justice.

Whitney Young understood that the most solid, substantial hope for the improvement of the condition of American blacks lay in the opportunities offered by the openness of the American political system. By making that system work on behalf of the millions he represented, Whitney Young rendered his greatest service. He demonstrated the efficacy of determined resourceful leadership.

His life stands as a living reproach to all those who despair of effecting intelligent change in a civilized manner. And his life stands as an inspiration to all Americans who know that there is no conflict between the traditions of civility and the need for dynamic and progressive leadership.

In death as in life, he will serve as a model of enlightened patriotism.

RULES OF SELECT COMMITTEE ON SMALL BUSINESS

Mr. BIBLE. Mr. President, pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the Select Committee on Small Business, in its organizational meeting held Wednesday, March 10, adopted rules governing the committee's procedures.

I ask unanimous consent that the text of the committee rules, as adopted, be printed in the RECORD, as required.

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

STANDING RULES OF THE SENATE SMALL BUSINESS COMMITTEE

1. GENERAL

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee and its Subcommittees. The Rules of the Committee shall be the Rules of any Subcommittee of the Committee.

2. MEETINGS AND QUORUMS

(a) The Committee will meet at the call of the Chairman. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within three calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the Committee Members may file in the office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member present shall preside.

(b) In executive sessions, a quorum for the transaction of business shall consist of a majority of the Members of the Committee.

(c) In hearings, whether in public or executive session, a quorum for the taking of testimony not under oath shall be one Member of the Committee. A quorum for the taking of sworn testimony shall be two Members of the Committee, unless the witness voluntarily waives this requirement.

(d) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

3. HEARING

(a) The Chairman of the Committee may initiate a hearing on his own authority or at the request of any Member of the Committee. Written notice of all hearings shall be given to respective Committee or Subcommittee Members. Notice shall be given as far in advance as practicable. No hearings of the Committee shall be scheduled outside of the District of Columbia except by a majority vote of the Committee.

(b) Any Member of the Committee shall shall be empowered to administer the oath to any witness testifying as to fact, if a quorum be present as specified in Rule 2(c).

(c) Subpoenas shall be issued only when authorized by a majority vote of the Committee. When so authorized, subpoenas may be issued by the Chairman or by any other Member of the Committee designated by him. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of documents, memoranda, records, etc., shall state briefly the purpose of the hearing and shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or executive hearing may be accompanied by counsel of his own choosing, who shall be permitted while the witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing of the Committee or any report of the proceedings of such an executive hearing shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

WHITNEY YOUNG: TRIBUTE

Mr. WILLIAMS. Mr. President, I am shocked and saddened by the death, in Lagos, Nigeria, of Whitney M. Young, Jr., executive director of the National Urban League. It is always sad to note the passing of any man; it is sadder yet to note the passing of a man 49 years young—the prime of a man's life; it is saddest of all to note the passing of a man who dedicated his life to the cause of equality and the goal of making the American dream a reality for all persons.

Whitney Young's goal as executive director of the National Urban League was equality for all. With that in mind, he turned the National Urban League, which has aided thousands of blacks make the transition from unemployment to employment, into one of this Nation's primary forces working for the self-sufficiency of poor black Americans. When he started, all too few were willing to toil with him and his goal seemed almost unattainable. It is a tribute to his persuasiveness and his capacity for hard work that change was effected, and it came faster and in greater proportion than few would have believed two decades ago. Though his voice is now stilled, its echo will remain with us, not because he spoke in loud and shrill tones, but because he spoke with reason, persuasion, and a perceptive, biting sense of humor.

We can pay no finer tribute to Whitney M. Young, Jr., as a man, than by continuing to work toward the day when his goal will have been fully attained.

Personally, we will miss him. The poet John Donne wrote, "Any man's death diminishes me." The death of Whitney Young truly diminishes us all. Hopefully, this void may be filled by the fulfillment of his life's work.

SPRINKLER SYSTEMS FOR NURSING HOMES AND SMALL HOSPITALS

Mr. METCALF. Mr. President, nursing homes and small hospitals in Montana were notified a few months ago that they must either contract for installation of sprinkler systems to comply with regulations written by the Health, Education, and Welfare Department, or close their doors to medicare and medicaid patients. In many cases, these small medical facilities could not survive without these patients. Certainly the patients would not be benefited either, if their only neighborhood hospital could not serve them in time of need.

Mr. President, to deprive the residents of these rural communities of their only nearby medical facilities is an absurd end to the promise of Hill-Burton which has made them possible.

No one could or would question the need for patient safety. What we might question, however, is the decision that only a sprinkler system will provide that safety. Some experts hold that a smoke detector system, which is far less expensive, is to be preferred.

It is my understanding that the Department of Health, Education, and Welfare is currently evaluating other systems to determine which might be equivalent to the sprinklers. Should the agency, upon reconsideration, determine that there are no alternatives that will properly and as fully protect the patients, then it seems to me that it is our responsibility to appropriate the money to install the systems.

Mr. President, I have received Senate Joint Resolution No. 6 from the Montana State Legislature regarding the gravity of this problem. I ask unanimous consent that it be printed in the RECORD.

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

SENATE JOINT RESOLUTION 6

A joint resolution of the Senate and House of Representatives of the State of Montana to the Honorable Richard M. Nixon, President of the United States; to the Honorable Elliot L. Richardson, Secretary of Health, Education, and Welfare; to the Congress of the United States; to the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the State of Montana; to the Honorable Richard Shoup and the Honorable John Melcher, Representatives from the State of Montana calling attention to the plight of Montana's small, rural hospitals, extended care facilities, skilled nursing homes and intermediate care facilities which are facing loss of certification under medicare and medicaid because of the increasingly stringent medicare requirements

Whereas, the requirements imposed upon hospitals, extended care facilities, skilled

nursing homes and intermediate care facilities by Medicare and Medicaid for certification are becoming increasingly strict and costly; and

Whereas, faced with these rigid requirements many of Montana's small, rural facilities are in danger of losing their Medicare and Medicaid certification; and

Whereas, the loss of certification for Medicare and Medicaid funds by these hospitals may possibly result in the closure of these hospitals; and

Whereas, the closure of any such facility in the State of Montana will seriously affect the people of Montana and will be extremely detrimental to the health and welfare, especially, of the elderly and the needy in those areas serviced by such facilities;

Now, therefore, be it resolved by the Senate and House of Representatives of the State of Montana, that the President of the United States, the Department of Health, Education, and Welfare, and the Congress of the United States seriously study the effect of the requirements imposed on the small, rural hospitals, extended care facilities, skilled nursing homes and intermediate care facilities for them to receive certification under the Medicare and Medicaid provisions, and to seriously consider the rights of the beneficiaries of the Medicare programs to receive their health care and to do all things possible to cooperate with those servicing and serviced by small, rural facilities to relieve them of burdensome requirements which threaten the continued existence of such facilities thereby depriving the sick, needy and elderly of treatment in a local environment by their family physician in their own community.

Be it further resolved, that the Secretary of State is instructed to send copies of this resolution to the Honorable Richard M. Nixon, the Honorable Elliot L. Richardson, the Honorable Mike Mansfield, the Honorable Lee Metcalf, the Honorable Richard Shoup, and Honorable John Melcher, the Honorable Speaker of the House of Representatives of the United States, and the Honorable President of the Senate of the United States.

ARSENIC IN THE ATLANTIC

Mr. WILLIAMS. Mr. President, I invite the attention of Senators to a regrettable situation that has been brought to light by an article published in last night's Washington Star. I understand that among the over 60 million tons of dredge spoils, sludge, solid waste, chemicals, and radioactive materials that are dumped into the ocean every year, are more than 800 tons of arsenic, one of the most dangerous substances known to man. Arsenic, either as an element or in one of its various compounds, has definitely been shown to be toxic to marine organisms in most levels of the aquatic food chain. Yet every month for at least 2 years, an Italian vessel carrying several hundred canisters of arsenic has embarked from Philadelphia, traveled down the Delaware River, and emptied its cargo into the coastal waters just off the New Jersey shoreline. The exact distance is not known, since the U.S. Coast Guard, which alerted the administration to the latest dumping, is reportedly skeptical as to how far out in the ocean the deadly cargo is being dumped.

What is even more alarming than the fact that this arsenic is being discarded by a chemical company in an apparently unsafe fashion is the report that the President's Council on Environmental Quality is helpless to prevent these dumpings, including the one scheduled for this Saturday. Dr. Gordon McDonald of the President's Council has reportedly said that only congressional action can stop it.

Mr. President, I have already initiated an attempt to halt this continued dumping. However, this situation graphically points out the need for quick enactment of an ocean dumping bill to govern these practices. The spokesman for the company engaged in the dumping has explained that they are utilizing this disposal method—which they describe as the "most economical" of several alternatives—because they have not received any "official notification" that it is wrong. This is one area of doubt that we should quickly act to eliminate. I feel that in this period preceding the enactment of legislation governing open dumping, the administration should make it perfectly clear that the dumping of such highly toxic materials in our ocean waters is a flagrant violation of the Government's intentions regarding ocean dumping, even though the specific laws and regulations are not yet formulated.

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

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

OCEAN POLLUTION: ARSENIC DUMPING CONTINUES

(By Roberta Hornig)

On Saturday, following a two-year-old practice, a ship carrying about 70 tons of an arsenic compound will sail from Philadelphia, travel through Delaware Bay, and dump its potentially lethal cargo in the Atlantic Ocean.

The Norton Lilly Company of Philadelphia, which booked the load on the Italian vessel "Nondo Fassio," says that as far as it knows this sort of cargo, ranging between 30 and 80 tons, has been dumped at sea about once a month for "over two years."

Both Norton Lilly and the chemical company involved, Whitmoyer Laboratories of Myerstown, Pa.—a subsidiary of Rohm & Haas Company, the ninth largest in the world—says the dumping occurs about 150 miles out in the ocean.

President Nixon's Council on Environmental Quality, which is against dumping any potentially toxic materials in the sea, is trying to figure out what to do about this Saturday's dumping. At present, spokesmen say, there are no legal restraints.

Dr. Gordon McDonald, the lone scientist on the three-man council, says the dumping flouts Nixon's principles, but that only congressional action can stop it.

McDonald says the worry in this particular case is that when the 246 canisters containing the arsenic compound hit the water, they will break open and the sea water will change the composition of the chemical, making it particularly toxic to sea life in the area.

Both the administration and Sen. Edmund F. Muskie, chairman of the Senate Air and Water Pollution subcommittee, have offered bills to require permits for any kind of ocean dumping within 12 miles of the U.S. coastline and forbid any kind of dumping within that limit by any foreign government.

McDonald also said the U.S. Coast Guard alerted him to the latest chemical dumping and tends to be suspicious about how far out in the ocean the dumping occurs.

A spokesman for Whitmoyer Laboratories said the company considered other disposal methods but that it is "more economical to put it in a ship and dump it in the bottom" of the ocean.

A spokesman for Norton Lilly said, "We understand about this new anti-pollution—let's save the seas, of course."

But, he added: "The only thing here is we're in the middle. If we're in the wrong (referring to the ocean dumping) I'd appreciate it if we'd get official notification."

Government estimates are that 62 million tons of waste—ranging from DDT residues to old mattresses—are dumped off America's seacoasts annually.

JAPANESE TEXTILE IMPORT PROPOSAL UNACCEPTABLE

Mr. TALMADGE. Mr. President, the textile import proposal put forward by Japanese textile industry is totally unacceptable, and I am pleased that the President has also indicated his dissatisfaction.

It is incredible that the Japanese would expect our Government or the American textile industry to accept a plan such as this that is both arbitrary and unrealistic. It benefits only the Japanese. It would give the U.S. textile industry no relief from the critical import situation that already has cost us from 200,000 American jobs.

There appeared in the Wednesday edition of the Atlanta Constitution an editorial denouncing the Japanese proposal for its "incredible arrogance."

I bring this editorial to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

THE GENEROUS JAPANESE

Those friendly folks who brought us Pearl Harbor have made another generous gesture.

Faced with a belated recognition by the U.S. Congress that Japanese textile imports have already cost 200,000 American jobs—and are jeopardizing the remaining 2,400,000—the Japan Textile Federation has agreed to restrict export of textiles to the United States for a three year period beginning July 1. The catch is that the "restriction" would be limited to compounded increases of 5 per cent the first year and 6 per cent the next two, a growth rate for which any legitimate American business would be more than happy to settle.

The incredible arrogance of the Japanese in continuing to dump their textiles, television sets and other surpluses here at prices below those prevalent in their homeland must make those unfamiliar with history wonder: Who signed what on the deck of the Missouri?

COMMENDATION OF NONCOMMISSIONED OFFICERS ASSOCIATION OF UNITED STATES

Mr. THURMOND. Mr. President, as an honorary member of the Noncommissioned Officers Association I have observed with pleasure the continued growth of this excellent organization.

The NCOA's membership is now approaching 50,000 and expanded services to the members have accompanied this growth. Those of us who have served in uniform know that the noncommissioned officer is the driving force of the armed services.

This group is a nonprofit, patriotic, fraternal, and benevolent organization which provides unique and valuable services to each of its members in all branches of military service. The association and its members subscribe to the following creed:

It is with the conception and full understanding that many things of great need and importance can be accomplished in unity and cooperation, but otherwise impossible, that the members of the Non Commissioned Officers Association of the United States of America have agreed to join their efforts and strength to work together for the well being of the individual, the group, and for the greatest benefit of our beloved Nation.

Mr. President, the NCOA is administered solely by and for noncommissioned and petty officers, active, retired, and reserve.

They have established programs for the benefit of their members which are explained to each member individually by their widely dispersed field force of NCOA resident counselors

These benefits and sponsored services include:

First. Individually prepared analysis of Government benefits.

Second. Personal affairs inventory brochures, outlining the importance of wills, powers of attorney, and a comprehensive listing of all personal papers and assets to assist any administrator and/or executor.

Third. International banking service which provides automobile financing without geographic limitations.

Fourth. Automobile purchase discounts.

Fifth. Local chapter discounts.

Sixth. National motel discounts.

Seventh. Exclusive NCOA career option plan.

Mr. President, the information presented by the NCOA indicates the association and its resident counselors are performing well in affording these consumer protection programs to their members.

The exclusive resident counselor system, which is necessary to the progress of the NCOA, is being financed from the normal acquisition budgets of the life insurance companies underwriting their specialized career option plan at no direct cost to the association or its members.

These counselors perform a wide range of personal services to a most important group of American citizens through a standard system of high integrity and genuine interest.

One of the most commendable services offered by the resident counselors occurs upon the death of one of its members at which time these counselors immediately call to offer assistance in all matters contained in the personal affairs brochure to the survivors. This valuable assistance is offered to all members without compensation and the counselors' duties are performed quickly with the highest regard for the personal feelings of those survivors.

In conclusion let me say the ingenuity and foresight shown by the international board of directors of the Non-Commissioned Officers' Association in setting up a well trained and qualified staff of counselors is commendable. The counselors are charged through a code of ethics to assure their effectiveness in achieving the positive aims specified in their creed. They deserve full recognition for the success they have achieved in these worthy endeavors.

CHILE THE SCENE OF A HISTORIC DRAMA

Mr. ALLOTT. Mr. President:

Chile is balancing on a knife's edge, and which way it will go no one knows.

That is the appraisal of a Chilean politician cited in an illuminating report in today's Wall Street Journal.

Chile is currently the scene of a historic drama to which insufficient attention is being given. What is involved is the question of whether President Allende will be the first Marxist who, after taking power, continues to respect democratic due process.

So that all Senators may give proper attention to this drama, I ask unanimous consent that the article be printed in the RECORD.

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

LATIN NATION UNCERTAIN OF DEMOCRACY'S FATE UNDER MARXIST LEADER

(By William M. Carley)

SANTIAGO, CHILE.—A dozen tax investigators recently swarmed into the lofty-ceilinged, colonial-style offices of El Mercurio, a major conservative newspaper here. The tax men quickly sealed desks in the business office and confiscated financial records.

Ostensibly, the investigation stemmed from charges that El Mercurio may have received a loan under illegal circumstances. But editors of the newspaper wondered if the investigation was merely the first move by leftist President Salvadore Allende to silence the conservative publication that has long opposed him.

"Soon we shall know if the government will annihilate El Mercurio," the paper said in an editorial.

El Mercurio's dilemma reflects the major questions hanging over Chile today. Will Dr. Allende's government confine its emphasis to tough Marxist economic policies, such as the promised nationalization of copper mines, banks and certain farms? Or will his government also wipe out all political opposition, and in the process wipe out Chile's democracy as well?

BALANCING ON THE EDGE

"Chile is balancing on a knife's edge, and which way it will go no one knows," says one politician here.

Obliterating democratic politics in Chile, wouldn't be easy. This nation, stretching for nearly 3,000 miles in a long, narrow strip between the Andes and the Pacific Ocean, has had a flourishing democracy for decades, a unique achievement in Latin America where coups are more common than elections.

But in last fall's presidential election conservative and moderate votes were split between candidates of the right-wing Nationalist Party and the centrist Christian Democrat Party. The result was that Dr. Allende and his coalition of Communists, Socialists and other leftists got 36% of the vote, more than any other candidate and enough to induce the Chilean congress to elect him president. It marked the first time in world history that a Marxist government had come to power in a free election.

Many well-to-do Chileans panicked. "I hear Allende is going to get army trucks and take all the poor people to rich sections, and take all the rich and put them in the slums," one frightened Chilean said at the time. Hundreds, perhaps thousands, of wealthy Chileans fled the country.

THE FEARS PERSIST

The panic has subsided now—but not the fears for the long-term survival of democracy. Dr. Allende, a short, mustachioed physician who has spent most of his life in Chilean politics, has repeatedly promised to follow the rules of the democratic game during his six-year term as president. And the Communists—the best organized and most feared members of Dr. Allende's coalition—are echoing his pledges, at least for now.

"It's hard for you Americans to understand, since you have been formed in the idea that communism and democracy are absolutely incompatible," a visitor is told by Volodia Teitelboim, a top Communist Party official in Santiago. "But Chile is no stereotype—it is unique. We will continue to have free elections." Allende has said, "If we lose the presidential election five years from now, we will turn out the lights and go home."

A number of Chileans doubt these assurances. One newspaper columnist here avers the Communists, to create a false sense of security, are subjecting the Chilean people to "Operation Valium." Valium is a tranquilizer.

One factor prompting worries has been the attack on El Mercurio. After the paper blasted the government tax investgation editorially, the investigation was reduced to a routine inquiry, and the newspaper's financial records were returned. But the government now has the paper in a financial squeeze.

FINANCIAL ASPHYXIATION?

El Mercurio, like many other businesses here seeking increase under price-control laws, has lost an appeal to the government for a boost in the charge for the paper. The Chilean government, moreover, is a major advertiser, and it has withdrawn all its ads from El Mercurio. This, coupled with a business slump, has cut the paper's ads to less than half the former level.

"The government's harassment will continue, and I don't see how El Mercurio can survive," says one political analyst here. "What the government is going to do is asphyxiate us financially but perfectly legally," says one writer for El Mercurio.

The Mercurio organization also publishes some smaller newspapers, and if the group went under the only significant opposition paper left in Chile would be La Prensa, published by the Christian Democrats.

Chile's biggest publisher of textbooks and magazines, Zig-Zag, has already fallen into government hands. The move began when a labor union at Zig-Zag, headed by a Communist, demanded huge raises. The owners said they couldn't afford to pay them, and after a 30-day strike the issue went to a government-appointed arbitration panel. The arbitrators decided in favor of the union, and last month the owners of Zig-Zag agreed to sell their presses and part of their business to the government.

Zig-Zag will continue to publish its magazines, including Ercilla, a Time-like weekly. But political observers figure the govern-

ment, owning the presses, won't have much trouble controlling the magazines' contents. And the government is taking over entirely the publishing books and school texts.

"It won't be long before the kids are reading Communist propaganda in school," one analyst says.

The government has threatened the courts as well as the press. Among other things, Dr. Allende has proposed "neighborhood tribunals," which are supposed to speed up Chile's slow justice.

The proposed courts would handle only minor matters, such as family squabbles and town drunks. But the maximum punishment could be short terms of forced labor or prison. And two of the three judges for each neighborhood court would be chosen from local organizations such as unions, which are largely Communist-controlled, and the third would be appointed directly by the government.

"This would give the leftists political control of the courts and of the people right down into every neighborhood," says one analyst here. "And what would these courts do to a neighborhood?"

Some Chileans don't like the idea of what the courts would do to a neighborhood. "People would be watching their neighbors day and night, and you'd be afraid to do anything," says a clerk in a Santiago office. "If I had my radio up too high at night, I could be sentenced to forced labor."

Facing stiff opposition to a bill that would have authorized neighborhood tribunals, Dr. Allende withdrew the bill from congress early this month. But some analysts fear that he may try to set up the tribunals anyway, possibly by executive action.

LEFT-LEANING CONGRESSMEN

Aside from the courts and the press, the Marxist government faces opposition from the Christian Democrats and the Nationalists. The two, which have a combined total of 120 votes in the 200-member congress, may be able to block some Allende bills. But there is talk of a split within the Christian Democratic Party, with possibly a score or more congressmen headed towards joining the leftists. If this develops, it would give the leftists a majority in congress.

(The leftists have already proved adept at exploiting differences in the opposition. In last fall's election, they figured the man to beat was the Nationalist candidate, and to draw votes away from him they boosted the Christian Democrat candidate by packing his rallies. "Lots of my Communist friends were at Christian Democrat rallies," says one Santiago housewife. Whether this helped or not, the Christian Democrat candidate got just enough votes so that the Nationalist candidate fell one percentage point short of Dr. Allende.)

Even if Dr. Allende is sometimes blocked in congress, he is displaying talent for executing an end-run around the legislative body. Last Dec. 31 he went on TV to announce he would introduce a bank nationalization bill in congress within a week. But, anticipating opposition from the Nationalists and Christian Democrats, he also announced a government offer to buy bank shares from stockholders.

At first the price looked good. It was based on the average market price for the first half of 1970, which was well above the depressed levels stocks fell to after Dr. Allende's win in the fall. But bank stocks were artificially low anyway, sources say, because in Santiago stock prices are deliberately manipulated downwards to reduce a tax on wealth that shareholders must pay.

CARROTS AND STICKS

"In some cases banks have had more just in certain reserve funds than the value of all their outstanding stock," one economist here says.

Dr. Allende is using a variety of carrots and sticks to persuade stockholders to sell at his price nonetheless. Some major holders have been told that their investments in banks won't be profitable much longer. The government has already sharply cut the ceiling on interest rates banks can charge. And the government has said it is withdrawing its deposits from banks whose shareholders aren't accepting its offer.

Another form of persuasion is super-tough enforcement of banking regulations. In the past, if a Santiago bank couldn't meet certain reserve requirements, it was always taken care of with a loan from the central bank, economists here say. But no longer. Now the government "intervenes," or simply takes over the bank, as it has on three occasions.

Besides the three seized banks, the government has gained control of only three or four other banks out of the 21 private institutions in Chile. But Dr. Allende has yet to introduce his bank nationalization bill, and he could at any time, a threat not lost on Santiago bankers.

GUN ON THE TABLE

"Allende is negotiating for the banks now, but with a gun on the table," says one bank executive here.

In its drive to gain control of the economy, the government is also rapidly taking over Chile's vast farms, though in a way no one quite expected. In the past six years the Christian Democrats, under President Eduardo Frei, had launched a land-reform program to expropriate huge haciendas and split them among landless peasants. But the program bogged down with redtape and high costs.

When Dr. Allende won the presidency, the peasants didn't wait for formal government action. They simply began invading and taking over haciendas, and the government has hurriedly appointed managers for the farms.

For Dr. Allende, who wants to create big state farms and cooperatives rather than provide a plot for each peasant, the invasions are something of a nuisance. But he hasn't ordered the carabineros, Chile's tough police force, to stop the invasions.

"How could he? A Marxist president can't have the police knocking poor people over the head like Mayor Daley in Chicago," says one Santiago journalist.

MORE CONVENTIONAL PLANS

Be that as it may, the government now has some 200 invaded haciendas on its hands, and the minister of agriculture has announced plans for rapid expropriation of more farms by conventional methods.

The mere fact that the government is pushing hard to seize economic power upsets analysts concerned about democracy's survival.

"What happens when the bankers, who have supported the Nationalists, and the farmers, who have supported the Christian Democrats, are expropriated and exterminated? Who is left to stand as any opposition to the leftists?" one analyst asks. "And who has a more powerful political weapon than Allende when he gets the banks and controls all credit in the country?"

Chile's outlook isn't completely bleak, of course. For one thing, Dr. Allende's tactics aren't brand new. One Santiago journalist notes that while the Christian Democrats were in power they helped engineer the sale of Zig-Zag to a group of Christian Democrat businessmen. To make sure of press cooperation, the chief economics writer for Ercilla was simultaneously put on the government payroll as a public relations man for the central bank.

Dr. Allende could also be restrained by the economy. At the moment, the great mass of poor in Chile are much better off than previously. Usually their earnings were eroded by Chile's chronic inflation, which last year hit 35%. But Dr. Allende has put through substantial wage increases for workers while initiating tough enforcement of price-control laws, allowing virtually no price increases.

"The most important things for the poor people in the city are the price of bread and buses to get to work, and bus prices are up only a little and the price of bread is actually down," exclaims one happy Santiago worker.

To enable the poor to enjoy Chile's beaches, Dr. Allende has also promoted "popular vacations" featuring cut-rate train rides to the ocean and cheap overnight accommodations set up at nearby schools. And the president-doctor's administration has helped start a hospital train that, with volunteer medics, travels the countryside dispensing free health care.

But with the Allende victory, businesses fearing expropriation practically halted all capital investments. Everywhere a visitor travels in Chile he sees construction halted on projects only half completed. One result has been a rise in unemployment in Santiago from 6.4% in September to 8.3% in December, the highest in 10 years.

SMUGGLED THROUGH THE ANDES

What's worse, the turmoil stemming from farm invasions may sharply cut agricultural production, even on farms not yet invaded. "I know one farmer fearing an invasion who smuggled his dairy herd through the Andes to Argentina and sold his cows for meat," a Chilean worker says.

Copper production, though at a good rate now, may also fall. At one mine, for example, about 180 Chilean technicians, or half the top staff, have fled the country, either because they disliked communism or because of Dr. Allende's move to pay them in inflated Chilean currency instead of the U.S. dollars they previously got. Also, the world price of copper has fallen in the past year from 87 to 48 cents a pound, sharply cutting Chile's copper export earnings.

"Because of high copper prices in past years, Chile has substantial reserves, but they won't last forever, and Allende may be headed for a real economic squeeze," says one economist. This economist argues, however, that instead of restraining Dr. Allende, a downturn might goad him to try even more drastic measures in the future.

STRAINS IN A COALITION

Another cloud on Dr. Allende's horizon is the strain within his coalition. The president himself is a member of the Socialist Party, which in Chile is even further to the left than the Communist Party. Rumors of a cabinet shake-up were so rampant last month that the government had to publicly deny them. A visitor to a beautiful hilltop mansion overlooking Santiago that has been turned into a club for leftists also sees evidence of the strains.

"Those are Communists in that corner, and in the other corner the young bearded guy is a MIRista (a group that believes in violent revolution)," one club member tells a visitor. "The Communists hate the MIRistas because the MIRistas call them 'bourgeois,' and when the Communists get more power, the MIRistas will be the first to go," the club member says, slashing his hand across his throat.

Despite such problems within the leftists' camp, the leftists still stir concern over Chile's democratic future. Sums up one gloomy Santiago magazine editor:

"We will have elections, but they will be controlled, and we will have a press, but that will be controlled too. And maybe I'll be one of the victims."

INTEREST RATES CONTINUE TO DECLINE

Mr. SCOTT. Mr. President, yesterday—for the 10th time in just under a year—the interest rate on prime loans was lowered by the Nation's leading commercial banks. Chase Manhattan Bank initiated the cut in prime lending rates by reducing their prime rate to 5¼ from 5¾ percent.

This is testimony to one fact, Mr. President, and that fact is simply this: Mr. Nixon inherited a white-hot inflationary economy and, without thrusting the country into the depths of depression, has succeeded in cooling it off to a degree. The benefits to America's housing industry alone are immense.

Said the Associated Press:

> The continuing slide, was expected to result in a further lowering of interest charges on home mortgages and personal loans.

This is good news to all Americans. It means that commitment to a game plan, meticulously drawn up and carefully executed, brings concrete results. And to slow a runaway economy without falling into depression while at the same time converting the entire Nation from a wartime economy to a peacetime economy, is nothing short of miraculous.

A number of other major banks followed Chase Manhattan's lead and reduced their prime rates, most to 5½ percent.

New York banks that trimmed their prime rate to 5½ percent included Manufacturers Hanover, Chemical, and Irving Trust.

Among other banks which went to 5½ percent were First Pennsylvania of Philadelphia, Continental Illinois National of Chicago, Bank of California of San Francisco, First National Bank of Dallas, Manufacturers Bank of Los Angeles, and First Union National Bank of Charlotte, N.C.

Mr. President, I hope this move on the part of our largest financial institutions—as I said earlier, the 10th reduction in interest rates in just under a year—will continue and, by so doing, make possible at last a strong and lasting equilibrium between growth and inflation.

WHITNEY M. YOUNG

Mr. CASE. Mr. President, it is still unbelievable. The personal sense of loss that all of us feel has come with stunning effect. I have known Whitney Young for a long time and counted on him, as all of us had, for the sort of leadership which America cannot get enough of in these times.

Mrs. Case and I extend our deepest sympathy to Mrs. Young and his family.

SOME REPORTED ACCOUNTS OF THE WAR ARE MISLEADING

Mr. SCOTT. Mr. President, a number of Senators today have been in the Chamber discussing reporting accounts of the war, particularly the recent Laos situation. Some of these war accounts, unfortunately, have misled the American people and thus have created a great doubt of what actually is happening as the war winds down. I have, myself, always hoped that the news media would reserve judgment on these actions that are now underway until all the results are in. As elected officials who go before the electorate every 6 years, we know the value of waiting for the results.

Mr. President, I do not think it is asking too much to await the results of the Vietnamization efforts which clearly show 16,000 troops have been withdrawn since January, that a major troop withdrawal is expected to be announced by President Nixon next month, and that time and again statements have been made that our withdrawal policy is irreversible. Mr. President, this war is not being escalated in any way, shape, or form. I urge Senators to review carefully the floor statements that appear in the RECORD.

WHITNEY M. YOUNG, JR.—A GREAT AMERICAN

Mr. PELL. Mr. President, I am shocked and saddened at the death of Whitney Young. His death is a great loss to all of the people of our country, black and white. His leadership of the National Urban League had a unique quality, for it was a leadership that spanned the divisive lines of color, race, and economic class. It was a leadership that appealed to, and brought out, the better and most admirable qualities of other men.

In devoting his life to improving the lot of his own people, he helped to improve the lot of all men. He saw and he knew that the destinies of all races are inextricably entwined; that there is but one human destiny, and he acted in that knowledge.

Whitney M. Young, Jr., will be sorely missed; even though the influence of his life and work will long continue.

CRIMINAL REFORM AND COURT REFORM

Mr. MATHIAS. Mr. President, at the heart of criminal reform is court reform. To the criminal defendant, the court, with its ancillary bodies, becomes his first formal exposure to the judicial process. What it says, what it does, and how the court handles itself, will to a large etxent direct the future activities of that individual within our society.

To many ghetto residents, the court is the government. If the judge is compassionate and competent, they think of government as humane and efficient. If the court is hostile and detached, they think of government as oppressive and irrelevant. The court truly plays an important role in our society.

It is fundamental in a healthy system of jurisprudence that the courts and their officials make a systematic effort to keep abreast of social and academic changes. Like all of us, the courts must be reeducating itself to accommodate the changing laws and values of our country.

Nine of every ten persons go initially to the courts of limited or first jurisdiction. The importance of educating and training the judges who sit in these courts is of the utmost importance.

Judicature magazine recently published an article written by the chief judge of Montgomery County, Maryland People's Court, Hon. Philip M. Fairbanks. Judge Fairbanks is the vice president of the American Academy of Judicial Education. He is also presently serving as vice chairman of the Section of Judicial Administration of the Maryland Bar and is a delegate to the American Bar Association National Conference of Special Court Judges.

Judge Fairbanks writes about a program aimed at benefiting the courts of primary jurisdiction. The program was designed by the North American Judges Association—NAJA—and funded as a pilot project by NAJA and the American Judicature Society.

The American Academy, through the University of Alabama, has made another request for a grant from the LEAA for money to finance another session this coming summer. I support such a conference.

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

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

THE AMERICAN ACADEMY OF JUDICIAL EDUCATION: A NATIONAL PROGRAM FOR COURTS OF FIRST JURISDICTION

(By Philip M. Fairbanks)

The story is told of the young lawyer trying a case before a rural justice of the peace. At one point, he was seeking to convince the judge as to the state of the law, and addressing the court, waving the advance sheets of his state reports, he said:

"Your Honor, the most recent case is right here in these advance sheets."

To which His Honor replied:

"We don't take no law from no magazine in this court!"

Unfortunately there is more than a grain of truth in the attitude reflected by the foregoing anecdote. Rough and ready, cracker-barrel justice may still have a place in our society, but with the increasing complexity of our social problems and the resulting legal issues, even the lowliest justice of the peace should have more than a superficial grasp of the law if he is to perform his function properly.

For instance, to keep abreast of the rapidly moving trends in the criminal law is not easy for the trained lawyer. Likewise, the Uniform Commercial Code, which applies to ordinary business transactions, small or large, is a complex statute with which all judges at all levels must work everyday in those states in which it has been adopted. Add the fact that nearly nine of every ten persons who go to court go initially to the courts of limited or first jurisdiction, and the importance of educating and training the judges who sit in these courts, be they lawyers or be they laymen, is immediately apparent.

It is hard to understand why it has taken nearly 50 years for the legal profession, the public and the judicial system itself to reach the point of accepting these premises and doing something concrete on a national basis to educate lower court judges. Perhaps it took the massive increase in criminal activity in the past few years to turn public attention to the administration of justice and having taken a look, to realize at last how outmoded and archaic some of the methods of the operation of the system have become.

Perhaps this same influence finally made the subject of judicial administration politically popular. In any event, within the past several years the movement to upgrade and improve our lower court structures has gained momentum, and state after state has instituted measures to bring about reforms in these courts. Some of these efforts have been successful, others not. In Maryland, after four years of labor and one bitter defeat,[1] a unified state-operated lower court system, with professional full time judges, will finally go into effect next July.

Hand in hand with the movement to improve the courts has come the realization that the judges who sit in these courts need improving also, which means education and training. A number of states have programs in operation to call together their lower court judges for periodic conferences. Attendance at some of these is compulsory and at others not. A few states have well developed educational programs, including in-residence training sessions, but until this past summer no national program existed, general in scope, for the education of lower court judges. The American Bar Association Traffic Court Program has operated successfully for many years, and some general programs for juvenile court judges have also been conducted.[2] These are specialized areas, however, and have not reached the full range of responsibility of the average lower court judge who handles criminal and civil cases in addition to traffic or juvenile matters.

With the need for in-depth training and education on something more than a state scale becoming more and more recognized, the North American Judges Association and the American Judicature Society joined forces to create the American Academy of Judicial Education to provide a program to help satisfy this need. The story of the conception of this idea and of the efforts to bring it to fruition, has been told before,[3] but it bears repeating as background for a description of the first session of the Academy held in August, 1970.

In April, 1969, Judge William Moorhead of the Virgin Islands arose at a meeting of the board of governors of the North American Judges Association held at Albuquerque, New Mexico, and moved that the association adopt as one of its primary objectives the establishment of an educational institution on a national basis for judges of courts of limited jurisdiction. The motion was unanimously adopted, and the plan was born.

A committee of the association was formed soon thereafter to study the problem. This committee put together a program for presentation to the membership of the association at its annual meeting in San Francisco in November, 1969.

AJS BECOMES INVOLVED

The American Judicature Society, through its executive director, Glenn R. Winters, soon learned of the project and expressed an interest in joining with NAJA in sponsorship of the venture. By November, 1969, a fully implemented plan was prepared and adopted by NAJA which provided for a two week in-residence training course to be conducted in the summer of 1970 with facilities offered by the University of Alabama at Tuscaloosa, Alabama. The American Judicature Society joined with NAJA in the project and contributed $6,000 toward the project, matching an equal contribution pledged by NAJA, which later put in an additional $8,000 for a total contribution of $14,000.

In April, 1970, the American Academy of Judicial Education became a reality. Provision was made for its incorporation as a non-profit educational corporation under the laws of Illinois, subsequently completed in July, 1970. The Academy is governed by a board of nine directors consisting of three members from NAJA, three members of AJS and three chosen by the other six.[4] The executive director is Douglas Lanford, also director of the Alabama Continuing Legal Education Program at the University of Alabama.

In June, 1970, the program received a grant from the Law Enforcement Assistance Administration of the United States Department of Justice, which enabled the Academy to offer full scholarships, including transportation.

On August 16, 1970, at the Mary Burke Residence Hall of the University of Alabama, the Academy opened its doors to its first class consisting of 81 judges from 46 states and Puerto Rico. This group included six women. Twelve of the students were presidents of state organizations of lower court judges. A number brought their wives and several both wives and children. The only jurisdictions not represented were Maine, Rhode Island, Connecticut, Hawaii and the District of Columbia.

A faculty of 21 conducted the courses, of whom six spent the full two weeks. Five of these six were judges. Subjects presented included arrest, search and seizure, confessions (including line up and right to counsel), bail, preliminary hearings, fact-finding, evidence, traffic law enforcement, alcohol and drugs, and sentencing. In addition, at the outset, lectures on the judicial function, the public's image of justice, and judicial ethics were offered. The format of the program provided for lectures attended by the entire class, followed by discussions, for which the class was divided into four discussion groups with discussion leaders provided for each group. The hours were rather long, commencing at 8:30 a.m. and concluding at 9:30 p.m. However, the two Wednesday afternoons and evenings were left free, as was the one intervening weekend.

Despite the heavy and concentrated schedule, the interest, attention and enthusiasm of the judges never flagged, and they seemed fully as interested and vigorous on the last hour of the last day as at the start of the program. A large share of the credit for this performance must be given to Douglas Lanford for designing and providing an outstanding program and then sticking to the schedule. Likewise, the facilities and services (including the food) furnished by the University of Alabama were truly superior. Perhaps the fact that the Academy was located in an area without special tourist attractions or night life also contributed to the ability to sustain concentrated student interest.

The biggest single hit of the school was the mock trial program. Every judge appeared for thirty minutes before television cameras and conducted a mock trial with professional actors cast in the role of police officer and defendant. The trial concentrated on the demeanor and conduct of the judge and was taped. Every afternoon those judges who were taped in the morning met with a professional psychiatrist and trainer to review and critique each other's performance. The whole purpose was to permit each judge to see himself as others see him and through this technique to improve his conduct on the bench and his judicial image. Much could be said about this device, and the comments of the judges with regard to it were both candid and enthusiastic. It was an extraordinarily successful program and offers tremendous potential for future sessions.

Only two judges left the program prior to its conclusion, both for reasons of court business in their home states. Fortunately, neither was forced to leave until after the first week of the program.

On Friday evening, August 28, a final banquet was held at which certificates of attendance signed by Mr. Justice Clark as president of the Academy and Douglas Lanford as director, were awarded to 79 students. In addition, each faculty member received a certificate attesting to his participation.

THE QUESTIONNAIRE

A rather detailed questionnaire was furnished to each judge at the outset of the session. The same questionnaire was supplied at the end of the program. The object was to elicit ideas with respect to judicial education programs in general, and to receive comments and criticisms with respect to the Academy program in particular. The overwhelming opinion of those participating was that the Academy session was of utmost value and every effort should be made to continue and expand its operation. The ability to provide in-depth treatment of every subject together with the opportunity for full discussion seemed to have special appeal for most of the participants.

Taking the session as a whole and evaluating all factors, it must be concluded that the enterprise was an unqualified success and should, without any question, be continued. The enthusiasm, spirit and momentum developed in this short, two week, intensive course, should not be lost.

Judicial education has come a long way in the last 10 or 15 years, particularly for higher court judges, but it is just beginning to emerge as a recognized part of the field of judicial administration for courts of first, or limited, jurisdiction. The American Bar Association's National Conference of Special Court Judges is addressing itself to the question and has already offered several valuable seminars for lower court judges. More are planned. The more organizations attacking the problem, the better. There are literally thousands of justices of the peace, trial magistrates, municipal court judges and other judicial officers, by whatever name called, who sit on courts of limited jurisdiction in this country. Unfortunately, many are hard to reach. The turnover tends to be rapid and the ability of these judges to travel to attend educational seminars is severely restricted by local authorities in many cases. In addition, some judges, particularly those whose terms are of short duration and who are not required to devote full time to their duties, have little interest in educational programs. Despite these obstacles and the many other difficulties which present themselves, everyone interested in the improvement of justice should welcome the success of the Academy as a symbol of what can be done.

Perhaps, in the next decade, through educational programs conducted on a statewide, regional and national basis, the caliber of judges at the level of courts of first jurisdiction can be improved to the point where the harsh criticisms of crowded municipal courts and the satirical jokes directed at country J.P.s will become less prevalent. While education is only one of the arena of judicial administration needing attention and effort, in many ways it is the most important because the judge is the real key to the successful operation of any court. His knowledge, his conduct, and his manner determine whether litigants not only in fact receive justice but whether they think they have received it. Perhaps an analogy can be made to the automobile and its driver. No matter how strong, safe and mechanically perfect the vehicle may be, there is always the driver who can pile it into a tree or a wall. So also with a court, no matter how efficient the staff and how dignified the surroundings, there is always the judge who can spoil it all by his lack of knowledge, his conduct, or his manner, and hence the importance of continuing judicial education and training.

In some small way the American Academy of Judicial Education has contributed and

Footnotes at end of article.

will continue to contribute to the efforts to educate and train that most important judicial officer, the judge of the court of first jurisdiction.

FOOTNOTES

[1] Wheeler & Kinsey, *The Magnificent Failure, National Municipal League*, 1970.

[2] *Judicature*, Vol. 51, No. 9, April 1968 "Summer College for Juvenile Court Judges."

[3] *Trial*, Vol. 6, No. 3, April/May 1970 "Educating Judges for Courts of the Poor."

[4] The present Board consists of: Mr. Justice Tom C. Clark, president; Judge Philip M. Fairbanks, Rockville, Maryland, vice president; Glenn R. Winters, Chicago, Illinois, secretary-treasurer; David Dow, Lincoln, Nebraska; Judge M. Michael Gordon, Houston, Texas; Howard A. James, Chicago, Illinois; Judge Edmund A. Jordan, Portland, Oregon, and Milton G. Rector, New York, New York.

WHITNEY M. YOUNG

Mr. TAFT. Mr. President, our Nation has suffered a great loss with the untimely death of Whitney Young. His dedicated service and sense of purpose have contributed immeasurably to the black movement in this country. As executive director of the National Urban League, his approach has been one of self-help and rehabilitation of black people in our center cities through programs such as job training.

The able leadership of Whitney Young has helped to make black dignity and equality a reality in this country. His energies have been directed to urban problems which must be a top national priority today. His philosophy has been one of constructive action rather than violent protest. His efforts have personified the brotherhood of all men and his accomplishments have brought this goal closer to reality.

The life of Whitney Young will serve as an inspiration to all those who seek real solutions to the problems of poverty and urban decay in our cities.

UNION DUES—A WRIT OF MODERN INDENTURE

Mr. FANNIN. Mr. President—

The requirement that an individual pay dues to a private organization in order to work is a modern writ of indenture; the requirement that he do the same in order to express an opinion over the public airways involves an act of coercion by a private organization operating under government sanction.

That is the way William F. Buckley, Jr., noted editor, syndicated columnist and television commentator, recently described conditions in the Nation's broadcast industry. These conditions are possible only through the compulsory union shop power wielded by the American Federation of Television and Radio Artists—AFTRA.

AFTRA has wielded that power ruthlessly. Many in the broadcast industry—including those familiar faces of the evening news—are forced to join and pay dues to the union. It is either that or get off the air.

Is this the American way? Mr. Buckley does not think so and has filed suit against AFTRA and RKO General, Inc., the organization that distributes his TV show, "Firing Line."

The formal complaint says that the compulsory unionism requirement deprives Buckley of:

His property without due process of law, and breaches his rights under the First, Fifth and Ninth Amendments of the Constitution, which Amendments guarantee the individual citizen freedom of association, freedom to pursue the occupation of his choice, freedom from unwarranted invasion of privacy, and other fundamental personal and private rights.

But that is lawyer talk.

Here is how the eloquent Mr. Buckley describes it:

What is involved here is a fundamental civil and human right. And unless this country has lost hold of its reason, the Supreme Court will acknowledge, as I am confident it will, the right of the individual to exercise his rights as guaranteed under the First Amendment even if he declines to join a union.

Many of the people in this country labeled as "liberals" eloquently object to any compromise of the individual rights of the citizen against the government—particularly free speech and privacy. I think it is time they join me in demanding that the individual have a right to join or not to join, to pay dues or not pay dues, to a private oragnization without surrendering his right to speak.

It is indeed difficult for Americans to understand why union officials should have such a weapon and it is time for the courts to rule that citizens should have the right to work without being forced to pay tribute to a labor boss. Or maybe we should quit pretending this is a free country?

Mr. Buckley filed his case on January 12. But he is still waiting for one of those television newsmen so concerned with freedom of the press to join him, to stand up and be counted on an issue of press freedom that hits the individual newsman personally. Mr. Buckley wrote on this problem in a syndicated column that ran in the Washington Star, Saturday, February 27. I ask unanimous consent to insert this in the RECORD.

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

AUTHOR'S LAWSUIT IS INDEED "GRANDSTANDING"

(By William F. Buckley, Jr.)

In January I filed a constitutional lawsuit against the American Federation of Television and Radio Artists, asserting that the gentlemen who manage that union may not compel me to join it in order to give my opinions over the air. Why? Because the 1st Amendment of the United States Constitution forbids the enactment of laws abridging the freedom of speech.

The National Labor Relations Act is cited by AFTRA as permitting it to require membership even of news reporters and analysts, and the issue is joined. Stated syllogistically, if A forbids the enactment of B, and C proceeds as if B had been enacted, then it must follow either that C must be denied the misconstruction of B or else B must be declared unconstitutional.

I have been surprised by the volume and consistency of support that my action has received, principally from newspaper editors. Of course there has been criticism, but most of it is tendentious. Frank Mankiewicz apparently accused me (appropriately enough on television) of "grandstanding."

I wish to report that he is exactly correct: that is precisely what I am doing, by attempting to publicize a situation concerning which there has been insufficient indignation. Mankiewicz, who used to work for Bobby Kennedy, will perhaps sympathize, on thinking it over, with the necessity of calling to the attention of large groups of people undesirable situations.

On the legal point, I am of course deadly serious, and the best lawyers are engaged in pressing the constitutional point. The argument, raised by Michael Harrington, that the suit is frivolous because it was not brought before, is interesting.

I do not claim that my moral reflexes are in perfect order. On the other hand, I don't remember that they criticized Martin Luther King for opposing bus segregation in Montgomery on the grounds that it hadn't been opposed before.

For the rest, Harrington does a threnody on the economic security of labor unions, which he sees as the first order of business, and why shouldn't he? He is chairman of the Socialist party of the United States, and doing a distinguished job of expressing the Socialists' traditional impatience with individual rights that inconvenience collectivist policies.

Then there is the American Civil Liberties Union. I invited the ACLU to practice consistency by associating itself even with a lawsuit which would prove unpopular among its labor union supporters.

The executive director, Aryeh Neier, has replied, rather straightforwardly I think. He says, "for many years, it has been the ACLU's policy that the union shop does not, by itself, violate civil liberties. I have felt for some time that we should review this policy and I will use your request to initiate reconsideration," going on to say that it will take a while to canvass the directors.

One hopes that the directors of the ACLU will understand that there is a difference between the union shop as practiced, say, among the steelworkers, and as practiced among newsmen. I do not disparage the rights of steelworkers. I merely observe that freedom of speech is singled out for protection in the Bill of Rights.

And then I got word, through Newsweek magazine, that Eric Sevareid of CBS had sent my brief over to his lawyer for "evaluation."

Sevareid said that he was "glad" that I was pursuing the matter, and of course I await eagerly his lawyer's evaluation, since I would welcome Brother Sevareid as a co-plaintiff. Which reminds me that I have not heard from two or three other prominent enthusiasts for the Bill of Rights, whom I invited aboard. But I wrote only a month ago, and these things take time.

Meanwhile, I learned over the telephone that my distinguished friend and colleague, the author and columnist James Jackson Kilpatrick, is also an involuntary member of AFTRA, and has registered his willingness to file along with me. With pleasure and pride in the association, I make way for Buckley and Kilpatrick versus AFTRA.

I urge my liberal friends to hurry, as soon there may be standing room only, and I like for my guests to be comfortable.

NATIONAL CONFERENCE ON THE JUDICIARY IN WILLIAMSBURG, VA.

Mr. HRUSKA. Mr. President, it is without doubt true that the tone set at the top will determine the course and effectiveness of our current efforts to revitalize our judicial system and restore a respect for law in all Americans.

It was my privilege to accompany President Nixon—along with my col-

leagues from the great State of Virginia—Mr. SPONG and Mr. BYRD—to Williamsburg yesterday and to be present when this tone was firmly established at the National Conference on the Judiciary.

This conference, which is still underway in Williamsburg, brings together judicial personnel of appellate and trial courts, prosecution and defense counsel, crime commission planning officers, bar association representatives, legislators, and others concerned with related fields of administration of justice. They come from all 50 States and from various branches of the Federal court system.

The conference was called under the joint auspices of the Virginia Division of Justice and Crime Prevention, and the Law Enforcement Assistance Administration.

Virginia's Governor Holton performed well as official and personal host throughout the meetings, and in hospitable and gracious manner.

I may say, Mr. President, that all those attending the conference had a rare privilege in hearing our Chief Executive and the Chief Justice state in clear and unequivocal terms the course we must take if we are to restore our judicial system to the high position which it must maintain in a free society such as ours.

The course ahead for reform in the Judiciary was charted eloquently by President Nixon in his address which opened the conference, and by the Chief Justice of the United States, Warren E. Burger, in his address this morning.

With the proper followup, Mr. President, these two statements and this conference can become—as Mr. Burger said so well:

> One of the most important single steps in decades for improvement of the processes of justice.

It is also important to note, in order to place these statements in the proper context, the words of retired Supreme Court Justice Tom C. Clark, who is chairman of the conference. He said the presence of Mr. Nixon as the conference keynoter in itself established Mr. Nixon as the Chief Executive who has gone further than any other in helping the cause of court reform.

The President demonstrated his acute understanding of our Nation's judicial problems. He pointed out that the courts will remain overcrowded until judges are freed of their heavy administrative burdens so that they can spend more time being judges.

He recommended that we search for means to remove from the courts the burden of "victimless crimes" such as traffic and petty offenses, so that more careful and prompt consideration can be given to serious crimes.

He supported the concept of a research and training institution for State and local judges and a national center for State courts—that is a clearinghouse for information on judicial reforms. He also noted, as have our Chief Justice and many of us in this body, that we cannot allow safeguards for the accused to become so elaborate that they jeopardize the effectiveness of the system itself.

I join wholeheartedly with the Chief Justice in the hope, as he stated it, that the Williamsburg conference—

> Will mark the beginning of a closer cooperation between state and federal judges, and closer relationships of both, with local and state bar associations and national groups.

Mr. Burger called such relationships "indispensable to genuine progress."

Attorney General John N. Mitchell expressed similar views. He said:

> It has long been clear that many aspects of the American judicial system desperately need reexamination and reform. As an essential ingredient in this process, searing discussion must take place between concerned members of bench and bar across the country. The National Conference on the Judiciary should provide an invaluable forum for this purpose.

It is my fervent hope that all of us who are concerned with this problem in the United States will carefully study the profound words of these gentlemen and aggressively seize every opportunity available to translate these broad guidelines into effective action at every level.

I ask unanimous consent that the addresses by the President and Chief Justice Burger be printed in the RECORD.

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

TEXT OF AN ADDRESS BY THE PRESIDENT

As one who has practiced law; as one who deeply believes in the rule of law; and as one who now holds the responsibility for faithful execution of the laws of the United States, I am honored to give the opening address to this National Conference on the Judiciary.

It is fitting that you come together here in Williamsburg. Like this place, your meeting is historic. Never in the history of this Nation has there been such a gathering of distinguished men of the judicial systems of our States. I salute you all for your willingness to come to grips with the need for court reform and modernization. And I would like to salute especially the man who has been the driving force for court reform; a man whose zeal for reshaping the judicial system to the need of the times carries on the great tradition begun by Chief Justice John Marshall—the Chief Justice of the United States, Warren Burger.

I recall that when I took my bar examination in New York City a few years ago, I dwelt at some length on the wisdom of the separation of powers. My presence here today indicates in no way an erosion of that concept; as a matter of fact, I have come under precedents established by George Washington and John Adams who both spoke out for the need for judicial reform. And President Lincoln, in his first annual message to the Congress, made an observation that is strikingly current—that, in his words, "the country generally has outgrown our present judiciary system."

There is also a Lincoln story—an authentic one—that illustrates the relationship of the judicial and executive branches. When Confederate forces were advancing on Washington, President Lincoln went to observe the battle at Fort Stevens. It was his only exposure to actual gunfire during the Civil War—and he climbed up on a parapet, against the advice of the military commander, to see what was going on. When, not five feet from the President, a man was felled by a bullet, a young Union captain shouted at the President: "Get down, you fool!" Lincoln climbed down and said gratefully to the captain: "I'm glad you know how to talk to a civilian."

The name of the young man who shouted "Get down, you fool!" was Oliver Wendell Holmes, who went on to make history in the law. From that day to this, there has never been a more honest and heartfelt remark made to the head of the executive branch by a member of the judicial branch—though a lot of judges over the years must have felt the same way.

Let me address you today in more temperate words, but in the same spirit of candor.

The purpose of this conference is "to improve the process of justice." We all know how urgent the need is for that improvement at both the State and Federal level. Interminable delays in civil cases; unconscionable delays in criminal cases; inconsistent and unfair bail impositions; a steadily growing backlog of work that threatens to make the delays worse tomorrow than they are today—all this concerns everyone who wants to see justice done.

Overcrowded penal institutions; unremitting pressure on judges and prosecutors to process cases by plea bargaining, without the safeguards recently set forth by the American Bar Association; the clogging of court calendars with inappropriate or relatively unimportant matters—all this sends everyone in the system of justice home at night feeling as if they have been trying to brush back a flood with a broom.

Many hardworking, dedicated judges, lawyers, penologists and law enforcement officials are coming to this conclusion: A system of criminal justice that can guarantee neither a speedy trial nor a safe community cannot excuse its failure by pointing to an elaborate system of safeguards for the accused. Justice dictates not only that the innocent man go free, but that the guilty be punished for his crimes.

When the average citizen comes into court as a party or a witness, and he sees that court bogged down and unable to function effectively, he wonders how this was permitted to happen. Who is to blame? Members of the bench and the bar are not alone responsible for the congestion of justice.

The Nation has turned increasingly to the courts to cure deep-seated ills of our society—and the courts have responded; as a result, they have burdens unknown to the legal system a generation ago. In addition, the courts had to bear the brunt of the rise in crime—almost 150% higher in one decade, an explosion unparalleled in our history.

And now we see the courts being turned to, as they should be, to enter still more fields—from offenses against the environment to new facets of consumer protection and a fresh concern for small claimants. We know, too, that the court system has added to its own workload by enlarging the rights of the accused, providing more counsel in order to protect basic liberties.

Our courts are overloaded for the best of reasons: because our society found the courts willing—and partially able—to assume the burden of its gravest problems. Throughout a tumultuous generation, our system of justice has helped America improve herself; there is an urgent need now for America to help the courts improve our system of justice.

But if we limit ourselves to calling for more judges, more police, more lawyers operating in the same system, we will produce more backlogs, more delays, more litigation, more jails and more criminals. "More of the same" is not the answer. What is needed now is genuine reform—the kind of change that

requires imagination and daring, that demands a focus on ultimate goals.

The ultimate goal of changing the process of justice is not to put more people in jail or merely to provide a faster flow of litigation—it is to resolve conflict speedily but fairly, to reverse the trend toward crime and violence, to reinstill a respect for law in all our people.

The watchword of my own administration has been reform. As we have undertaken it in many fields, this is what we have found. "Reform" as an abstraction is something that everybody is for, but reform as a specific is something that a lot of people are against.

A good example of this can be found in the law: Everyone is for a "speedy trial" as a constitutional principle, but there is a good deal of resistance to a speedy trial in practice.

The founders of this nation wrote these words into the Bill of Rights: "the accused shall enjoy the right to a speedy and public trial." The word "speedy" was nowhere modified or watered down. We have to assume they meant exactly what they said—a speedy trial.

It is not an impossible goal. In criminal cases in Great Britain today, most accused persons are brought to trial within 60 days after arrest. Most appeals are decided within three months after they are filed.

But here in the United States, this is what we see: In case after case, the delay between arrest and trial is far too long. In New York and Philadelphia the delay is over five months; in the State of Ohio, over six months; in Chicago, an accused man waits six to nine months before his case comes up.

In case after case, the appeal process is misused—to obstruct rather than advance the cause of justice. Throughout the State systems, the average time it takes to process an appeal is estimated to be as long as 18 months. The greater the delay in commencing a trial, or retrial resulting from an appeal, the greater the likelihood that witnesses will be unavailable and other evidence difficult to preserve and present. This means the failure of the process of justice.

The law's delay creates bail problems, as well as overcrowded jails; it forces judges to accept pleas of guilty to lesser offenses just to process the caseload—to "give away the courthouse for the sake of the calendar." Without proper safeguards, this can turn a court of justice into a mill of injustice.

In his perceptive message on "The State of the Federal Judiciary," Chief Justice Burger makes the point that speedier trials would be a deterrent to crime. I am certain that this holds true in the courts of all jurisdictions.

Justice delayed is not only justice denied—it is also justice circumvented, justice mocked, and the system of justice undermined.

What can be done to break the logjam of justice today, to ensure the right to a speedy trial—and to enhance respect for law? We have to find ways to clear the courts of the endless stream of "victimless crimes" that get in the way of serious consideration of serious crimes. There are more important matters for highly skilled judges and prosecutors than minor traffic offenses, loitering and drunkenness.

We should open our eyes—as the medical profession is doing—to the use of paraprofessionals in the law. Working under the supervision of trained attorneys, "para-judges" could deal with many of the essentially administrative matters of the law, freeing the judge to do what only he can do: to judge. The development of the new office of magistrates in the Federal System is a step in the right direction. In addition, we should take advantage of many technical advances, such as electronic information retrieval, to expedite the result in both new and traditional areas of the law.

But new efficiencies alone, important as they are, are not enough to reinstill respect in our system of justice. A courtroom must be a place where a fair balance must be struck between the rights of society and the rights of the individual.

We all know how the drama of a courtroom often lends itself to exploitation, and, whether it is deliberate or inadvertent, such exploitation is something we must all be alert to prevent. All too often, the right of the accused to a fair trial is eroded by prejudicial publicity. We must never forget that a primary purpose underlying the defendant's right to a speedy and public trial is to prevent star-chamber proceedings, and not to put on an exciting show or to satisfy public curiosity at the expense of the defendant.

In this regard, I strongly agree with the Chief Justice's view that the filming of judicial proceedings, or the introduction of live television to the courtroom, would be a mistake. The solemn business of justice cannot be subject to the command of "lights, camera, action."

The white light of publicity can be a cruel glare, often damaging to the innocent bystander thrust into it, and doubly damaging to the innocent victims of violence. Here again a balance must be struck: The right of a free press must be weighed carefully against an individual's right to privacy.

Sometimes, however, the shoe is on the other foot: Society must be protected from the exploitation of the courts by publicity-seekers. Neither the rights of society nor the rights of the individual are being protected when a court tolerates anyone's abuse of the judicial process. When a court becomes a stage, or the center ring of a circus, it ceases to be a court. The vast majority of Americans are grateful to those judges who insist on order in their courts and who will not be bullied or stampeded by those who hold in contempt all this nation's judicial system stands for.

The reasons for safeguarding the dignity of the courtroom and clearing away the underbrush that delays the process of justice go far beyond questions of taste and tradition. They go to the central issue confronting American justice today.

How can we answer the need for more, and more effective, access to the courts for the resolution of large and small controversies, and the protection of individual and community interests? The right to representation by counsel and the prompt disposition of cases—advocacy and adjudication—are fundamental rights that must be assured to all our citizens.

In a society that cherishes change; in a society that enshrines diversity in its constitution; in a system of justice that pits one adversary against another to find the truth—there will always be conflict. Taken to the street, conflict is a destructive force; taken to the courts, conflict can be a creative force.

What can be done to make certain that civil conflict is resolved in the peaceful arena of the courtroom, and criminal charges lead to justice for both the accused and the community? The charge to all of us is clear.

We must make it possible for judge to spend more time judging, by giving them professional help for administrative tasks. We must change the criminal court system, and provide the manpower—in terms of court staffs, prosecutors, and defense counsel—to bring about speedier trials and appeals.

We must ensure the fundamental civil right of every American—the right to be secure in his home and on the streets. We must make it possible for the civil litigant to get a hearing on his case in the same year he files it.

We must make it possible for each community to train its police to carry out their duties, using the most modern methods of detection and crime prevention. We must make it possible for the convicted criminal to receive constructive training while in confinement, instead of what he receives now—an advanced course in crime.

The time has come to repudiate once and for all the idea that prisons are warehouses for human rubbish; our correctional systems must be changed to make them places that will correct and educate. And, of special concern to this conference, we must strengthen the State court systems to enable them to fulfill their historic role as the tribunals of justice nearest and most responsive to the people.

The Federal Government has been treating the process of justice as a matter of the highest priority. In the budget for the coming year, the Law Enforcement Assistance Administration will be enabled to vigorously expand its aid to State and local governments. Close to one half billion dollars a year will now go to strengthen local efforts to reform court procedures, police methods and correctional action and other related needs. In my new special revenue sharing proposal, law enforcement is an area that receives increased attention and greater funding—in a way that permits States and localities to determine their own priorities.

The District of Columbia, the only American city under direct Federal supervision, now has legislation and funding which reorganizes its court system, provides enough judges to bring accused persons to trial promptly, and protects the public against habitual offenders. We hope that this new reform legislation may serve as an example to other communities throughout the Nation.

And today I am endorsing the concept of a suggestion that I understand Chief Justice Burger will make to you tomorrow: the establishment of a National Center for State Courts.

This will make it possible for State courts to conduct research into problems of procedure, administration and training for State and local judges and their administrative personnel; it could serve as a clearinghouse for the exchange of information about State court problems and reforms. A Federal Judicial Center along these lines already exists for the Federal court system and has proven its worth; the time is overdue for State courts to have such a facility available. I will look to the conferees here in Williamsburg to assist in making recommendations as to how best to create such a center, and what will be needed for its initial funding.

The executive branch will continue to help in every way, but the primary impetus for reforming and improving the judicial process should come from within the system itself. Your presence here is evidence of your deep concern; my presence here bears witness to the concern of all the American people regardless of party, occupation, race or economic condition, for the overhaul of a system of justice that has been neglected too long.

I began my remarks by referring to an episode involving Justice Oliver Wendell Holmes. There is another remark of Holmes not very well known, that reveals an insight it would be well for us to have today.

Judge Learned Hand told of the day that he drove Justice Holmes to a Supreme Court session in a horsedrawn carriage. As he dropped the Justice off in front of the Capitol, Learned Hand said, "Well, sir, goodbye. Do justice!" Mr. Justice Holmes turned and said, most severely, "That is not my job. My job is to play the game according to the rules."

The point of that remark, and the reason that Learned Hand repeated it after he had reached the pinnacle of respect in our profession, was this: Every judge, every attorney, every policeman wants to "do justice." But the only way that can be accomplished, the

only way justice can truly be done in any society, is for each member of that society to subject himself to the rule of law—neither to set himself above the law in the name of justice, nor to set himself outside the law in the name of justice.

We shall become a genuinely just society only by "playing the game according to the rules," and when the rules become outdated or are shown to be unfair, by lawfully and peaceably changing those rules.

The genius of our system, the life force of the American Way, is our ability to hold fast to the rules that we know to be right and to change the rules that we see to be wrong. In that regard, we would all do well to remember our constitutional roles: for the legislatures, to set forth the rules; for the judiciary to interpret them; for the executive, to carry them out.

The American Revolution did not end two centuries ago; it is a living process. It must constantly be reexamined and reformed. At one and the the same time, it is as unchanging as the spirit of laws and as changing as the needs of our people.

We live in a time when headlines are made by those few who want to tear down our institutions, by those who say they defy the law. But we also live in a time when history is made by those who are willing to reform and rebuild our institutions—and that can only be accomplished by those who respect the law.

TEXT OF ADDRESS BY WARREN E. BURGER

The President's appearance here yesterday and perhaps even more his pledge of support for our efforts makes this conference unique and gives it a dimension it could not have without the support of the Chief Executive of the United States. There is nothing very new about judges and lawyers gathering and agreeing that the courts are in trouble. When the President places the prestige and power of his office behind these efforts we have cause to take heart.

We have here today a cross-section of State and Federal judges and of State and Federal law enforcement authorities, and others seeking to avert an impending crisis in the courts. The only counterpart to this conference in this century was the Attorney General's Conference on Court congestion and delay convened by Attorney General Herbert Brownell more than fifteen years ago.

Fifty years before that conference, Roscoe Pound had warned the legal profession in the strongest terms that we were on the threshold of a crisis. That was in 1906. Periodically we respond and experience some relief but we are soon overwhelmed by a new tide of problems.

Today the American system of criminal justice in every phase—the police function, the prosecution and defense, the courts and the correctional machinery—is suffering from a severe case of deferred maintenance. By and large, this is true at the State, local and Federal levels. The failure of our machinery is now a matter of common knowledge, fully documented by innumerable studies and surveys.

As a consequence of this deferred maintenance we see

First, that the perpetrators of most criminal acts are not detected, arrested and brought to trial;

Second, those who are apprehended and charged are not tried promptly because we allow unconscionable delays that pervert both the right of the defendant and the public to a speedy trial; and

Third, the convicted persons are not punished promptly after conviction because of delay in the appellate process. Finally, even after the end of litigation, those who are sentenced to confinement are not corrected or rehabilitated, and the majority of them return to commit new crimes. The primary responsibility of judges, of course, is for the operation of the judicial machinery but this does not mean we can ignore the police function or the shortcomings of the correctional systems.

At each of these three stages the enforcement, the trial, the correction—the deferred maintenance became apparent when the machinery was forced to carry too heavy a load. This is what happens to any machine whether it is an industrial plant, an automobile or a dishwasher. It can be no comfort to us that this deferred maintenance crisis is shared by others; by cities and in housing, in the field of medical care, in environmental protection, and many other fields. All of these problems are important, but the administration of justice is the adhesive—the very glue—that keeps the parts of an organized society from flying apart. Man can tolerate many shortcomings of his existence, but a civilized society cannot remain so without an adequate system of justice, and by that I mean justice in its broadest sense.

I have said nothing of civil justice—that is the resolution of cases between private citizens or between citizens and government. This, unhappily, is becoming the stepchild of the law as criminal justice once was. Most people with civil claims, particularly those in the middle economic echelons, who cannot afford the heavy costs of litigation and who cannot qualify for public or government-subsidized legal assistance, are forced to stand by in frustration, and often in want, while they watch the passage of time eat up the value of their case. The public has been quiet and patient, sensing on the one hand the need to improve the quality of criminal justice but also experiencing frustration at the inability to vindicate private claims and rights.

We are rapidly approaching the point where this quiet and patient segment of Americans will totally lose patience with the cumbersome system that makes people wait two, three, four or more years to dispose of an ordinary civil claims while they witness flagrant defiance of law by a growing number of law-breakers who jeopardize cities and towns and life and property of law-abiding people, and monopolize the courts in the process. The courts must be enabled to take care of both civil and criminal litigants without prejudice or neglect of either.

This is why we are here today.

This could be the most significant judicial meeting in our time—depending on what will each of us do when we return to the daily tasks we have temporarily laid aside to gather at this conference let me suggest some of the problem areas and then let me venture some thoughts on what we might try to do about them.

There are many areas which we should study and consider, and, indeed, that we must consider but if we try too much at once we may fail in all our endeavors. I am thinking, for example, of substantive problems which cry out for reexamination, including the handling of personal injury claims, which especially clog the State courts; the need to ask questions about other areas of jurisdiction, such as receiverships or insolvent debtors, the adoption of children, land-title registration in some States, and possibly even such things as divorce jurisdiction and child-custody matters. We need a comprehensive reexamination of the whole basis of jurisdiction in order to eliminate whenever possible all matters which may be better administered by others so as to restore the courts to their basic function of dealing with cases and controversies.

We can see in the development of common law institutions many examples of changing jurisdiction and evolution of new remedies. I suggest no specific changes but I trust it will not be regarded as subversive to suggest the need for study and thought on these problems, remembering that subjects once committed to the courts are now the province of the other governmental bodies.

The common law tradition teaches that rights and remedies are never fixed or static but a continuing process of change however slow. For example, working men once had either no rights at all or common law rights based on negligence when they were injured in their work. The deficiencies of the common law remedies inspired lawyers to find other and better ways of dealing with the claims of injured workmen and no one would seriously consider turning the clock back to the old ways. Large area of regulatory activity was once imposed on courts but for the greater part of this century that has been vested in a wide array of administrative and regulatory bodies with limited judicial review.

All of us attending this conference share and are the beneficiaries of the great common law tradition that undergirds American jurisprudence and virtually all aspects of our procedure, both state and federal. As lawyers and judges we can be proud of the great tradition of the common law and even have a pardonable pride in the improverments and developments that American lawyers and judges have added to it. We do not disparage or undermine the common law when we consider change indeed, change is the very essence—the very heart—of the common law concept.

PRIORITIES

The challenges to our systems of justice are colossal and immediate, and we must assign priorities. I would begin by giving priority to methods and machinery, to procedure and techniques, to management and administration of judicial resources even over the much-needed reexamination of substantive legal institutions that are out of date. That reexamination is important but it is inevitably a long range undertaking and it can wait.

I have said before, but I hope it will bear repeating, that with reference to methods and procedure we may be carrying continuity and tradition too far when we see that John Adams, Hamilton or Burr, Jefferson or Marshall, reincarnated, could step into any court today and after a minimal briefing on procedure and updating in certain areas of law, try a case with the best of today's lawyers. Those great lawyers of the 18th and 19th century would need no more than a hurried briefing and a Brooks' Bros. suits. They would not even need a hair cut, given the styles of our day.

This is not necessarily bad, and I propose nothing specific on how we should change our methods of resolving conflicts in the courtroom. But I do know this—and so does anyone who has read legal history and read the newspapers in recent years—that John Adams, and his reincarnated colleagues at the bar, would be shocked and bewildered at some of the antics and spectacles witnessed today in the courtrooms of America. They would be as shocked and baffled as are a vast number of contemporary Americans and friends of America all over the world. They would not be able to understand why so many cases take weeks or months to try. No one could explain why the jury selection process, for example, should itself become a major piece of litigation consuming days or weeks. Few people can understand it and the public is beginning to ask some searching questions on the subject.

STATE-FEDERAL COOPERATION

I need not burden this well-informed audience on the subject of the tension and the strains existing between the State and Federal courts in recent years. Because of the existence of those problems and the reasons

underlying them I urged last August, at the ABA convention in St. Louis, that the chief justice of each State take the initiative to create an informal *ad hoc* State-Federal judicial council in each State. The purpose, of course, was to have these judges meet together informally to develop cooperation to reduce the tensions that have existed in recent years. I was pleasantly surprised, even astonished, at the speed with which the chief justices responded, for I am now informed that such councils are in actual operation in 32 of the States. Many of these councils have been created by formal order of the State supreme court. I am also informed that once the channels of communication were opened these State and Federal judges found other areas of fruitful cooperation and exchange of ideas. I regard this development of such importance that I wish to express my appreciation to the Conference of State Chief Justices and to Chief Justice Calvert of Texas, its chairman.

In urging the cooperation between the State and Federal judges, and in urging the State judges to call upon the State bar associations and on the American Bar Association, I have no thought whatever that all State court systems or all judges be cast in one mold. Far from this, have an abiding conviction that the strength of our entire system in this country and the essence of true federalism lies in diversity among the States. It will not impair this diversity, I submit, to work together to develop effective post-conviction remedies for example, or common standards of judicial administration, common standards of professional conduct for lawyers, and, indeed, for judges. or the improvement in the method of selection, the tenure, and compensation of judges.

The diversity that has existed in our system and the innovativeness of State judges accounts for many of the great improvements that the Federal system has adopted from the States. One of the most crucial is in the developing area of using trained court administrators or executives in the administration of the courts. The States have been a whole generation ahead of the Federal system in this matter. When we sought to create the Institute of Court Management in 1969 the first step was to call on State court administrators for guidance and advice.

Whatever changes we make, we should never forget that under our federal system, the basic structure of the courts of this country contemplated that State courts would deal with local matters while Federal courts would serve a limited and narrow function. I hope we will never become so bigoted as to think that State judges are any less devoted to the principles of the Federal Constitution than other judges and lawyers.

STANDARDS OF ADMINISTRATION

I do not especially like phrase like "management of judicial resources," or "maximum utilization of judge power." They seem stilted to me as they do to most lawyers and judges. But these phrases are simply "shorthand" and if we accept them as such they become tolerable. The important thing is the concept underlying these "shorthand" terms. Every profession and every area of human activity has had to grapple with the hard realities behind the shorthand. The difference is judges and lawyers have lagged for behind the rest. I do not suggest that justice can ever become automated or that production-line processes are adaptable to courts. Other professions have devised new ways to increase their productivity without loss of quality and we must do so.

In terms of methods, machinery and equipment the flow of papers—and we know the business of courts depends on the flow of papers—most courts have changed very little fundamentally in a hundred years or more. I know of no comprehensive surveys, but spot checks have shown for example that the ancient ledger type of record books, sixteen or eighteen inches wide, twenty-four or twenty-six inches high, and four inches thick are still used in a very large number of courts and these cumbersome books, hazardous to handle, still call for longhand entries concerning cases. I mention this only as one symptom of our tendency to cling to old ways. We know that banks, factories, department stores, hospitals and many government agencies have cast off anachronisms of this kind.

With relatively few exceptions, we still call jurors as in the past. We still herd them into a common room in numbers often double the real need because of obsolete concepts of arranging and managing their use. This process is often complicated by the unregulated arbitrariness of a handful of judges, for example, who demand more jurors than they can possibly use to be allocated each day for their exclusive use. There is almost a total absence of even the most primitive techniques in predicting the need for jurors just as there is a large vacuum in the standards and procedures to coordinate the steps of bringing a case and all of its components—the lawyers, witnesses, experts, jurors and court staff—to the same place at the same time.

Happily, a very distinguished committee of the American Bar Association under the chairmanship of Judge Freedman of the United States Court of Appeals of the third circuit is now launching a comprehensive program of bringing up to date the minimum standards of judicial administration.

Independent of what we do in the courtroom itself, we need careful study to make sure that every case which reaches the courtroom stage is there only after every possibility of settlement has been exhausted. Those parties who impose upon the judicial process and clog its functioning by carrying the cases through jury selection before making a settlement which could have been made earlier should be subject to the risk of a very substantial discretionary cost assessment at the hands of the trial judge who can evaluate these abuses of the system. Someone must remind the bar and the public of the enormous cost of a trial.

COURT EXECUTIVE OFFICERS

As litigation has grown and multiple-judge courts have steadily enlarged, the continued use of the old equipment and old methods has brought about a virtual breakdown in many places and a slowdown everywhere in the efficiency and functioning of courts. The judicial system and all its components have been subjected to the same stresses and strains as hospitals and other enterprises. The difference is that, thirty or forty years ago, doctors and nurses recognized the importance of system and management in order to deliver to the patients adequate medical care this resulted, as I have pointed out on other occasions, in the development of hospital administrators and today there is no hospital of any size in this country without a trained hospital administrator who is the chief executive officer dealing with the management and efficient utilization of all the resources of the institution. Courts and judges have, with few exceptions, not responded in this way. To some extent, imaginative and resourceful judges and court clerks have moved partially into the vacuum, but the function of a clerk and the function of a court executive are very different, and a court clerk cannot be expected to perform both functions.

From the day I took office, twenty-one months ago, this seemed to me the most pressing need of the courts of this country, and particularly so in my area of responsibility, the Federal courts. The first step I took was to help lay the foundations for a facility to train executives and I requested the American Bar Association to take the leadership in accomplishing this. That association did so with the American judicature society and the institute of judicial administration as co-sponsors, together they created the institute of court management at the University of Denver Law School. That institute has now graduated the first group of trainees with an intensive full-time course over a period of six months including actual field training in the various courts. It will train two additional classes this year. This is not a Federal facility and indeed I expect most of its output will go to State court systems.

In the meantime, the Congress has taken one of the most important steps in a generation in the administration of justice by providing for a court executive in each of the eleven Federal circuits. The court executive will work under the direction of the judicial council of each circuit. I need not say, surely, to an audience including so many chief judges and administrative judges, that this will not only relieve judges to perform their basic judicial functions but it will provide a person who will, in time, be able to develop new methods and new processes, which busy judges could not do in the past.

The function of a court executive is something none of us really knows very much about. There are only a handful of court administrators or executives in this country and up to 1970 they are all self-taught. The few who were in being were, in the State courts and we called upon them to be members of the teaching faculty for the new Court Management Institute. The concept of court executive or court administrator will have its detractors but I predict they will not be heard for very long. The history books tell us how the admirals reacted when General William Mitchell insisted that an airplane could sink a battleship.

The desperate need for court executive officers does not alter the fact that it will require great patience and industrious homework on the part of judges and chief judges to learn to utilize these officers for their courts.

RULEMAKING POWER

A great many of the infirmities in our procedures could be cured if judges had broad rulemaking power and exercised that power. The best example of this was given a generation ago in the Federal Rules of Civil Procedure and later in the Criminal and Appellate Procedure Rules.

For the past 30 years or more State legislatures, like the Congress, have been overwhelmed by a multitude of new problems and it is increasingly difficult to get their attention on mundane subjects like rules of procedure and other internal matters of the courts. In addition, judges, by and large, have been under increasing pressure of their own daily work and have not brought these matters to the attention of legislators.

The rulemaking process as developed in this country beginning 35 years ago is the best solution yet developed for sound procedural change. Since it is a cooperative process involving not only the legislative and judicial branches officially, but lawyers, judges and law professors, it can synthesize the best thinking at every level.

If your state does not provide for rulemaking power comparable to that vested in the Supreme Court of the United States in conjunction with Congress, I urge you to study closely the potential of this mechanism. In Federal habeas corpus review of State cases it could have saved a great deal of confusion in recent years. Flexible rulemaking processes could have promptly developed post-conviction remedy procedures to blunt the impact of the imposition of Federal standards on the States.

SELECTION, TENURE, AND COMPENSATION OF JUDGES

The combined experience of this country for nearly two hundred years now, with elective judges in most of the States holding office for limited terms and Federal judges who are appointed with tenure, affords a basis for a careful reexamination of the whole method of the selection of judges. This is part of the long range problem, but it deserves some mention. The aggregate of two centuries of experience should be sufficient to give us material for a comprehensive reexamination of the methods of selection and the tenure of State judges. In saying this, I, of course, intend no reflection whatever on those State systems having elected judges with limited terms and the many splendid judges in those States.

The fine quality of judicial work of State judges is in spite of, not because of, the method of selection.

The election of judges for limited terms is a subject on which reasonable men can reasonably have different views. Nevertheless the very nature of the judicial function calls for some comprehensive sutdies directed to the alternative methods developed in the last generation in some States. Those alternatives tend to preserve the virtues of popular choice of judges and at the same time develop a high degree of professionalism, offering an inducement for competent lawyers to make a career of the Bench.

We know that while there are certain patterns common in the fifty States as to the selection and tenure of judges, there is at the same time a wide disparity in their compensation in such States as New York, California, and Illinois, to mention but three of the large States, the compensation of judges of the higher courts is as much as three times the compensation of their counterparts in some other States of the Union.

As lawyers and judges we know that the function of the courts in a small State is essentially the same as the function of the courts in the larger State. The size of the State has no relationship to the nature of the function, the degree of the responsibility, and the degree of the professional competence called for. It is, therefore, an anomaly for a wide disparity to continue. I do not suggest, by any means, that there need be a rigid, uniform standard of compensation or tenure for all the States. All I suggest is that the judges in the small States are performing essentially the same function as that of their brothers in a large State, and the conditions of their service should not vary excessively. It is not a wholesome or healthy thing for the administration of justice to have the highest court of a geographically large and economically powerful State receive two or three times as much as his counterpart a few hundred miles away. If we want quality justice we must pay for it.

A NATIONAL CENTER FOR STATE COURTS

As I range over this rather wide variety of subjects you will notice that in many instances I have been obliged to refer to matters of common or general knowledge or the result of spot checks, or other sources not wholly trustworthy. This suggests strongly the need for some facility that will accumulate and make available all information necessary for comprehensive examination of the problems of the judiciary in the fifty States. Recently a judicial conference developed an accumulation of 500 or more specific problems of courts.

Each of the points I have raised in the list of what seem to me some of the urgent priorities can be more readily treated and with better solutions there is a pooling of ideas and efforts of the States.

For a long time we have talked of the need for a closer exchange and closer cooperation among the States and between the States and the Federal courts on judicial problems. No States without grave problems in the administration of justice. The problems vary chiefly in degree from those States with grave troubles to those on the threshold of disaster in their courts. The valuable work of the National College of Trial Judges is just one example of the value of cooperative enterprise.

We now have in this country a great ferment for court improvement. It is a ferment that has been gaining momentum slowly over a long period of time. More recently, this has taken on a new thrust and force under the leadership of the American Bar Association. The time has come, and I submit that it is here and now at this conference, to make the initial decision and bring into being some kind of national clearinghouse or center to serve all the States and to cooperate with all the agencies seeking to improve justice at every level. The need is great, and the time is now, and I hope this conference will consider creating a working committee to this end—before you adjourn. I know that you will do many important things while you are here, but if you do no more than launch this much-needed service agency for the State courts, your time and attendance here would be justified.

I hope that, having raised this long-discussed subject of a need for a facility to serve as a clearinghouse and service agency for the States, you will not think me unduly presumptuous if I make some specific suggestions for your consideration.

It seems to me obvious that the States should make the final choices and the final decisions. In offering these thoughts, I draw particularly on my experience in the twenty-one months I have been in my present office. I now see the legal profession's strongest voice, the American Bar Association, from a point of view which I never fully appreciated in my years of private practice or even in the period when I was a member of the court of appeals.

The American Bar Association is a force for enormous, almost unlimited, good with respect to every problem in the administration of justice. It is a force that cannot be directed or controlled by any particular group or any selfish interest because it includes approximately 150,000 lawyers and judges and law professors representing 1700 State and local bar associations and other legal groups. Its governing body, the House of Delegates, represents 90% of all the practicing lawyers in this country. I mention these factors because the American Bar Association is essentially a grass-roots institution whose components spring from the 50 States. The facilities and power, the influence and prestige of this association, are literally on the door step of every State capital through the State Bar Association, and that power and influence can be put to work in terms of achieving the objectives I have suggested to you.

My suggestion, therefore, is that in shaping the national organization or center to serve all the States, you consider calling primarily on this great association and its 50 component State associations, along with other groups that specialize in judicial administration. There are additional existing structures representative of all the States and a cross section of the legal profession. I refer now to the American Judicature Society, the Institute of Judicial Administration, the conference of State trial judges, the appellate judge conference, the council of State governments, and the conference of chief justices. I am confident there will be widespread interest in the formation of such a group as this but it will take time to marshal all of the large resources necessary to its accomplishment as a means to an end that we should place high priority on changes in our methods and our machinery. The noblest legal principles will be sterile and meaningless if they cannot be made to work.

In closing, I offer the full cooperation of my own office and the facilities of the Federal Judicial Center and the administrative office of the United States Courts. But bearing in mind my own concepts of federalism I will participate only when and if you ask me to do so.

PUBLIC DEBT AND INTEREST RATE LIMITATIONS

The PRESIDING OFFICER (Mr. TUNNEY). The hour of 12 o'clock having arrived, the Chair now lays before the Senate the unfinished business which the clerk will state.

The assistant legislative clerk read as follows:

H.R. 4690, to increase the public debt limit set forth in Section 21 of the Second Liberty Bond Act, and for other purposes.

The Senate resumed the consideration of the bill.

QUORUM CALL

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

The PRESIDING OFFICER. On whose time?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time for the quorum call be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LONG. Mr. President, the bill now before the Senate, H.R. 4690, provides for 3 major changes in present law. First, it increases the present $395 billion debt limitation by $35 billion, to a level of $430 billion. Second, a limited exception—$10 billions of issues—is made in the 4¼-percent-interest-rate ceiling on long-term bonds. Third, new issues of Federal obligations are to be available for use as payment of Federal tax obligations only at their current market value, rather than at their face value as has generally been true in the past.

The bill as reported by the Finance Committee is the same as that passed by the House. The Finance Committee recognized that it was important for the country that we obtain an immediate increase in the debt limitation because we will be very close to the limit next week. As a result, we concluded that it was best for us to report out the bill without change.

The Treasury's estimates show that unless we take action, the present $395

billion temporary debt limit will not be adequate to cover the amount of debt outstanding shortly after March 15 of this year.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the Treasury estimates of March 12, 15, 16, and 17—which shows that on March 17 we would be over the limit.

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

TREASURY ESTIMATES ON THE DEBT LIMIT
(FRIDAY, MARCH 12, 1971)

Friday, March 12, $394.7 billion.
Monday, March 15, $394.5 billion.
Tuesday, March 16, $394.9 billion.
Wednesday, March 17, over the limit.

NOTE: The cash balance on Friday, March 12, is expected to be $4.3 billion. The cash balances are expected to continue going down through Monday, March 15, but to rise after that as tax receipts are received.

Mr. LONG. Mr. President, in addition, on June 30, the debt limit will automatically drop from its temporary $395 billion level to the presently authorized $380 billion permanent level. Since the debt subject to limit on this same June 30 date is expected to be $396.5 billion, this means that the outstanding debt would be $16.5 billion in excess of the ceiling at the close of the current fiscal year.

In recognition of these hard facts, the pending bill raises the temporary debt limit to $430 billion from its present level of $395 billion. This increase is effective after the date of enactment of the bill until June 30, 1972. The bill also increases the permanent debt limit to $400 billion from its present level of $380 billion.

The increase in the debt limit has been kept as small as possible to avoid encouraging increased spending. In fact, the Treasury asked for a limitation increase of $40 billion, but the level provided in the bill is $5 billion below this.

According to Treasury figures, as of June 30, 1971, the close of the current fiscal year, the debt subject to limit, assuming the usual $6 billion cash balance, will amount to $396.5 billion.

To this amount, we must add a $33.6 billion deficit in the Federal funds budget which is expected to accumulate from the close of the current fiscal year to June 15, 1972. This deficit figure will probably come as a surprise to some because it is substantially above the $11.6 billion deficit in the unified budget for fiscal year 1972. However, the unified budget cannot be used for purposes of the debt ceiling because it shows only the increase in the debt owed to the public. Instead we must use the Federal funds budget which also shows the debt owed to the trust funds, which the Government manages in a fiduciary capacity.

In addition to the Federal funds deficit, we must take into account the peak deficit for the year. This peak deficit of $33.6 billion is expected to be reached on June 15, 1972. This peaking occurs at that time because, while the flow of expenditures is relatively even over the fiscal year, more of the receipts tend to come in late in the year.

Other items that are added to arrive at an adequate debt limit include a $3 billion allowance for contingencies and a $500 million allowance for conceptual differences between the expected deficit in the Federal funds budget and the debt subject to limit.

These figures will give you a total of $433.6 billion.

The fact that the pending bill provides for a temporary debt limit of $430 billion rather than the $433.6 billion is an indication of how conservative the committee was in arriving at the new figure. We set the debt limit at $430 billion because we believed that the cash balance could be held to $2.4 billion on June 15, 1972, instead of the $6 billion as the Treasury assumed. A $2.4 billion cash balance on June 15, 1972, is reasonable since this is within the range of the cash balances usually existing at this date in prior years. After all, the Treasury will still have available an extra $3 billion on that date to cover any contingencies.

I must admit, however, that there are other factors.

I must admit, however, that there are other factors which make me suspect that the $430 billion limit actually will not be adequate for the entire fiscal year 1972. This debt limit is based on Treasury Department estimates of receipts and expenditures. However, as most of us know, almost every year actual expenditures have a way of being higher than projected expenditures. In addition, the receipts estimated by the Treasury are based on a much higher economic level than most economists believe will occur in the calendar year 1971. Our staff, for example, estimates that receipts for fiscal year 1972 will be about $6 billion lower than the administration estimates.

These factors suggest to me that the actual deficit will be larger than is projected by the administration. If this happens, we probably will have to reconsider the limitation about this time next year.

In closing my remarks on the debt limitation, I want to be sure that no Member of the Senate is under any illusion as to what will happen if we fail to act. The Treasury Department would not be able to issue any new Government obligations, the Treasury's cash balance would be exhausted rapidly, and the Government would be compelled to delay full payment of contract obligations, Government salaries, various loan and benefit programs, and grants to State and local governments. It is obvious that we cannot permit these things to happen.

The debt limit in this bill of $430 billion, of course, seems very large—the highest limit yet proposed. As large as it is, though, we need to keep it in perspective by comparing it with the gross national product and the total of private debt. These comparisons show us that the burden of the debt in relation to our economic capabilities has decreased year-by-year.

Since the end of 1946—the first full year after the end of World War II, gross national product has increased more than 4 times, from $221.4 billion to about $1 trillion at the end of 1970. In that same period of time, the total outstanding Federal debt—which includes the debt issued by Federal agencies—has risen from $261 billion to a total outstanding of $402 billion, an increase of 54 percent. These totals show the outstanding Federal debt was about 118 percent of GNP at the end of 1946, but only about 40 percent of GNP at the end of 1970.

Mr. President, I ask unanimous consent that the tabulation showing this relationship be printed in the RECORD at this point.

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

TABLE 1.—TOTAL OUTSTANDING FEDERAL GOVERNMENT DEBT RELATED TO GROSS NATIONAL PRODUCT, 1946-69

[In billions of dollars]

End of calendar year	Gross national product[1]	Outstanding Federal debt	Federal debt as a percent of gross national product
1946	221.4	260.7	117.8
1947	245.0	257.6	105.1
1948	261.2	253.8	97.2
1949	260.5	257.9	99.0
1950	311.2	257.8	32.3
1951	338.2	260.2	76.9
1952	361.0	263.3	74.3
1953	360.8	276.0	76.5
1954	379.8	279.5	73.6
1955	409.7	282.2	68.9
1956	433.2	278.3	64.2
1957	438.1	278.1	63.5
1958	469.2	285.3	60.8
1959	496.8	296.5	59.7
1960	503.4	296.6	58.9
1961	542.8	303.0	55.8
1962	574.7	311.3	54.2
1963	611.8	317.4	51.9
1964	654.0	327.0	50.0
1965	719.2	330.7	46.0
1966	770.2	343.3	44.6
1967	825.4	364.8	44.2
1968	899.5	373.1	41.5
1969	955.6	382.0	40.0
1970 (estimate)	1,000.0	401.6	40.2

[1] Implied level end of year, calculated as the average of the 4th and 1st calendar quarters at seasonally adjusted annual rates for the years 1939 through present. Prior to 1939, averages of 2 calendar year figures are used as the best approximation of Dec. 31 levels.

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

Mr. LONG. When we compare the outstanding Federal debt with the growth in the debt of individuals, corporations, and State and local governments for the period from 1946 through 1969, we find the debt of each of these three groups has increased over 800 percent. In contrast, Federal debt during the same period has increased 50 percent.

These comparisons help us appreciate that the Federal Government has been more careful about the extent to which it resorts to debt in order to finance its operations than any of the other three major groups in our economy.

Mr. President, I ask unanimous consent that the tabulation showing the relationship of these different types of debt for this period be printed in the RECORD at this point.

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

TABLE 2.—ESTIMATED GROSS GOVERNMENT AND PRIVATE DEBT, BY MAJOR CATEGORIES, 1946—69

[Dollar amounts in billions]

Dec. 31	Private			State and local	Outstanding Federal debt (including Federal agency issues)	Total	Percent Federal total
	Individual	Corporate [1]	Total				
1946	59.9	109.3	169.2	16.1	260.7	446.0	58
1947	69.4	128.9	198.3	17.5	257.6	473.4	54
1948	80.6	139.4	220.0	19.6	253.8	493.4	51
1949	90.4	140.3	230.7	22.2	257.9	510.8	50
1950	104.3	167.7	272.0	25.3	257.8	555.1	46
1951	114.3	191.9	306.2	28.0	260.2	594.4	44
1952	129.4	202.9	332.3	31.0	268.3	631.6	42
1953	143.2	212.9	356.1	35.0	276.0	667.1	41
1954	157.2	217.6	374.8	40.2	279.5	694.5	40
1955	180.1	253.0	434.9	46.3	282.2	763.4	37
1956	195.5	277.3	472.8	50.1	273.2	801.2	35
1957	207.6	295.8	503.4	54.7	278.1	836.2	33
1958	222.9	312.0	534.9	60.4	285.3	880.6	32
1959	245.0	341.4	586.4	66.6	296.5	949.5	31
1960	263.3	365.1	628.4	72.0	296.6	997.0	30
1961	284.8	391.5	676.3	77.6	303.0	1,056.9	29
1962	311.9	421.5	733.4	83.4	311.3	1,128.1	28
1963	345.8	457.1	802.2	89.[illegible]	317.4	1,209.1	26
1964	380.1	497.3	877.4	95.5	327.0	1,299.9	25
1965	416.1	551.9	968.0	103.1	330.7	1,401.8	24
1966	466.9	617.3	1,084.2	109.4	343.3	1,536.9	22
1967	480.6	664.4	1,145.0	117.4	364.8	1,627.2	22
1968	520.5	754.0	1,274.5	127.7	373.1	1,775.3	21
1969	555.1	861.0	1,416.1	137.0	382.0	1,935.1	20

[1] Includes debt of federally sponsored agencies excluded from the Budget which amounted to $700,000,000 on Dec. 31, 1947; $9,000,000,000 on Dec. 31, 1967; and $21,500,000,000 on Dec. 31, 1968.

Source: Commerce and Treasury Departments.

Mr. LONG. I want to turn now to the changes made by the bill in the interest rate limitation on long-term Government bonds. Basically, this provision is designed to give the Treasury greater flexibility in issuing long-term and short-term debt. I want to make clear at the outset that I initially had mixed feelings about this provision. However, we approved this provision because, after careful consideration, we concluded that the limited exception to the interest rate limitation deserves a test.

Let me give you the details of this change. Present law places a 4¼-percent interest ceiling on Government bonds with maturities of more than 7 years. The pending bill keeps this limitation as a general limit but permits the Treasury Department to issue up to $10 billion of long-term securities without regard to this ceiling.

The Treasury Department asked for a complete elimination of the ceiling, but, as I have said, all the bill before us does is provide a limited exception to the 4¼-percent ceiling—$10 billion.

I know that a number of Members of the Senate fear that the removal or modification of the interest rate ceiling will result in increased interest rates. In fact, when I began consideration of this bill I had the same fear and I believe that most of the other Finance Committee members did too.

Why, then, did we approve this provision if this is our position on interest rates? The answer is that the Treasury made an impressive case to the effect that the introduction of some flexibility in the interest rate limitation could well bring down the overall interest rate paid on the public debt by making it possible to manage the public debt more efficiently.

Secretary Connally told us that the present 4¼-percent ceiling has not kept interest rates down. He also said this ceiling has not reduced the Government's overall interest costs. It has merely forced the Treasury to concentrate its financing in short-term securities which are not subject to the interest rate limitation. As a result, the Government had to issue short-term securities even during the tight money period when the short-term rate was higher than the long-term rate. Even when the short-term rate is lower than the long-term rate with the heavy proportion of short-term debt we have, it may pay, in terms of interest cost savings, to use long-term financing. This is true where a limited amount of long-term financing, instead of short-term financing, prevents a rise in interest rates, which would otherwise apply to much larger issues of short-term debt.

So the present rigid 4¼-percent ceiling, no matter what its objectives, may have bad results: Instead of lowering overall interest rates it may raise them. Instead of cutting the Government's interest costs, it may increase these costs.

Secretary Connally also told us that the present interest ceiling has grave effects on the management of the public debt. In June of 1965, the average maturity of the public debt was 5 years and 9 months. At the end of January, this year, the average maturity of the public debt was only 3 years and 4 months. This shortening of the maturity period is the result of being forced, more and more, into short-term financing. The shorter maturity of our debt makes it necessary to rollover this debt more and more frequently, to refinance the securities as they mature. This means the Treasury must enter, and therefore disturb, the market at shorter and shorter intervals. Often, in this case, the refinancing must occur when others are also going heavily into the financial markets.

In recent years the emphasis on short-term Government financing has dammed up the flow of funds for housing. It has diverted funds from savings institutions to short-term Government obligations—funds which normally make capital available for homebuilding.

The open market operations of the Federal Reserve Board also have been made more difficult by the fact that the maturity of the debt requires large and frequent financing.

As I explored the case for flexibility in the interest rate ceiling, I was persuaded that the case is a good one for a limited test. Essentially, what the bill does is give the Treasury a chance to prove its case with a limited amount of long-term debt. Then, at a later date, we can review how successful it was and see whether or not additional authority of this type should be granted. We owe it to the public to let the Treasury demonstrate, if it can, that it can issue long-term debt with a favorable impact on debt management, on interest rates, and on the economy.

Finally, let me turn to the third provision in the bill sent to us by the House. This provision eliminates, for the future, a tax loophole which has been subject to considerable criticism. Under present law, it is possible to use Government notes and bonds at their face value to pay Federal tax liabilities. Generally, although not always, the practice is associated with the estate tax. The advantage lies in using Federal securities whose market value is much less than their face value to pay Federal taxes based on the obligations' face value rather than at their lower current market price.

For example, an individual or his tax planner may be able to purchase a Government security having a face value of $100 for $75 if it bears an interest rate which is too low in today's market. Later, his estate tax can be paid with these bonds treating them as if they were worth $100 instead of the $75 which is their actual value.

The provision in the bill before us does not, in any way, affect this advantage for any existing Federal securities since to do so would interfere with existing contractual rights. However, the bill provides that securities issued after March 3, 1971, cannot be used to pay Federal taxes in an amount above the fair market value of the obligation at the time it is presented for payment. This means that those who have purchased securities which are selling below their face value will not be affected by this provision. As a matter of fact, since there is a large volume of securities already outstanding which are selling below their face value, taxpayers will, for some time to come, be able to use existing securities. Only as the presently outstanding securities mature and are retired will this loophole be completely eliminated. As a result, the effect of this provision is to gradually phase out this tax advantage over a period of years, causing very little, if any, disruption to current tax planning.

There is one minor exception to this new prohibition. It does not apply to Treasury bills issued for less than a year. In the case of Treasury bills, the discount is very minor and the advantage is not for more than 6 days of interest. If we were to deny the use of these bills for tax payments before maturity, it would create financing problems for the Treas-

ury. They permit the use of Treasury bills to pay taxes in order to even out the flow of cash into the Treasury. The Treasury receives large tax payments after the 15th of March, April, and June in the period between the 15th and 22d of these months. The purchase of bills which mature on the 22d of these months before the tax due dates, in effect, means the Treasury receives the cash earlier and has a smoother cash flow.

In any event, since the bills are auctioned off in the market, and since about one-quarter of them are used for payment of tax, it would appear that this 6-day shorter maturity period undoubtedly is a factor taken into account by bidders in arriving at the market price.

Mr. President, I have informed members of the committee, and as the majority leader has announced, that I intend to offer an amendment.

Mr. President, I send to the desk an amendment to the pending bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE II—AMENDMENTS TO THE SOCIAL SECURITY ACT

INCREASE IN OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

SEC. 201. (a) Section 215(a) of the Social Security Act is amended by striking out the table and inserting in lieu thereof the following:

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

"I		II	III		IV	V
(Primary insurance benefit under 1939 act, as modified)		(Primary insurance amount under 1969 act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$90.60				
	$26.94	or less		$113	$100.00	$150.00
$26.95	27.46	91.90	$114	118	101.10	151.70
27.47	28.00	93.30	119	122	102.70	154.10
28.01	28.68	94.70	123	127	104.20	156.30
28.69	29.25	96.20	128	132	105.90	158.90
29.26	29.68	97.50	133	136	107.30	161.00
29.69	30.36	98.80	137	141	108.70	163.10
30.37	30.92	100.30	142	146	110.40	165.60
30.93	31.36	101.70	147	150	111.90	167.90
31.37	32.00	103.00	151	155	113.30	170.00
32.01	32.60	104.50	156	160	115.00	172.50
32.61	33.20	105.80	161	164	116.40	174.60
33.21	33.88	107.20	165	169	118.00	177.00
33.89	34.50	108.60	170	174	119.50	179.30
34.51	35.00	110.00	175	178	121.00	181.50
35.01	35.80	111.40	179	183	122.60	183.90
35.81	36.40	112.70	184	188	124.00	186.00
36.41	37.08	114.20	189	193	125.70	188.60
37.09	37.60	115.60	194	197	127.20	190.80
37.61	38.20	116.90	198	202	128.60	192.90
38.21	39.12	118.40	203	207	130.30	195.50
39.13	39.68	119.80	208	211	131.80	197.70
39.69	40.33	121.00	212	216	133.10	199.70
40.34	41.12	122.50	217	221	134.80	202.20
41.13	41.76	123.90	222	225	136.30	204.50
41.77	42.44	125.30	226	230	137.90	206.90
42.45	43.20	126.70	231	235	139.40	209.10
43.21	43.76	128.20	236	239	141.10	211.70
43.77	44.44	129.50	240	244	142.50	214.80
44.45	44.88	130.80	245	249	143.90	219.20
44.89	45.60	132.30	250	253	145.60	222.70
		133.70	254	258	147.10	227.10
		134.90	259	263	148.40	231.50
		136.40	264	267	150.10	235.00
		137.80	268	272	151.00	239.40
		139.20	273	277	153.20	243.80
		140.60	278	281	154.70	247.30
		142.00	282	286	156.20	251.70
		143.50	287	291	157.90	256.10
		144.70	292	295	159.20	259.60
		146.20	296	300	160.90	264.00
		147.60	301	305	162.40	268.40
		148.90	306	309	163.80	272.00
		150.40	310	314	165.50	276.40
		151.70	315	319	166.90	280.80
		153.00	320	323	168.30	284.30
		154.50	324	328	170.00	287.70
		155.90	329	333	171.50	293.10
		157.40	334	337	173.20	296.60
		158.60	338	342	174.50	311.00
		160.00	343	347	176.00	305.40
		161.50	348	351	177.70	308.90
		162.80	352	356	179.10	313.30
		164.30	357	361	180.80	317.70
		165.60	362	365	182.20	321.20
		166.90	366	370	183.60	325.60
		168.40	371	375	185.30	330.00
		169.80	376	379	186.80	333.60
		171.30	380	384	188.50	338.00
		172.50	385	389	189.80	342.40
		173.90	390	393	191.30	345.90
		175.40	394	398	193.00	350.30
		176.70	399	403	194.40	354.70
		178.20	404	407	196.10	358.20
		179.40	408	412	197.40	362.60
		180.70	413	417	198.80	367.00
		182.00	418	421	200.20	370.50
		183.40	422	426	201.80	374.90
		184.60	427	431	203.10	379.30
		185.90	432	436	204.50	383.70
		187.30	437	440	206.10	385.50
		$188.50	$441	$445	$207.40	$387.70
		189.80	446	450	208.80	389.90
		191.20	451	454	210.40	391.60
		192.40	455	459	211.70	393.80
		193.70	460	464	213.10	396.00
		195.00	465	468	214.50	397.80
		196.40	469	473	216.10	400.00
		197.60	474	478	217.40	402.20
		198.90	479	482	218.80	404.00
		200.30	483	487	220.40	406.20
		201.50	488	492	221.70	408.40
		202.80	493	496	223.10	410.10
		204.20	497	501	224.70	412.30
		205.40	502	506	226.00	414.50
		206.70	507	510	227.40	416.30
		208.00	511	515	228.80	418.50
		209.30	516	520	230.30	420.70
		210.60	521	524	231.70	422.40
		211.90	525	529	233.10	424.60
		213.30	530	534	234.70	426.80
		214.50	535	538	236.00	428.60
		215.80	539	543	237.40	430.80
		217.20	544	548	239.00	433.00
		218.40	549	553	240.30	435.20
		219.70	554	556	241.70	436.50
		220.80	557	560	242.90	438.30
		222.00	561	563	244.20	439.60
		223.10	564	567	245.50	441.40
		224.30	568	570	246.80	442.70
		225.40	571	574	248.00	444.40
		226.60	575	577	249.30	445.80
		227.70	578	581	250.50	447.50
		228.90	582	584	251.80	448.80
		230.00	585	588	253.00	450.60
		231.20	589	591	254.40	451.90
		232.30	592	595	255.60	453.70
		233.50	596	599	256.90	455.00
		234.60	599	602	258.10	456.80
		235.80	603	605	259.40	458.10
		236.90	606	609	260.60	459.80
		238.10	610	612	262.00	461.20
		239.20	613	616	263.20	462.90
		240.40	617	620	264.50	464.70
		241.50	621	623	265.70	466.00
		242.70	624	627	267.00	467.80
		243.80	628	630	268.20	469.40
		245.00	631	634	269.50	471.70
		246.10	635	637	270.80	473.90
		247.30	638	641	272.10	476.20
		248.40	642	644	273.30	478.30
		249.60	645	648	274.60	480.60
		250.70	649	650	275.80	482.70
			651	655	276.80	484.40
			656	660	277.80	486.20
			661	665	278.80	487.90
			666	670	279.80	489.70
			671	675	280.80	491.40
			676	680	281.80	493.20
			681	685	282.80	494.90
			686	690	283.80	496.70
			691	695	284.80	498.40
			696	700	285.80	500.20
			701	705	286.80	501.90
			706	710	287.80	503.70
			711	715	288.80	505.40
			716	720	289.80	507.20
			721	725	290.80	508.90
			726	730	291.80	510.70
			731	735	292.80	512.40
			736	740	293.80	514.20
			741	745	294.80	515.90
			746	750	295.80	517.70".

(b) Section 203(a) of such Act is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) when two or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for January 1971 on the basis of the wages and self-employment income of such insured individual and at least one such person was so entitled for December 1970 on the basis of such wages and self-employment income, such total of benefits for January 1971 or any subsequent month shall not be reduced to less than the larger of—

"(A) the amount determined under this subsection without regard to this paragraph, or

"(B) an amount equal to the sum of the amounts derived by multiplying the benefit amount determined under this title (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), as in effect prior to the enactment of the Social Security Amendments of 1971, for each such person for such month, by 110 percent and raising each such increased amount, if it is not a multiple of $0.10, to the next higher multiple of $0.10;

but in any such case (i) paragraph (1) of this subsection shall not be applied to such total of benefits after the application of subparagraph (B), and (ii) if section 202(k)(2)(A) was applicable in the case of any such benefits for January 1971, and ceases to apply after such month, the provisions of subparagraph (B) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though paragraph (1) had not been applicable to such total of benefits for January 1971, or".

(c) Section 215(b)(4) of such Act is amended by striking out "December 1969" each time it appears and inserting in lieu thereof "December 1970".

(d) Section 215(c) of such Act is amended to read as follows:

"Primary Insurance Amount Under 1969 Act

"(c)(1) For the purposes of column II of the table appearing in subsection (a) of this section, an individual's primary insurance amount shall be computed on the basis of the law in effect prior to the enactment of the Social Security Amendments of 1971.

"(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 202(a) or section 223 before January 1971, or who died before such month."

(e) The amendments made by this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1970 and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1970.

(f) If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act for December 1970 and became entitled to old-age insurance benefits under section 202(a) of such Act for January 1971, or he died in such month, then, for purposes of section 215(a)(4) of the Social Security Act (if applicable), the amount in column IV of the table appearing in such section 215(a) for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based.

INCREASE IN BENEFITS FOR CERTAIN INDIVIDUALS AGE 72 AND OVER

SEC. 202. (a)(1) Section 227(a) of the Social Security Act is amended by striking out "$46" and inserting in lieu thereof "$48.30", and by striking out "$23" and inserting in lieu thereof "$24.20".

(2) Section 227(b) of such Act is amended by striking out "$46" and inserting in lieu thereof "$48.30".

(b)(1) Section 228(b)(1) of such Act is amended by striking out "$46" and inserting in lieu thereof "$48.30".

(2) Section 228(b)(2) of such Act is amended by striking out "$46" and inserting in lieu thereof "$48.30", and by striking out "$23" and inserting in lieu thereof "$24.20".

(3) Section 228(c)(2) of such Act is amended by striking out "$23" and inserting in lieu thereof "$24.20".

(4) Section 228(c)(3)(A) of such Act is amended by striking out "$46" and inserting in lieu thereof "$48.30".

(5) Section 228(c)(3)(B) of such Act is amended by striking out "$23" and inserting in lieu thereof "$24.20".

(c) The amendments made by subsections (a) and (b) shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1970.

LIBERALIZATION OF EARNINGS TEST

SEC. 203. (a)(1) Paragraphs (1) and (4)(B) of section 203(f) of the Social Security Act are each amended by striking out "$140" and inserting in lieu thereof "$200".

(2) Paragraph (1)(A) of section 203(h) of such Act is amended by striking out "$140" and inserting in lieu thereof "$200".

(3) Paragraph (3) of section 203(f) of such Act is amended to read as follows:

"(3) For purposes of paragraph (1) and subsection (h), an individual's excess earnings for a taxable year shall be 50 per centum of his earnings for such year in excess of the product of $200 multiplied by the number of months in such year. The excess earnings as derived under the preceding sentence, if not a multiple of $1, shall be reduced to the next lower multiple of $1."

(b) The amendments made by this section shall apply with respect to taxable years ending after December 1970.

INCREASE OF EARNINGS COUNTED FOR BENEFIT AND TAX PURPOSES

SEC. 204. (a)(1)(A) Section 209(a)(5) of the Social Security Act is amended by inserting "and prior to 1972" after "1967".

(B) Section 209(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(6) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $9,000 with respect to employment has been paid to an individual during any calendar year after 1971, is paid to such individual during any such calendar year;".

(2)(A) Section 211(b)(1)(E) of such Act is amended by inserting "and beginning prior to 1972" after "1967", and by striking out "; or" and inserting in lieu thereof "; and".

(B) Section 211(b)(1) of such Act is further amended by adding at the end thereof the following new subparagraph:

"(F) For any taxable year beginning after 1971, (i) $9,000, minus (ii) the amount of the wages paid to such individual during the taxable year; or".

(3)(A) Section 213(a)(2)(ii) of such Act is amended by striking out "after 1967" and inserting in lieu thereof "after 1967 and before 1972, or $9,000 in the case of a calendar year after 1971".

(B) Section 213(a)(2)(iii) of such Act is amended by striking out "after 1967" and inserting in lieu thereof "after 1967 and beginning before 1972, or $9,020 in the case of a taxable year beginning after 1971."

(4) Section 215(e)(1) of such Act is amended by striking out "and the excess over $7,800 in the case of any calendar year after 1967" and inserting in lieu thereof "the excess over $7,800 in the case of any calendar year after 1967 and before 1972, the excess over $9,000 in the case of any calendar year after 1971".

(b)(1)(A) Section 1402(b)(1)(E) of the Internal Revenue Code of 1954 (relating to definition of self-employment income) is amended by inserting "and beginning before 1972" after "1967", and by striking out "; or" and inserting in lieu thereof "; and".

(B) Section 1402(b)(1) of such Code is further amended by adding at the end thereof the following new subparagraph:

"(F) for any taxable year beginning after 1971, (i) $9,000, minus (ii) the amount of the wages paid to such individual during the taxable year; or".

(2) Section 3121(a)(1) of such Code (relating to definition of wages) is amended by striking out "$7,800" each place it appears and inserting in lieu thereof "$9,000".

(3) The second sentence of section 3122 of such Code (relating to Federal service) is amended by striking out (c) and inserting in lieu thereof "$9,000".

(4) Section 3125 of such Code (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by striking out "$7,800" where it appears in subsections (a), (b), and (c) and inserting in lieu thereof "$9,000".

(5) Section 6413(c)(1) of Such Code (relating to special refunds of employment taxes is amended—

(A) by inserting "and prior to the calendar year 1972" after "after the calendar year 1967";

(B) by inserting after "exceed $7,800" the following: "or (E) during any calendar year after the calendar year 1971, the wages received by him during such year exceed $9,000,"; and

(C) by inserting before the period at the end thereof the following: "and before 1972, or which exceeds the tax with respect to the first $9,000 of such wages received in such calendar year after 1971".

(6) Section 6413(c)(2)(A) of such Code (relating to refunds of employment taxes in the case of Federal employees) is amended by striking out "or $7,800 for any calendar year after 1967" and inserting in lieu thereof "$7,800 for the calendar year 1968, 1969, 1970, or 1971, or $9,000 for any calendar year after 1971".

(7) Section 6654(d)(2)(B)(ii) of such Code (relating to failure by individual to pay estimated income tax) is amended by striking out "$6,600" and inserting in lieu thereof "$9,000".

(c) The amendments made by subsections (a)(1) and (a)(3)(A), and the amendments made by subsection (b) (except paragraphs (1) and (7) thereof), shall apply only with respect to remuneration paid after December 1971. The amendments made by subsections (a)(2), (a)(3)(B), (b)(1), and (b)(7) shall apply only with respect to taxable years beginning after 1971. The amendment made by subsection (a)(4) shall apply only with respect to calendar years after 1971.

CHANGES IN TAX SCHEDULES

SEC. 205. (a)(1) Section 3101(a) of such Code (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out "and" at the end of paragraph (3) and by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) with respect to wages received during the calendar years 1973, 1974, and 1975, the rate shall be 5.0 percent;

"(5) with respect to wages received during the calendar years 1976, 1977, 1978, 1979, and 1980, the rate shall be 5.3 percent; and

"(6) with respect to wages received after December 31, 1980, the rate shall be 5.6 percent."

(2) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out "and" at

the end of paragraph (3) and by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) with respect to wages paid during the calendar years 1973, 1974, and 1975, the rate shall be 5.0 percent;

"(5) with respect to wages paid during the calendar years 1976, 1977, 1978, 1979, and 1980, the rate shall be 5.3 percent; and

"(6) with respect to wages received after December 31, 1980, the rate shall be 5.6 percent."

(b) The amendments made by subsection (a) (1) shall apply only with respect to taxable years beginning after December 31, 1971. The remaining amendments made by this section shall apply only with respect to remuneration paid after December 31, 1971.

ALLOCATION TO DISABILITY INSURANCE TRUST FUND

SEC. 206. Section 201(b) (1) of the Social Security Act is amended—

(1) by striking out "and (D)" and inserting in lieu thereof "(D)"; and

(2) by striking out "after December 31, 1969, and so reported," and inserting in lieu thereof the following: "after December 31, 1969, and before January 1, 1973, and so reported, (E) 1.10 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1981, and so reported, and (F) 1.25 per centum of the wages (as so defined) paid after December 31, 1980, and so reported,".

SHORT TITLE

SEC. 207. This title may be cited as the "Social Security Amendments of 1971."

Mr. LONG. Mr. President, I yield myself 10 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, my amendment is a simple one; it incorporates those provisions of last year's social security bill providing for a 10-percent across-the-board benefit increase, a $100 minimum benefit, an increase in special payments to persons 72 and over, and an increase in the earnings limitation from $1,680 to $2,400. The benefit increase would be fully paid for by an increase in the taxable wage base from $7,800 to $9,000, and by slight upward adjustments in the tax rates after 1975.

Senators will recall that last year's social security bill passed the Senate by a vote of 81 to 0. Unfortunately, the House refused to go to conference with us, and the bill died despite its massive support in the Senate. This year I have pleaded for the House to move the social security increase so we can promptly provide higher benefits for 26 million people and help them meet today's higher costs of living. Unfortunately, the House has not responded.

The Ways and Means Committee of the House of Representatives is now involved in considering not only a 10-percent social security benefit increase but also substantial changes in the welfare law. I can say, based on personal experience last year, that this will be an extensive and time-consuming process. I am sure that there is near unanimity that we need to improve our present welfare system, but I believe that it would be unfortunate if we were to let months go by without legislating the 10-percent social security increase which was approved 81 to 0 by the Senate last year.

Under present law monthly social security benefits for workers retiring at age 65 this year now range from $64 to $193.70; under the amendment they would range from $100 to $213.10. Benefits for a couple today average $198 under present law; under the amendment the average benefit would be increased to $233. For a widowed mother with two children the average benefit under present law is now $295; under the amendment it would be $331. The benefit increase would mean additional benefit payments of $5 billion in the first 12 months.

Under present law also special payments of $46 a month for an individual, and $69 for a couple are made to people age 72 and over who have not worked under the Social Security Program long enough to qualify for regular cash benefits. Under my amendment these payments would be increased to $48.30 for an individual and to $72.50 for a couple.

Another important provision of my amendment would make significant changes in the earnings limitation under the social security program. First, the amendment would increase from $1,680 to $2,400 the amount a social security beneficiary may earn and still receive his full social security benefits for that year. Second, the amendment modifies the treatment of earnings above the exempt amount. Under present law each $2 earned between $1,680 and $2,880 results in a $1 reduction in benefits; each dollar earned above $2,880 reduces benefits by $1. This work disincentive would be eliminated under the amendment which would provide a $1 reduction for each $2 earned with respect to all earnings above $2,400. In other words, the more a beneficiary works and earns the more spendable income he would have.

My amendment would provide that the 10 percent social security increase be effective retroactive to January 1, 1971.

However, even if my amendment were signed into law today, it would require several months for the Social Security Administration to process the benefit increase. I am informed by the Social Security Administration that if the Senate approves my amendment today and the matter is acted upon quickly by the House, the benefit increase can be processed in time to be included in the checks mailed out at the beginning of June. If final action on my amendment is delayed for even a few days, however, 26 million beneficiaries will have to wait until after the Fourth of July before they begin receiving the increased benefits. This is why I urge prompt congressional action in approving the benefit increase even though it is retroactive.

The Congress has always insured that the social security cash benefit programs are fully financed on a sound actuarial basis. My amendment will continue this practice.

The amendment provides for an increase in the ceiling on taxable and creditable earnings from $7,800 to $9,000, effective beginning January 1972. This means that people earning $9,000 or more will pay taxes on an additional $1,200 of earnings. But it will also mean that they will be credited with higher earnings and will thus be eligible for higher benefits. Thus, the increase in taxable wages will make possible benefits that are more reasonably related to the actual earnings of workers at higher earnings levels. If the base were to remain unchanged, more and more workers would have earnings above the creditable amount and their benefit protection would be related to a smaller and smaller part of their full earnings.

My amendment would also make appropriate adjustment in the tax rates for the social security cash benefit programs to assure that those programs remain actuarially sound. Specifically, during calendar years 1976 through 1980, the rate on employers and employees would be fixed at 5.3 percent for the cash portion of the social security program as compared to the 5-percent rate scheduled for those years under existing law. With respect to wages received in 1981 and thereafter, the rate would be fixed at 5.6 percent on employers and employees as compared to the 5-percent rate scheduled under existing law.

Mr. President, 26 million social security beneficiaries are waiting for the Congress to act on this measure to increase their benefits by $5 billion. I urge my colleagues to pass on my amendment quickly so that we may not keep these 26 million beneficiaries waiting any longer.

Mr. TALMADGE. Mr. President, will my chairman yield at this point?

Mr. LONG. I yield.

Mr. TALMADGE. I congratulate my distinguished chairman for offering this amendment. I approve of it wholeheartedly. It is almost identical to one I had intended to offer. This amendment embodies several provisions of the social security bill which was passed by a vote of 81 to 0 on the floor of the Senate last year.

Many of our retirees living on modest social security benefits are in extreme financial difficulties due to inflationary and other factors. I think it is foolhardy to wait several more months to consider legislation of this character, and I hope the Senate will adopt the amendment unanimously today.

Mr. LONG. I thank the Senator.

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

Mr. LONG. I yield.

Mr. MILLER. I understand that the Senator's amendment includes a proposed $100 minimum in the social security structure.

Mr. LONG. Yes, it does. May I say that is the suggestion that was first offered by the Senator from West Virginia (Mr. BYRD) and the majority leader, the Senator from Montana (Mr. MANSFIELD). The Senator may recall that a $100 minimum has now been passed twice by the Senate.

Mr. MILLER. Yes, the Senator from Iowa recalls that. He also recalls that in the conference committee meeting on the Tax Reform Act of 1969, this particular amendment by the Senate was rejected very forcibly on the part of the House membership of the conference committee. It is my recollection that one of the main reasons why the House conferees rejected the amendment was that they indicated that research showed that a great many of the people who would be

eligible for the minimum were already receiving benefits from one or more retirement plans and really did not need it.

I remember the argument made on the floor of the Senate was: Who can live on $100 a month? And, of course, nobody is going to argue about that, but it does not state the question accurately. The question is: Who, without other income, can live on $100 a month? Then I think we might get a different answer.

The concern that the Senator from Iowa has is that there will probably be a great many people receiving benefits from one or more retirement plans, such as civil service retirement, some State retirement system, some private corporate plan, and we are going to come along and give those people, who do not need it, a $100 minimum when they have not paid for it. I do not think such a minimum is as equitable as we ought to be able to devise.

I am wondering if the Senator from Louisiana has given some thought to the possibility of modifying the amendment to take into account those who do not need it because they are receiving benefits from other retirement plans.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. LONG. Mr. President, I yield myself 5 more minutes.

Mr. MILLER. So that we will do equity to those who need it without at the same time favoring those who do not need it.

Mr. LONG. I am sure that the Senator is aware of the fact that to do so would be to build a needs test into the social security program.

I am well aware of the fact that the chairman of the House Ways and Means Committee, in an interview with U.S. News & World Report this month, stated he was opposed to a $100 minimum. His views were reflected as being parallel with those of the Senator from Iowa. He also indicated he was in favor of the 10 percent increase.

I cannot predict what will happen in conference on this matter, but I have seen the Senate vote for a $100 minimum two times. The reason why I have included a $100 minimum in my amendment is that I have no doubt that, if I did not, another Senator would offer it.

Mr. MILLER. I do not like to see an empty gesture, so to speak, and we have had two of them now, as the Senator points out. A number of people have become euphoric about the fact that they were going to receive a $100 minimum. Many of them need it very badly. To get their hopes up and then dash them because of a defect in the approach seems to me to be a little cruel.

If we modified the proposal to take into account income from other retirement plans, so that those who needed it were to receive it, I would think, on the basis of our experience with the distinguished chairman of the House Ways and Means Committee and the conferees a year ago last December, they would go along with the proposal, and then we would deliver instead of just make a further empty gesture.

Would not the Senator think this would be a better approach rather than the approach whereby it failed twice?

Mr. LONG. I think it might be better to go to conference with the provision as it is in my amendment. If the House were willing to go along with any part of this matter, I think we would be in a better position to work it out in conference than on the Senate floor.

Mr. MILLER. Then do I understand that the whole matter would be in conference?

Mr. LONG. Yes, it would be.

Mr. MILLER. So that modifications along this line might be worked out?

Mr. LONG. That is my feeling.

Mr. MILLER. I had one further question to ask of my distinguished chairman. I note that key elements of the social security bill we passed last December, which unfortunately was not taken up by the House because of the lateness of the session, are generally taken care of in his amendment.

There was one item which was extremely vital, which was included in the bill before the Senate and which was included in the bill as reported by the Senate Finance Committee and passed by the Senate, and that was the automatic increase in social security benefits to meet increases in the cost of living.

Does the Senator understand that is going to be taken up later in the House bill or that our Finance Committee will take it up later?

Mr. LONG. Yes; that is one of the many provisions we will have the opportunity to consider this year. When the House completes its action on the social security bill, if that provision is not in it, I am sure it will be offered by a Senator, either in the Finance Committee or on the floor. I have no doubt that it will be offered at a future date if the House does not include it in the bill it sends to us. There is not the same emergency on this matter, however, as there is with respect to the 10-percent increase.

Mr. MILLER. The Senator is correct, and the key elements that he has incorporated in his bill are of greater urgency, if we have a 10-percent increase effective January 1 of this year.

It would be some time before a cost-of-living automatic increase would become operative, but I just wanted to make sure that there was no intention to denigrate that most important provision which, as the Senator from Louisiana knows, I have been striving for ever since 1963.

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

Mr. LONG. I yield myself 5 more minutes.

The PRESIDING OFFICER. On the bill?

Mr. MILLER. I thank the Senator for yielding.

Mr. LONG. The Senator will have an opportunity to vote on that provision this year.

The PRESIDING OFFICER. Does the Senator from Louisiana yield himself 5 minutes on the bill?

Mr. LONG. I have, Mr. President.

Mr. President, I would hope we can vote on the amendment. I suspect that perhaps a number of Senators would like a rollcall vote on it, and for that reason——

Mr. CURTIS. Mr. President, could I be recognized for 5 minutes on the bill?

Mr. LONG. I yield first to the Senator from Nebraska.

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

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Is it correct that half of the time is under the control of the minority leader or his designee?

The PRESIDING OFFICER. That is correct.

Mr. GRIFFIN. I designate the Senator from Nebraska to control the time on our side.

Mr. CURTIS. I thank the Senator. I yield myself 5 minutes.

Mr. President, this is not a pleasant task for the Senate, to have to deal with the so-called debt limit. I think it is important, however, that we put it in proper perspective.

Debts are not created when we pass resolutions such as that before us today. Debts are created when we spend too much money, when Congress appropriates more money than we have coming in, in revenue.

It even goes back beyond that. Whenever Congress enacts a law authorizing expenditures, those expenditures must be made, or the Government breaks faith with the people involved. There must be expenditures, and there must be appropriations made.

We are here today because there has been too much money spent, too much money appropriated. There have been too many programs enacted into law, and because too much money has been spent, Congress is called upon once more to raise the debt limit.

Without raising the debt limit, we would not lessen the obligations of the Government. If the Secretary of the Treasury is called upon to pay bills owed by our Government, and there is not enough revenue coming in to pay those bills, his only recourse is to borrow money through the issuance of Government bonds. If the authority for him to issue Government bonds is denied to him, it does not lessen the public debt. It means that certain bills will go unpaid.

It may mean that individuals who are expecting money from the Government, whether it be a social security payment, the payment of interest on Government bonds, or payment to a contractor for building a road or erecting a building, could not be made if there were no money in the Treasury and none could be borrowed. We would still owe the bill however. If we were to so conduct the financial affairs of this Government that, for instance, there was no money in the Treasury to pay the interest on the national debt, that would not lessen our debts, because we would still owe the money to the persons having interest coming instead of owing it to someone else who had purchased a Government bond.

My point in mentioning this is to point

out that the real cause of a deficit position, the real cause of our mounting national debt, is that day after day and month after month, more expenditures are authorized by Congress, more money is appropriated, and more money is spent.

I, for one, do not like it. I believe that we must reverse the trend and stop increasing the national debt. I do not accept at all as a logical explanation that, because the gross national product has grown, therefore our national debt should likewise grow, and that it really is not bad because, percentagewise, it is not any worse than it was, or may be a little better.

As I say, I do not accept that at all, for many reasons. In the first place, the citizens of this land, the young people of this land, the banks, foreign countries, and everyone else, are some day going to ask the question: Does Uncle Sam pay his obligations, or does he never pay his obligations, and merely renew?

That is one problem. The other is that the national debt is a great burden on the country. The interest on the national debt has reached more than $20 billion a year. Before the next fiscal year is over, it will have reached $21 billion. That means that Congress has to tax the people of the United States and collect $21 billion to pay the interest on the Government debt, before there is $1——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CURTIS. I yield myself 3 additional minutes.

Before there is $1 to spend on any Government program, pay any salary, support any veterans' hospital, or do anything else that ought to be done by the Government.

There is no way that we can explain away the burden of the interest on the national debt by saying it does not amount to much because the national debt has not grown as fast as our general economy has.

It is a very heavy burden. If it were not for the fact that this Government has not lived within its means in the past, from that $20 billion we could have enough money for a very sizable tax reduction, and still sufficient revenue to pay for all Government programs.

What we are doing by going on and increasing the debt is mortgaging the future. Taxes are paid by people who toil and earn income, and part of that income has to be taken to pay the interest on past debts. That is not a good system.

Mr. President, I hope that we can put an end to the increasing of the national debt, and I am just optimistic enough to believe that it can be done. I believe that we can not only stop the rising of the debt, but we can go on a pay-as-you-go basis, and little by little pay off this national debt. I think that would provide a great spurt and start for this economy of ours, and it would certainly lessen the burden upon the taxpayers of the future.

Again, I point out that it is by spending that we increase the debt. Today we are paying the fiddler for past debts.

Mr. President, I yield the floor.

Mr. BEALL. Mr. President, I rise in support of this amendment which would provide for a 10-percent increase in social security benefits. In addition, I favor the liberalization of the social security earning test to $2,400. Indeed, I introduced a similar proposal, H.R. 9509, in the last Congress.

I also strongly support the provision making the increase of social security benefits retroactive to the first of this year. I regard the social security legislation increase as a priority measure before the Congress, for I am aware of the difficulties that many senior citizens are having in making ends meet as they attempt to cope with the rising costs of living.

While inflation erodes the purchasing power of each American, it falls particularly hard on our citizens living on fixed incomes. The average life expectancy at retirement is approximately 15 years. If prices or inflation increase only 2 percent a year, the real value of an individual's pension would still be reduced by 18 percent after a decade; and by 33 percent after two decades. With inflation far exceeding that figure in recent years, it is easy to see why this measure is so important to so many senior citizens.

It also serves to underscore the stake of our senior citizens in the country's battle against inflation. I also support, and the Congress should enact just as soon as possible, legislation which provides for an automatic cost-of-living adjustment for social security recipients. Such a step, as the President has observed, would make certain that senior citizens never again bear the brunt of inflation.

There is not a day that goes by when I do not receive a letter from a retired citizen of Maryland asking the Congress the simple question: When will Congress pass the social security bill which we have been waiting for and which we desperately need. While it is true that the increase provided in this measure will be made retroactive of the first of the year, nevertheless even with the Senate acting today and assuming prompt House action, it will still be about 3 months before the high social security checks are received by social security recipients. This is because it takes the Social Security Administration this period of time to gear up administratively for paying additional benefits.

So I say to my colleagues that last year's delay was a great disappointment to me; my disappointment, however, was minor compared to the disappointment and hardship of our retired citizens. For Congress to further delay would be unconscionable.

Mr. President, the Nation owes a great debt to its senior citizens. They have worked hard all of their lives to help build the great country that we have. They in short have earned a decent retirement and it behoves Congress to pass this measure and send it to the President at the earliest possible date so that this anticipated and much needed additional income will reach the Nation's senior citizens.

Mr. CHURCH. Mr. President, for the 17 million persons 65 and over who now receive social security benefits, the proposed 10-percent increase will mean welcome relief. As chairman of the Senate Committee on Aging, I strongly support this long-overdue raise. Moreover, the retroactive date of this increase—to January 1—can provide further assistance for the aged in their desperate race with inflation. Especially significant is the substantial raise in minimum monthly benefits, from $64 to $100.

Welcome as these provisions are, we must remember that today's measure is a stopgap proposal. And we must not lose sight of the urgent need during this Congress for more fundamental reforms to improve our social security program. A few days ago, I outlined proposals for comprehensive social security and medicare revision. Mr. President, I ask unanimous consent that a description of these provisions be included at this point in the RECORD.

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

SUMMARY OF MAJOR PROVISIONS IN S. 923 (OMNIBUS SOCIAL SECURITY REFORM)

Benefit increases: 15 percent retroactive to January 1, 1971, and then another 15 percent raise in 1972.

Cost-of-living adjustments: Beginning in 1973, benefits would be adjusted automatically on an annual basis for each 3 percent in the cost-of-living.

Minimum benefits: $100 in 1971 for a single person, and then to $120 in 1972.

Widow's benefits: 100 percent at age 65.

Retirement test: Increases the annual earnings limitations for persons under 72 from $1,680 to $2,000.

Age 62 computation point for men: Average earnings for men would be determined over a period of years ending at age 62—the same as now exists for women.

Lump sum death payments: Now equal to 3 times the worker's benefit but not greater than $255. S. 923 would raise the $255 limit to $500.

Disabled child's benefits: Available for a disabled child of a worker, provided disability begins before age 22 rather than 18 as under existing law.

Liberalized disability requirements: S. 923 reduces the waiting period from 6 to 3 months. The requirement that the disability must be expected to last 12 months or result in death would be eliminated. Workers would qualify if unable to engage in substantial gainful activity (by reason of a medically determinable physical or mental impairment) in their regular work or in any other work in which they have engaged with some regularity in the recent past.

Part B (supplementary medical insurance premiums: S. 923 eliminates the premium charge for Part B and provides for financing both hospital and medical insurance programs through (1) contributions of employers and employees and (2) a matching contribution by the Federal Government. All moneys would go into a combined trust fund, which would pay the administrative expenses and benefits of both programs. Eligibility requirements for both programs would be identical to that under existing law for Part A.

Medicare for disabled: Extends Medicare coverage for disabled Social Security beneficiaries under age 65.

Drugs: Extends Medicare coverage for out-of-hospital prescription drugs. Covered drugs would be determined by the Secretary of HEW with the advice of an expert committee provided by the bill. Reimbursement would be made to providers of drugs on the basis of acquisition and dispensing allowances. Beneficiary would be required to make a $1 copayment per prescription or per refill.

General revenue financing: Provides for general revenue financing equaling specified percentages of payroll taxes and gradually increasing over a 10 year period to an amount

equal to approximately ⅓ the total cost of the program.

Mr. WILLIAMS. Mr. President, the Senate should act affirmatively today on the proposal to raise social security benefits by 10 percent, raise minimum benefits from $64 to $100, and increase earnings limitation to $2,400.

This action is vitally needed: one out of every four Americans of age 65 and over lives in poverty; approximately 3 million more live in near poverty; and many millions of others know too well what it means to skimp along without necessities in a nation undergoing inflation and recession at one and the same time.

In view of the overwhelming need for immediate relief, today's proposal deserves the support of the Senate.

But it should be recognized clearly for what it is: a holding action until more far-reaching reforms can be enacted on social security and medicare.

It should be remembered that the last congressional action on social security was a stopgap measure, too.

In December 1969, the Congress adopted a 15-percent social security increase to help protect the elderly from the ravages of inflation. But that raise was barely enough to keep pace with the 11-percent rise in the cost of living in 1968 and 1969. And during 1970, the elderly actually fell behind in their struggle with inflation, because the Consumer Price Index increased by nearly 6 percent.

The net impact of these statistics is that a piecemeal, stopgap measure is not the answer to the overall retirement-income crisis now threatening millions of older Americans. Adding a few dollars to social security every 2 or 3 years can provide temporary relief. But much more is needed if we are to come to grips with these major problems. Quite clearly far-reaching action on several fronts is urgently needed if we are to meet the short range and long-term income needs of the retirees of today—as well as those now approaching retirement.

Passage of this amendment, welcome as it is, does not, however, fulfill our mission for those living on limited, fixed incomes. Further major reforms must be acted upon during this Congress.

A few days ago, I sponsored an omnibus measure which would make far-reaching reforms in both the social security and medicare programs. For example, my bill would:

Raise benefits in two steps by 30 percent, 15 percent retroactive to January 1, and then another 15-percent increase in 1972;

Increase minimum monthly benefits also in two steps, to $100 this year and then to $120 in 1972;

Provide for automatic adjustments in social security benefits to protect the aged from inflation;

Establish an age-62 computation point for men, the same as now exists for women,

Provide full benefits for widows, instead of only 82½ percent;

Extend medicare coverage to disabled social security beneficiaries under 65 years of age;

Broaden medicare coverage to include out-of-hospital prescription drugs;

Eliminate the $5.30 monthly premium charge for the elderly for doctor's insurance under medicare; and

Provide for well-conceived and well-timed use of general revenues to finance a portion of the social security and medicare programs.

Mr. President, I again urge prompt and favorable action on these vitally needed improvements when the Senate acts on more comprehensive reform measures during this Congress. With adoption of these reforms, we can establish the broad foundation for a vastly improved social security and medicare system.

Mr. PROUTY. Mr. President, I want to join in strong support for the amendment proposed by the distinguished Senator from Louisiana (Mr. LONG). Millions of older Americans have been waiting far too long for their promised increase in social security benefits.

You will recall, Mr. President, that nearly a year ago the other body passed a social security bill. With the passage of that bill, the expectations of 22 million older Americans were raised. Unfortunately, we in the Senate, were unable to pass a social security bill until the final days of the 91st Congress. The result, Mr. President, was tremendous disappointment for our senior citizens.

Today, we are restoring faith in older Americans by promptly enacting this amendment. Now, I realize that the amendment before us is not as comprehensive as most of us would like. However, it does face up to the essential problems facing every older American; namely, the need for additional income.

Mr. President, last September I testified before the Senate Finance Committee in support of several amendments I had introduced to the social security bill which had passed the House. First, I asked that the minimum monthly social security payment be raised from $64 a month to $100 a month. The amendment before us contains my recommendation.

I sincerely hope, Mr. President, that my colleagues in this body will respond as they did last December and support the $100 minimum monthly payment for social security recipients. We all know, Mr. President, that social security represents the only source of income for most older Americans. We also know that older Americans can barely exist with $100 a month income to say nothing of the present minimum monthly social security payment of $64.

Between 7 and 8 million of our senior citizens will directly benefit by increasing the minimum monthly social security payment. Certainly they will not become affluent Americans because of the $100 monthly payment, but for many of them the hardship associated with abject poverty will become somewhat less.

Second, Mr. President, last September I urged the Senate Finance Committee to grant a 10-percent across-the-board increase rather than a 5-percent benefit increase which had been passed by the House. The amendment before us also incorporates that recommendation. Last December, my colleagues voted overwhelmingly for the 10-percent benefit increase and I sincerely hope they will again today.

Finally, Mr. President, the amendment before us deals with the retirement test or earnings limitation under the Social Security Act. Ever since 1953, I have been attempting to have the complete removal of the retirement earnings limitation from the Social Security Act. It perhaps made sense to have such a limitation in the depression year, 1935. It makes absolutely no sense in 1971. Older Americans who are physically able to work should be encouraged to do so, because of the great contributions they can make.

Now I realize, Mr. President, that it is difficult to generate support for the complete elimination of the earnings limitation. Therefore, since 1964, I have been arguing that at the very least an individual receiving social security should be permitted to earn $200 a month without losing his social security benefits. The amendment before us incorporates my recommendation that the earnings limitation be raised to $2,400.

Now, Mr. President, as I said, all of us realize there are many other important aspects of social security and medicare which deserve our prompt consideration. However, I believe the amendment we are now considering meets the most pressing problems facing older Americans.

The benefit increases provided under this amendment will be retroactive to January 1.

I want to congratulate the distinguished chairman of the Senate Finance Committee for taking this action and for his assurances that his committee will soon consider more comprehensive social security and medicare legislation.

Mr. PELL. Mr. President, although the past session of Congress was marked by a number of notable legislative achievements, it was also marked by one very ignoble failure—failure to complete action on the social security bill.

Nearly all of us have been hurt by the rampages of inflation in these past months, however, there are few of us who have carried the burden of inflation with such weight as our senior citizens have. They, more than any other group in our country, are hurt by inflation—the cruelest tax of all.

More than half of the income received by elderly people is fixed income, that is, it derives from retirement and welfare programs which do not, for the most part, adjust to inflation.

Over one-quarter of our senior citizens live on income below the official poverty line. Yet, older Americans have to spend proportionately more of their income on food, shelter, and medical care than do other elements of the population.

What, in effect, has been happening is that on the one hand our senior citizens are being squeezed by a loss of value in their fixed income because of inflation; and on the other hand, they are being pressured by an increased need for income to meet their requirments for food, shelter, and health services.

Mr. President, I think the time is long overdue for us to act to lessen the economic burdens of our senior citizens.

I believe the Senate should act now to

increase the level of social security benefits received by our senior citizens.

Moreover, I believe we should consider including as many other improvements in the social security program as might be considered legislatively feasible.

In the past sessions of Congress, I have introduced two measures designed to improve the operation of the social security program.

The first measure would increase the amount of money social security beneficiaries could earn and still receive full benefits from $1,680 to $2,400.

The second provision would link increases in social security benefits to the cost-of-living index compiled by the Bureau of Labor Statistics. If the Bureau's index reflected a 3-percent rise related to a stated base period then social security benefits would be adjusted upward by the same percentage. This provision would be made self-financing.

Mr. President, I would hope that similar provisions for cost-of-living adjustments and liberalization of the outside earnings limitation would be included in the legislation which the Senate might consider at this time to improve the social security program.

Basically similar provisions were included in the legislation which the Senate considered in this past session of Congress.

I believe the principles of such proposals have the support of the Senate.

Mr. President, if the Senate acts now to increase social security benefits, it will be the second time the Senate has passed such legislation.

I would urge our colleagues in the House of Representatives to act quickly without delay in support of our actions, and I would urge the President to act quickly to sign this legislation.

For every day we delay, there is another day in which our senior citizens are denied income which they so desperately need.

Therefore, Mr. President, I would hope that each element of the government here in Washington—the Senate, the House of Representatives, the President, and the Social Security Administration, would act now, in coordination with each other and within their own respective powers, to help our deserving senior citizens better bear the burdens of inflation.

Mr. MANSFIELD. Mr. President, pending before the Senate is an issue about which there can be no dispute. Providing a modest benefit increase for social security pensioners is a proposal that is not just overdue; it is delinquent beyond all justification. Indeed, this increase was overdue last December when the Senate passed social security increases essentially identical to those contained in the pending proposal. The vote then was 8 to 0. I would hope that the Senate's resolve on this issue could again be demonstrated just as resoundingly. Our elderly citizens deserve no less.

It should be noted that inflation has eaten up every penny and more of the last social security increase granted back in 1969. Ten percent beginning this year is thus a minimal and wholly justified increase. The sooner it becomes law together with a higher minimum payment, the better off will be those older Americans whose very survival depends upon this insurance program.

Expedition on this issue is imperative. To assist in this regard, the Majority Policy Committee undertook an examination of means by which an early scheduling date on social security could be reached. To that end, on February 2, it adopted a resolution providing in part, as follows:

Whereas, The adoption by early Spring of the social security measure itself is an objective of great urgency and of the highest priority to those relying upon these annuities, and

Whereas, the welfare reform, foreign trade and social security proposals each involve issues that compel their independent consideration from a procedural standpoint, and

Whereas, simultaneous consideration by the Senate of welfare reform, foreign trade and social security legislation as separate legislative measures would enhance the adoption of each of these measures, especially enhance the objective of early adoption of social securty legislation, be it therefore

Resolved, That the Senate Democratic Policy Committee suggests that the Committee on Finance report any recommendations on social security benefit increases, welfare reform and foreign trade as separate legislative measures.

The Policy Committee's action was unanimous in approving that resolution. Two of its members—the distinguished senior Senator from Georgia (Mr. TALMADGE) and the distinguished Senator from Arkansas (Mr. FULBRIGHT)—are members of the Committee on Finance. Senator TALMADGE and a third member of the Policy Committee, the assistant majority leader, the distinguished Senator from West Virginia (Mr. BYRD) were instructed by the Policy Committee to convey this action to the chairman of the Committee on Finance and attempt to work out a mutually agreeable format.

It should be said that the Policy Committee's involvement in this matter was undertaken only because the issue was of the highest national importance. It was undertaken without regard to partisanship in any shape or form. It was undertaken with the hope of achieving an early scheduling date for social security. It was undertaken unanimously and solely in the interest of gaining for our elderly citizens what is only theirs by right.

I commend the chairman of the Committee on Finance for offering this amendment. It demonstrates once again that he is unexcelled in this body in his concern for the aged, for the sick, for the old and the infirm.

I urge the adoption of the amendment.

INCREASES OF PUBLIC DEBT LIMIT—AMENDMENTS

AMENDMENTS NOS. 19, 20, AND 21

Mr. HUMPHREY. Mr. President, the Senate today is considering increases in some of the social security benefits that mean so much to the elderly, the disabled and handicapped, the dependent, and others. For many of these Americans, social security stands between them and destitution or welfare.

I support these immediate increases. Their passage is overdue. Further delay cannot be permitted on the passage of these significant portions of what must be eventual and substantial increases of all benefits across the board.

Many social security beneficiaries have only their payments between themselves and destitution or welfare. Their resources are of the most meager. Making increases in payments retroactive is necessary but what this has forced many of our most needy to do is save from income that was badly needed to maintain their previous slim buying power.

Erosion, by inflation, of one's income, when it is around $80 or $90 per month, literally can be disastrous. This means at an inflation rate of approximately 6 percent, the minimum beneficiary is losing approximately 10 percent of his income every year. While the dollar loss may seem slight to more prosperous Americans, that $9 or $10 loss per month can mean only one nearly adequate meal every day, instead of one and a half. It can mean no busfare to visit family or friends or even go to Church on Sunday.

So, Mr. President, what we are talking about here today is subsistence. It may, indeed, be all that some receive from all sources, but it remains subsistence.

I wish, however, to underline my concern for the stopgap measures that the Congress has been passing for years. This is not to be considered as criticism of the Senate and House. What has happened is that Congress enacts benefit increases, extends eligibility and lowers income limitations. But by the time we pass the legislation and it is implemented, inflation has already robbed those beneficiaries of increases we hoped to add to their purchasing power.

For these reasons, Mr. President, I have submitted today three amendments. They are uncomplicated in their purpose and uncomplicated in their motivation. The Congress must increase benefits significantly, retroactive to the first of this calendar year, and include a minimum payment. We must tie increases in benefits to increases in the cost of living, though this should not preclude the Congress from increases to basic benefits based on other considerations such as tax base increases, increases in payment percentages or simply upgrading the quality of social security living.

Lastly, we must permit beneficiaries to earn more to supplement their total incomes.

My first amendment would increase basic benefits by 12 percent, retroactive to January 1, 1971. It also provides for a minimum payment of $100. We have waited far too long to provide this most basic level of subsistence. We are doing it 20 years after it was first responsibly proposed.

My second amendment ties future increases in benefits to increases in the cost of living. However, this should not make this form of increase the sole means of upgrading the system. Tieing all increases to the cost of living provides no increase at all. There is no room for increasing the quality of life for those living from their social security benefits.

My third amendment would increase the amount of earnings permitted to be retained without penalty, from $1,680 to

$2,800. The arguments for this amendment are increasingly sound as the philosophy that social security is a pension plan for all Americans rather than a poverty program that Americans pay for before they become poor. Social security benefits are something we are paying for. They are a right and should be treated as such. Arguments about the actuarial soundness of the system make no sense, when we realize that every earning generation is paying for the benefits of those that have preceded them. America will not cease tomorrow. Social security will continue to grow and be sound as America will continue to grow.

Mr. President, I have long advocated the type of reforms and increases I have proposed today. I urge the Senate to give them careful consideration. I have long listened to the arguments pro and con on every amendment that has ever been offered on social security. I was here when it was a newly born. We must now help it to a maturity that is a measure of our own concern and maturity as a Nation—a Nation dedicated to a life of quality for all Americans. I realize that some of these amendments will not under the unanimous consent agreement be acted on today. It is imperative that we act promptly to pass the Long amendment. This is sorely needed. Much of what I propose is covered in part by the Long amendment. I support this constructive proposal, but at a later date I shall seek to amend the Social Security Act to include my proposals.

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

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

AMENDMENT NO. 19

At the appropriate place in the bill, insert the following new section:

12-PERCENT INCREASE IN SOCIAL SECURITY BENEFITS WITH A MINIMUM BENEFIT OF $100

SEC. —. (a) (1) Section 215(a) of the Social Security Act is amended by striking out the table and inserting in lieu thereof the following:

"I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount under 1969 Act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
----------	$20.40	1 $89.20	----------	$109	$100.00	$150.00
$26.41	26.94	90.60	$110	113	101.50	152.80
26.95	27.46	91.90	114	118	103.00	154.50
27.47	28.00	93.30	119	122	104.50	156.80
28.01	28.68	94.70	123	127	106.10	159.20
28.69	29.25	96.20	128	132	107.80	161.70
29.26	29.68	97.50	133	136	109.20	163.80
29.69	30.36	98.80	137	141	110.70	166.10
30.37	30.92	100.30	142	146	112.40	168.60
30.93	31.36	101.70	147	150	113.90	170.00
31.37	32.00	103.00	151	155	115.40	173.10
32.01	32.60	104.50	156	160	117.10	175.70
32.61	33.20	105.80	161	164	118.50	177.80
33.21	33.88	107.20	165	169	120.10	180.20
33.89	34.50	108.60	170	174	121.70	182.60
34.51	35.00	110.00	175	178	123.20	184.80
35.01	35.80	111.40	179	183	124.80	187.20
35.81	36.40	112.70	184	188	126.30	189.50
36.41	37.08	114.20	189	193	127.90	191.90
37.09	37.60	115.60	194	197	129.50	194.30
37.61	38.20	116.90	198	202	131.00	196.50
38.21	39.12	118.40	203	207	132.70	199.10
39.13	39.68	119.80	208	211	134.20	201.30
39.60	40.33	121.00	212	216	135.60	203.40
40.34	41.12	122.50	217	221	137.20	205.80
41.13	41.76	123.90	222	225	138.80	208.20
41.77	42.44	125.30	226	230	140.40	210.60
42.45	43.20	126.70	231	235	141.90	212.90
43.21	43.76	128.20	236	230	143.60	215.40
43.77	44.44	129.50	240	244	145.10	217.70
44.45	44.88	130.80	245	249	146.50	219.80
44.80	45.60	132.30	250	253	148.20	222.30
		133.70	254	258	149.80	224.70
		134.90	259	263	151.10	226.70
		136.40	264	267	152.80	229.20
		137.80	268	272	154.40	231.60
		139.20	273	277	155.90	233.90
		140.60	278	281	157.50	236.30
		142.00	282	286	159.10	238.70
		143.50	287	291	160.80	241.20
		144.70	292	295	162.10	243.20
		146.20	296	300	163.80	245.70
		147.60	301	305	165.40	248.10
		148.90	306	309	166.80	250.20
		150.40	310	314	168.50	252.80
		151.70	315	319	169.90	255.20
		153.00	320	323	171.40	258.40
		154.50	324	328	173.10	262.40
		155.90	329	333	174.70	266.40
		157.40	334	337	176.30	269.60
		158.60	338	342	177.70	273.60
		160.00	343	347	179.20	277.60
		161.50	348	351	180.90	280.80
		162.80	352	356	182.40	281.80
		161.30	357	361	184.10	288.80
		165.60	362	365	185.50	292.00
		166.90	366	370	187.00	296.00
		168.40	371	375	188.70	300.00
		169.80	376	379	190.20	303.20
		171.30	380	384	191.90	307.20
		172.50	385	389	193.20	311.20
		173.90	390	393	194.80	314.40
		175.40	394	398	196.50	318.40

"I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount under 1969 Act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$176.70	$399	$403	$197.90	$322.40
		178.20	404	407	199.60	325.60
		179.40	408	412	201.00	329.60
		180.70	413	417	202.40	333.60
		182.00	418	421	203.90	336.80
		183.40	422	426	205.50	340.80
		184.60	427	431	206.80	344.80
		185.90	432	436	208.30	348.80
		187.30	437	440	209.80	350.40
		188.50	441	445	211.20	352.40
		189.80	446	450	212.60	354.40
		191.20	451	454	214.20	356.00
		192.40	455	459	215.50	358.00
		193.70	460	464	217.00	360.00
		195.00	465	468	218.40	361.60
		196.40	469	473	220.00	363.60
		197.60	474	478	221.40	365.60
		198.90	479	482	222.80	367.20
		200.30	483	487	224.40	369.20
		201.50	488	492	225.70	371.20
		202.80	493	496	227.20	372.80
		204.20	497	501	228.70	374.80
		205.40	502	506	230.10	376.80
		206.70	507	510	231.50	378.40
		208.00	511	515	233.00	380.40
		209.30	516	520	234.50	382.40
		210.60	521	524	235.90	384.00
		211.90	525	529	237.40	386.00
		213.30	530	534	238.90	388.00
		214.50	535	538	240.30	389.60
		215.80	539	543	241.70	391.60
		217.20	544	548	243.30	393.60
		218.40	549	553	244.70	395.60
		219.70	554	556	246.10	396.80
		220.80	557	560	247.30	398.40
		222.00	561	563	248.70	399.60
		223.10	564	567	249.90	401.20
		224.30	568	570	251.30	402.40
		225.40	571	574	252.50	404.00
		226.60	575	577	253.80	405.20
		227.70	578	581	255.10	406.80
		228.90	582	584	256.40	408.00
		230.00	585	588	257.60	409.60
		231.20	589	591	259.00	410.80
		232.30	592	595	260.20	412.40
		233.50	596	598	261.60	413.60
		234.60	599	602	262.80	415.20
		235.80	603	605	264.10	416.40
		236.90	606	609	265.40	418.00
		238.10	610	612	266.70	419.20
		239.20	613	616	267.90	420.80
		240.40	617	620	269.30	422.40
		241.50	621	623	270.50	423.60
		242.70	624	627	271.90	425.60
		243.80	628	730	273.10	426.40
		245.00	631	634	274.40	438.00
		246.10	635	637	275.70	429.20
		247.30	638	641	277.00	430.80
		248.40	642	644	278.30	432.00
		249.60	615	648	279.60	433.60
		250.70	619	650	280.80	435.20".

(2) Section 203(a) of such Act is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) when two or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for the fourth month after the month in which the Social Security Amendments of 1971 were enacted on the basis of the wages and self-employment income of such insured individual and at least one such person was so entitled for the month prior to such fourth month on the basis of such wages and self-employment income, such total of benefits for January 1971 or any subsequent month shall not be reduced to less than the larger of—

"(A) the amount determined under this subsection without regard to this paragraph, or

"(B) an amount equal to the sum of the amounts derived by multiplying the benefit amount determined under this title (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), as in effect prior to the enactment of the Social Security Amendments of 1971, for each such person for such month, by 112 percent and raising each such increased amount, if it is not a multiple of $0.10, to the next higher multiple of $0.10;

but in any such case (i) paragraph (1) of this subsection shall not be applied to such total of benefits after the application of subparagraph (B), and (ii) if section 202(k)(2)(A) was applicable in the case of any such benefits for January 1971, and ceases to apply after such month, the provisions of subparagraph (B) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though paragraph (1) had not been applicable to such total of benefits for January 1971, or".

(3) Section 215(b)(4) of such Act is amended by striking out "December 1969" each time it appears and inserting in lieu thereof "December 1970".

(4) Section 215(c) of such Act is amended to read as follows:

"PRIMARY INSURANCE AMOUNT UNDER 1969 ACT

"(c)(1) For the purposes of column II of the table appearing in subsection (a) of this section, an individual's primary insurance amount shall be computed on the basis of the law in effect prior to the enactment of the Social Security Amendments of 1971.

"(2) The provisions of this subsection shall be applicable only in the case of an individual who became entitled to benefits under section 202(a) or section 223 before January 1971, or who died before such month."

(5) The amendments made by this subsection shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1970 and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1970.

(f) If an individual was entitled to a disability insurance benefit under section 223 of the Social Security Act for December 1970 and became entitled to old-age insurance benefits under section 202(a) of such Act for January 1971, or he died in such month, then, for purposes of section 215(a)(4) of the Social Security Act (if applicable), the amount in column IV of the table appearing in such section 215(a) for such individual shall be the amount in such column on the line on which in column II appears his primary insurance amount (as determined under section 215(c) of such Act) instead of the amount in column IV equal to the primary insurance amount on which his disability insurance benefit is based.

(b)(1)(A) Section 227(a) of the Social Security Act is amended by striking out "$46" and inserting in lieu thereof "$51.52", and by striking out "$23" and inserting in lieu thereof "$25.76".

(B) Section 227(b) of such Act is amended by striking out "$46" and inserting in lieu thereof "$51.52".

(2)(A) Section 228(b)(1) of such Act is amended by striking out "$46" and inserting in lieu thereof "$51.52".

(B) Section 228(b)(2) of such Act is amended by striking out "$46" and inserting in lieu thereof "$51.52", and by striking out "$23" and inserting in lieu thereof "$25.76".

(C) Section 228(c)(2) of such Act is amended by striking out "$23" and inserting in lieu thereof "$25.76".

(D) Section 228(c)(3)(A) of such Act is amended by striking out "$46" and inserting in lieu thereof "$51.52".

(E) Section 228(c)(3)(B) of such Act is amended by striking out "$23" and inserting in lieu thereof "$25.76".

(3) The amendments made by paragraphs (1) and (2) shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1970.

(c) Prior to January 1, 1972, the Secretary of Health, Education, and Welfare shall make such revisions as may be necessary in the table which appears in section 215(a) of the Social Security Act so as to provide to individuals receiving benefits determined on the basis of such table a 6-percent increase effective with respect to months beginning after December 1971. Any provision of the Social Security Act making reference to such table or any figure contained therein shall be deemed to refer to such table (or the corresponding in such table, as the case may be) as revised by the Secretary pursuant to this subsection.

(d) This section may be cited as the "Social Security Amendments of 1971".

AMENDMENT NO. 20

At the appropriate place in the bill, insert the following new section:

COST-OF-LIVING INCREASE IN SOCIAL SECURITY BENEFITS

SEC. —. Section 202 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"COST-OF-LIVING INCREASE IN BENEFITS

"(w)(1) For purposes of this subsection—

"(A) the term 'price index' means the annual average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1965.

"(2) As soon after January 1, 1972, and as soon after January 1 of each succeeding year as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary shall determine the per centum of increase (if any) in the price index for the calendar year ending with the close of the preceding December over the price index for the base period. For each full 3 per centum of increase occurring in the price index for the latest calendar year with respect to which a determination is made in accordance with this paragraph over the price index for the base period, there shall be made, in accordance with the succeeding provisions of this subsection, an increase of 3 per centum in the monthly insurance benefits payable under this title.

"(3) Increases in such insurance benefits shall be effective for benefits payable with respect to months in the one-year period commencing with April of the year in which the most recent determination pursuant to paragraph (2) is made and ending with the close of the following March.

"(4) In determining the amount of any individual's monthly insurance benefit for purposes of applying the provisions of section 203(a) (relating to reductions of benefits when necessary to prevent certain maximum benefits from being exceeded), amounts payable by reason of this subsection shall not be regarded as part of the monthly benefit of such individual.

"(5) Any increase to be made in the monthly benefits payable to or with respect to any individual shall be applied after all other provisions of this title relating to the amount of such benefit have been applied. If the amount of any increase payable by reason of the provisions of this subsection is not a multiple of $0.10, it shall be reduced to the next lower multiple of $0.10."

AMENDMENT NO. 21

At the appropriate place in the bill, insert the following new section:

INCREASE IN AMOUNT OF OUTSIDE EARNINGS PERMITTED WITHOUT LOSS OF SOCIAL SECURITY BENEFITS

SEC. —. (a) Paragraphs (1), (3), and (4)(B) of subsection (f) of section 203 of the Social Security Act are each amended by striking out "$140" wherever it appears therein and inserting in lieu thereof "$233.33⅓".

(b) Paragraph (1)(A) of subsection (h) of section 203 of such Act is amended by striking out "$140" and inserting in lieu thereof "$233.33⅓".

(c) The amendments made by this section shall be effective with respect to taxable years beginning after December 31, 1970.

Mr. BYRD of West Virginia. Mr. President, I commend the distinguished Senator from Louisiana (Mr. LONG) for the outstanding work he and the members of his committee have done on the social security amendments now before us.

I am especially pleased that the Finance Committee recommendations include the proposal by the majority leaders and myself to raise from $64 to $100 the minimum monthly social security payment. This increase in the minimum monthly benefit is an essential step in making an across-the-board rise in benefits meaningful to those at the bottom of the social security ladder.

The 26 million Americans on social security including 300,000 West Virginians, are the citizens hardest hit by spiraling inflation. These are fixed-income Americans, who find their monthly social security checks remaining the same, while the cost of essential items rises.

An across-the-board increase of 10 percent will provide little comfort if tacked onto a minimum monthly payment of only $64. A $100 basic minimum, although modest to say the least, will better enable social security recipients to meet the increasing cost of living.

Mr. President, if this $100 minimum is finally enacted into law, about 7.5 million Americans will benefit; and the initial increase in benefits would be over $2 billion. In my home State of West Virginia, over 70,000 recipients would benefit from a $19 million increase the first year.

Again, I commend the Finance Committee, and its very capable chairman (Mr. LONG), for moving swiftly and thoroughly to fill a very real need of an important segment of our population.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LONG. Mr. President, I should like to direct an inquiry to the manager of time in opposition to the amendment. I believe that there is a desire to have a rollcall vote on this amendment, and I do not detect at this moment that there are sufficient Senators in the Chamber to order the yeas and the nays. So I will suggest the absence of a quorum in a few moments for that purpose.

Prior to that, however, I should like to suggest that we yield back the remainder of the time, so that Senators will know that there will be a vote when they come to the Chamber, in order to expedite the proceedings.

Mr. GRIFFIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. On the amendment there are 7 minutes, and it is controlled by the opposition.

Mr. GRIFFIN. I wonder whether I could suggest to the chairman—I do not know that it would be used, but even if it were used, it would be a very brief period of time—if someone wanted to speak on it, we might hold that in reserve.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. GRIFFIN. 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. 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 Missouri (Mr. EAGLETON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

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

I further announce that, if present and voting, the Senator from Missouri (Mr. EAGLETON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mr. JORDAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Maine (Mr. MUSKIE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. SAXBE), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) ar necessarily absent.

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

If present and voting, the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from South Dakota (Mr. MUNDT), the Senator from Ohio (Mr. SAXBE), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 82, nays 0, as follows:

[No. 20 Leg.]

YEAS—82

Aiken	Ellender	Moss
Allen	Ervin	Nelson
Allott	Fannin	Pastore
Anderson	Fong	Pearson
Baker	Fulbright	Pell
Bayh	Goldwater	Percy
Beall	Griffin	Prouty
Bennett	Gurney	Proxmire
Bentsen	Hansen	Randolph
Bible	Hart	Ribicoff
Boggs	Hatfield	Roth
Brock	Hollings	Schweiker
Brooke	Hruska	Scott
Burdick	Hughes	Smith
Byrd, Va.	Humphrey	Sparkman
Byrd, W. Va.	Jackson	Spong
Cannon	Javits	Stennis
Case	Jordan, Idaho	Stevenson
Chiles	Long	Symington
Church	Magnuson	Taft
Cook	Mansfield	Talmadge
Cooper	Mathias	Thurmond
Cotton	McGee	Tunney
Cranston	McGovern	Weicker
Curtis	McIntyre	Williams
Dole	Metcalf	Young
Dominick	Miller	
Eastland	Mondale	

NAYS—0

NOT VOTING—18

Bellmon	Hartke	Mundt
Buckley	Inouye	Muskie
Eagleton	Jordan, N.C.	Packwood
Gambrell	Kennedy	Saxbe
Gravel	McClellan	Stevens
Harris	Montoya	Tower

So Mr. LONG's amendment was agreed to.

Mr. PEARSON. Mr. President, I am pleased to see this action taken by the Senate today—adding the essentials of the social security bill, as passed by the Senate late in the 91st Congress, to the debt limit increase.

As I have said many times in the past, it is those on fixed incomes which have been hurt most by inflation.

It is my understanding that early House action will be taken on this measure and that within a very few months, the social security checks will reflect these increases which are retroactive to January 1, 1971;

First, a 10-percent across-the-board increase in benefits;

Second, an increase in the minimum monthly benefit to $100 per month;

Third, a 10-percent increase in the special cash payments made to people age 72 or older; and

Fourth, liberalization of the earnings test from $1,680 to $2,400 with a loss of $1 of benefits for every $2 earned over that amount.

I was pleased to support this amendment and commend the efforts of the Finance Committee in attaching it to the debt limit bill.

It is also my understanding that the tax base will be raised from $7,800 to $9,000 per year, effective January 1, 1972, by this amendment.

RAISING SOCIAL SECURITY PAYMENTS—ONLY A BEGINNING

Mr. McINTYRE. Mr. President, I have voted for the amendment calling for a 10-percent increase in social security payments. I want to emphasize immediately, however, that I am taking this action only with the understanding that this is an interim measure designed to bring immediate relief to our senior citizens who have borne the full brunt of our current economic difficulties.

I do not want my vote to indicate that I believe a 10-percent increase in social security benefits is adequate because I do not think that it is. Nor do I believe that a raise in the minimum monthly payments to $100 which the amendment calls for is entirely acceptable in view of the fact that the current poverty level for a single person is $150 a month.

I am sure all of you are aware of my own personal views in this regard. On February 23, I introduced a bill in the Senate which would assure that no one on social security will be forced to live on an income which is less than what is considered to be the minimum above poverty; namely, $1,800 a year for an individual; $2,400 a year for two persons; and $3,000 a year for three or more persons. I hope that adequate consideration can be given this proposal because I believe we have to come to terms with the fact that out of all the groups in our society, only among our senior citizens has the number of persons living on poverty risen.

I personally am committed to the concept of guaranteeing a certain level of income to our senior citizens—if not through social security then through some other means. I recommended the social security approach in my bill because I felt that it was the fastest way to improve the income situation of our elderly.

But I realize that our senior citizens cannot afford to wait while we debate the merits of various approaches to meeting their needs. They are faced with

the hard, cold reality of trying to make ends meet on incomes in some cases as low as $64 a month. In view of this, I feel an overwhelming sense of responsibility to do my part to see that we increase social security benefits as soon as possible. This is why I have voted today to raise the minimum monthly payment to $100.

I also believe the amendment contains a number of other important provisions and reforms which are long overdue. One of these is a change in the income limitation which so many senior citizens view as a real curtailment on their desire to seek outside employment in order to supplement inadequate income. I think it is unfortunate that the present law only allows a person on social security to earn $1,680 without suffering a loss in social security payments. We have only to reflect momentarily to realize that a job paying $1,680 a year is hardly worth the effort. The amendment before us raises the income limitation to the more reasonable level of $2,400 a year. I have voted for this provision, although I am convinced that we should go farther in liberalizing the retirement test or in some way modifying it to permit our senior citizens to earn an income comparable to what they were used to before retirement.

Frankly, I must reveal my personal disappointment that the bill which cleared the Senate last December did not reach final passage. Since that time, I have received hundreds of letters from senior citizens in New Hampshire indicating how much they had counted on these increases. I do not believe we can ignore their plight any longer. Although I feel that what this amendment calls for is only the bare minimum that is acceptable, I have decided to vote for it because I feel that immediate action is required. I am confident the House will also agree to these provisions and, therefore, we can be assured of enacting a bill before the month is out.

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

Mr. ALLEN. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 1, line 5, strike "$400,—" and insert in lieu thereof "$385,—".

On page 1, line 11, strike "$30,000,000,000." and insert in lieu thereof "$25,000,000,000."

The PRESIDING OFFICER. How much time does the Senator from Alabama yield himself?

Mr. ALLEN. Mr. President, I yield my self 10 minutes.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, the amendment which has just been stated by the clerk provides for reducing the requested raise in the debt ceiling from $35 billion to a raise of $25 billion. It is accomplished by reducing the amount of the permanent debt ceiling request by $5 billion and the temporary ceiling request by $5 billion. Technically it would amount to two separate amendments. Therefore, I ask unanimous consent that the amendments may be considered en bloc.

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

Mr. ALLEN. Mr. President, 2 years ago, the debt ceiling was raised by $12 billion. Last year it was raised by $18 billion. Now, the administration asks that it be raised an additional $35 billion.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. ALLEN. I yield to the distinguished Senator from Georgia.

Mr. TALMADGE. The administration had requested it be raised by $40 billion. The Ways and Means Committee cut the $40 billion to $35 billion, and the Committee on Finance went along with the $35 billion figure.

Mr. ALLEN. I thank the distinguished Senator from Georgia for making this observation. The administration did, in fact, ask for a $40 billion increase and the House cut it to $35 billion. It comes to us from the Committee on Finance at $35 billion. That, too, is too high.

We hear the amount of the deficit for the fiscal year estimated by the administration at $18 billion. The projected deficit for the next fiscal year starting July 1 of this year, according to the administration, I believe, is $11.6 billion.

Mr. President, that is the deficit in the unified budget which includes trust funds, such as the social security, where much more money is taken in than is paid out, and the highway trust fund where much more money is taken in than is paid out.

The true figures each year can be obtained by observing how much the administration requests that the debt ceiling be raised. Those figures are startling, because the deficit in Federal funds for the current fiscal year ending July 1 of this year, leaving out the trust fund, is estimated by the administration at the staggering sum of $25.5 billion instead of $18 billion under the unified budget. The deficit estimated in Federal funds in the next fiscal year is at $23.1 billion so that the administration, by its own figures, is showing that the deficit in Federal funds for this 2-year period will be almost $50 billion. Actually, it is $48.6 billion.

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

Mr. ALLEN. I yield to the distinguished Senator from Georgia.

Mr. TALMADGE. Mr. President, the expert professionals that we have on the Joint Committee on Internal Revenue, who have had a much higher batting average on estimates than has the Treasury Department, think that the Treasury Department has overestimated the income for the fiscal year by some $6 billion; so one can add that figure to what the estimate is, also; and then, of course, if Congress makes appropriations over and beyond what the administration has recommended the deficit would still be further increased.

I think in fiscal year 1972 we are looking toward a minimum deficit of $30 billion and probably as high as $35 billion.

Mr. ALLEN. I thank the Senator for this analysis, and for his conclusion.

Mr. President, I ask unanimous consent that tables 1 through 6 appearing in the committee report be printed at this point in the RECORD.

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

TABLE 1.—STATUTORY DEBT LIMITATIONS, FISCAL YEARS 1941 TO DATE, AND PROPOSED LIMITATION FOR THE FISCAL YEARS 1971 AND 1972

[In billions]

Fiscal year	Statutory debt limitation: Permanent	Temporary additional	Total
1941 through Feb. 18	$49	----	$49
1941: Feb. 19 through June 30	65	----	65
1942 through Mar. 27	65	----	65
1942: Mar. 28 through June 30	125	----	125
1943 through Apr. 10	125	----	125
1943: Apr. 11 through June 30	210	----	210
1944 through June 8	210	----	210
1944: June 9 through June 30	260	----	260
1945 through Apr. 2	260	----	260
1945: Apr. 3 through June 30	300	----	300
1946 through June 25	300	----	300
1946: June 26 through June 30	275	----	275
1947–54	275	----	275
1955 through Aug. 27	275	----	275
1955: Aug. 28 through June 30	275	$6	281
1956	275	6	281
1957	275	3	278
1958 through Feb. 25	275	----	275
1958: Feb. 26 through June 30	275	5	280
1959 through Sept. 1	275	5	280
1959: Sept. 2 through June 29	283	5	288
1959: June 30		5	290
1960	285	10	295
1961	285	8	293
1962 through Mar. 12	285	13	298
1962: Mar. 13 through June 30	285	15	300
1963 through Mar. 31	285	23	308
1963: Apr. 1 through May 28	285	20	305
1963: May 29 through June 30	85	22	307
1964 through Nov. 30	285	24	309
1964: Dec. 1 through June 28	285	30	315
1964: June 29 and 30	285	39	324
1965	285	39	324
1966	285	43	328
1967 through Mar. 1	285	45	330
1967: Mar. 2 through June 30	285	51	336
1968 [1]	358	----	358
1969 through Apr. 6 [1]	358	7	365
1969 after Apr. 6 [1]	358	----	358
1970 through June 30 [1]	365	12	377
1971 through June 30 [1]	380	15	395
Later years	380	----	380
Proposed:			
From enactment through June 30, 1972 [1]	400	30	430
After June 30, 1972 [1]	400	----	400

[1] Includes FNMA participation certificates issued in fiscal year 1968.

TABLE 2.—FEDERAL FUNDS RECEIPTS AND EXPENDITURES, FISCAL YEAR 1970 ACTUAL AND FISCAL YEARS 1971 AND 1972 ESTIMATES[1]

[In billions of dollars]

	1970 actual	1971 budget estimates [2]	1972 budget estimates [2]
Excluding proposed legislation:			
Receipts	143.2	139.1	153.6
Expenditures	156.3	164.7	176.9
Deficit (—)	—13.1	—25.5	—23.3
Including proposed legislation:			
Receipts	143.2	139.1	153.7
Expenditures	156.3	164.7	176.9
Deficit (—)	—13.1	—25.5	—23.1

[1] Details may not add due to rounding.

[2] As indicated in the budget document for fiscal year 1972 and adjusted for the intragovernmental transactions.

TABLE 3.—UNIFIED BUDGET RECEIPTS AND EXPENDITURES FISCAL YEAR 1970 ACTUAL, AND FISCAL YEARS 1971 AND 1972 ESTIMATES [1]

[In billions of dollars]

	1970 actual	1971 budget estimates [2]	1972 budget estimates [2]
Excluding proposed legislation:			
Receipts	193.7	194.0	214.6
Expenditures	196.6	212.8	229.2
Deficit (−)	−2.8	−18.7	−14.7
Including proposed legislation:			
Receipts	193.7	194.2	217.6
Expenditures	196.6	212.8	229.2
Deficit (−)	−2.8	−18.6	−11.6

[1] Details may not add due to rounding.
[2] As indicated in the budget document for fiscal year 1972.

TABLE 4. UNIFIED BUDGET AND FEDERAL FUNDS AND TRUST FUNDS ESTIMATED RECEIPTS FOR FISCAL YEARS 1971 AND 1972 INCLUDING PROPOSED LEGISLATION [1]

[In millions of dollars]

	Estimates			
	1971		1972	
	Budget [2]	Staff [3]	Budget [2]	Staff [3]
Federal funds:				
Individual income taxes	88,300	88,200	93,700	92,300
Corporation income taxes	30,100	29,500	36,700	32,800
Excise taxes	10,650	10,700	11,115	11,165
Estate and gift taxes	3,730	3,700	5,300	5,300
Customs	2,490	2,500	2,700	2,600
Miscellaneous receipts	3,778	3,678	4,114	4,008
Total	139,048	138,278	153,629	148,173
Trust funds:				
Social insurance taxes and contributions	48,973	49,070	57,559	57,056
Excise taxes	6,150	5,900	6,385	6,273
Miscellaneous receipts	22	22	20	20
Total	55,145	54,992	63,964	63,349

[1] Receipts from the public only; intragovernmental transfers not included.
[2] As shown in the budget document for fiscal year 1972.
[3] Staff of the Joint Committee on Internal Revenue Taxation.

TABLE 5.—ESTIMATES OF PROPOSED REVENUE LEGISLATION, FISCAL YEARS 1971 AND 9172

[In millions of dollars]

Proposal	Budget revenue estimates [1]
Fiscal year 1971:	
Increase in social security wage base and railroad retirement	170
Airway user taxes	6
Total, 1971	176
Fiscal year 1972:	
Increase in social security wage base and railroad retirement	2,856
DISC	−200
Extension of interest equalization tax	85
Airway user taxes	53
Retirement of old currency, etc	228
Total, 1972	3,022

[1] As indicated in the budget document for fiscal year 1972.

TABLE 6. ESTIMATED DEBT SUBJECT TO LIMIT, FISCAL YEARS 1971 AND 1972

[In billions of dollars]

	Debt with $6.0 cash balance	With $3.0 margin for contingencies
1971		
Mar. 15	397.3	
Mar. 31	395.3	
Apr. 15	400.8	
Apr. 30	392.0	
May 17	397.3	
May 31	399.4	
June 15	404.7	
June 30	396.5	
June 30	396.5	399.5
July 15	403.1	406.1
July 30	403.9	406.9
Aug. 16	409.3	412.3
Aug. 31	409.4	412.4
Sept. 15	413.0	416.0
Sept. 30	405.3	408.3
Oct. 15	410.8	413.8
Oct. 29	409.1	412.1
Nov. 15	413.0	416.0
Nov. 30	413.7	416.7
Dec. 15	418.4	421.4
Dec. 31	416.1	419.1
1972		
Jan. 17	422.5	425.5
Jan. 31	414.6	417.6
Feb. 15	418.8	421.8
Feb. 29	419.4	422.4
Mar. 15	426.0	429.0
Mar. 31	423.8	426.8
Apr 17	429.7	432.7
Apr. 28	419.1	322.1
May 15	424.6	427.6
May 31	425.9	428.9
June 15	430.6	433.6
June 30	420.0	423.0

Source: Treasury Department.

Mr. ALLEN. Mr. President, is an increase in the debt limit to $430 billion, as provided by the bill before us, necessary? Let us examine the figures as shown by the committee report showing that at the end of this fiscal year, through June 30 this year, the Treasury, with a $6 billion cash balance on hand and with a $3 billion margin for contingencies. The total debt will be $399.5 billion, or approximately $400 billion.

Why, then, raise the debt ceiling to $430 billion? Going into the next fiscal year the debt, as shown by the administration, will be less than $400 billion, with a $9 billion fund in cash balances and contingencies.

Why raise the debt ceiling to $430 billion? It is not necessary. What will be the effect of setting the debt limit at $420 billion? It would serve notice on the administration that we do not want to continue to resort to deficit spending, that programs must be cut back, and that we do not approve of the budget of $229 billion that is being submitted.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. ALLEN. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. ERVIN. Mr. President, will the Senator yield to me at that point to permit the Senator from North Carolina to answer the question as to why the administration wants a higher debt limit?

Mr. ALLEN. I yield to the Senator from North Carolina.

Mr. ERVIN. The Senator from North Carolina submits that the administration wants a higher springboard so it can dive deeper into the sea of fiscal irresponsibility.

Mr. ALLEN. I appreciate that reasoning and the statement of the Senator from North Carolina.

Mr. President, the amendment at the desk that we will vote on shortly would still provide for increasing the ceiling on the national debt by the stupendous sum of $25 billion. The administration has said that is not enough. I submit that the time has come when we will have to call some sort of halt to the fiscal irresponsibility evidenced by this request for a $35 billion increase in the debt ceiling.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President——

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Who is in charge of the time in opposition?

Mr. BYRD of West Virginia. Mr. President, does the Senator wish to have time yielded in opposition?

Mr. BENNETT. Yes; I would like to have 10 minutes.

Mr. BYRD of West Virginia. Mr. President, in the absence of the able manager of the bill, I yield 10 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, the kind of argument we have heard is made every time we face the responsibility of handling the problem created by the existence of the debt ceiling. Just for the record, the Treasury felt that it needed a $40 billion increase in the debt limit to carry the responsibility that is loaded onto it by this Congress. The House cut that back $10 billion. This amendment would cut it back $5 billion.

Mr. ALLEN. The other way around.

Mr. BENNETT. I am sorry. I have the figures, but not in the right order. The House cut it back $5 billion. This amendment cuts it back an additional $10 billion, for a total cut of $15 billion.

There are two things interesting about this. In the first place, as a Republican, we see the sides change on this argument. In the past on occasion the Republicans made the argument against an increase in the limit when the Democratic Secretaries of the Treasury asked for the necessary increase in the debt ceiling. Now the Democrats are making the argument against a Secretary when we have a Republican administration.

The second fact I would like to point out is that the debt ceiling is not, has never been, and will never be an effective deterrent to spending. Spending grows out of the appropriations made by the Congress not debt limitations or the absence of debt limitations.

When we bump up against the debt ceiling we approach the time when the Secretary of the Treasury, who has nothing to do with the appropriations, can no longer pay the bills of the U.S. Government. And this Government can never

allow the day to come when the check of the Secretary of the Treasury is not good, when the Government cannot pay the salaries of its employees, or cannot pay the bills which have been authorized by the Congress and properly authenticated.

Mr. PASTORE. Mr. President, will the Senator yield at that point?

Mr. BENNETT. May I finish, please? I am on limited time.

The effect of this amendment, if it is adopted, will be to force the Secretary of the Treasury to come back to Congress several months earlier to ask for another increase in the debt ceiling than would be the case if the bill as it came from the House were passed.

The point has been made that the Secretary has a daily cash balance of $6 billion. That balance is divided among accounts in hundreds of banks around the country. If the Secretary of the Treasury has the responsibility of disbursing more than $200 billion, $6 billion, which is about 3 percent of the total, is a very small margin when we put it into perspective.

I see no point in cutting this limitation further simply to satisfy our feeling that we have somehow put a greater brake on the administration, when, as a matter of fact, it is we, and not the administration, on whom the brake should be put.

We are putting pressure on the Secretary of the Treasury and saying, "You cannot pay the bills beyond this point." We are not putting pressure on ourselves and saying, "You must not appropriate more money."

So, under the circumstances, in accordance with the statement I made during the colloquy yesterday when we were talking about how this particular bill should be handled on the floor of the Senate, I give notice that, at the proper time, I intend to move to table the amendment of my friend.

I reserve the remainder of my time.

Mr. ALLEN. Mr. President, before yielding to the distinguished Senator from Virginia, I wonder if I might ask a question of my distinguished colleague, the Senator from Utah.

Mr. BENNETT. Mr. President, I shall be happy to respond.

Mr. ALLEN. I might say parenthetically that the junior Senator from Alabama has voted against raising the debt ceiling ever since he has been in the U.S. Senate; but the Senator from Utah seemed somewhat worried over whether the Secretary of the Treasury would be able to pay the bills of the U.S. Government. If the Senator will refer to table 6 on page 6 of the committee report, he will see that it is anticipated that at the end of this fiscal year the total debt will be $399.5 billion.

Mr. BENNETT. That is correct.

Mr. ALLEN. With a $3 billion fund for contingencies and a $6 billion cash balance. The amendment offered by the junior Senator from Alabama would provide for a ceiling of $420 billion, which would give the Secretary of the Treasury $6 billion in cash, $3 billion in contingencies, and $20 billion in pocket change.

It does seem that would be sufficient to meet any bills of the U.S. Government with tax receipts rolling in.

Mr. BENNETT. Mr. President, may I ask how much time is remaining?

The PRESIDING OFFICER. The Senator from Utah has remaining 4 minutes of the 10 minutes yielded to him.

Mr. BENNETT. How much time remains on the other side?

The PRESIDING OFFICER. Three minutes remain on the other side.

Mr. BENNETT. I thank the Chair.

The point the Senator from Utah would like to make in response to the question of his friend is that the Secretary of the Treasury does not balance his books and go out of business at the end of the current fiscal year. We are not trying to relate the debt limit ceiling to what the figure will be on July 1 of this year. Hopefully, we want to set it at a point that will carry us well into the next fiscal year, and it is obvious that the figure that will result if his amendment is adopted will not carry us very far into the next fiscal year. As I have said, it will just bring us back here sooner to handle the same problem again.

Mr. ALLEN. Would it not have a restraining effect on the administration and the Congress if they knew there was some smaller limitation on the debt ceiling?

Mr. BENNETT. I think the Senator has answered his own question. He has voted against every other increase in the debt limit, as I understand it, since he has been in the Senate, but the national debt has gone up ever since he has been in the Senate, partly, I am sure, because he has voted for many appropriation bills.

Mr. ALLEN. I thank the Senator.

Mr. President, I believe the distinguished Senator from Virginia (Mr. BYRD) had 30 minutes reserved in his own right. Since there is very little time left, I shall reserve the remainder of my time in order that the Senator from Virginia may be recognized in his own right.

The PRESIDENT OFFICER. The Senator from Virginia is recognized. How many minutes does he yield himself?

Mr. BYRD of Virginia. Mr. President, I yield myself 10 minutes.

First, in reply to the comment made by the distinguished Senator from Utah as to the inconsistency of members of the two political parties, I want to say that, so far as the Senator from Virginia is concerned, I voted against the tremendous increase in the debt ceiling sought by President Johnson in 1967, and in presenting an amendment on the floor of the Senate, came within one vote of reducing that ceiling by $10 billion.

I support the proposal of the distinguished Senator from Alabama to reduce by $10 billion the proposed increase in the debt ceiling sought by President Nixon.

I think if one studies the table on page 18 of the committee hearings, one will note that the figure $420 billion, which is the figure proposed by the Senator from Alabama, will not be approached until February 29 of 1972. That is more than a year off.

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

Mr. BYRD of Virginia. I yield.

Mr. BENNETT. If the Senator will look at that same schedule again, he will find it will be exceeded on December 15.

Mr. BYRD of Virginia. That is only when you take into consideration the $3 billion of contingencies.

Mr. BENNETT. You have to have a contingency at all times. You cannot afford to use it up and then assume everything will be all right.

Mr. BYRD of Virginia. Mr. President, I shall deal with the contingency problem in a moment.

There may be contingencies from time to time, but Congress is available to act when the contingencies make it necessary for Congress to act.

I submit that it is not necessary to have a $6 billion balance plus another $3 billion contingency, and then try today, here in the early part of March of 1971, to set a debt limit for a time way into 1972.

Mr. President, I think the amendment offered by the Senator from Alabama should be agreed to, because the pending legislation would increase the public debt limit to $430 billion—an increase of $35 billion above the present debt ceiling.

I think it is important to emphasize, Mr. President, that this proposed increase in the debt ceiling is the largest since World War II.

In response to a question by me, Secretary of the Treasury Connally told the Senate Committee on Finance Monday that the administration expects a $40 billion increase in the national debt during the next 15 months.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. BYRD of Virginia. I am glad to yield to the Senator from Georgia.

Mr. TALMADGE. Is that not the highest increase in the national debt ceiling since World War II?

Mr. BYRD of Virginia. It is the highest increase in the debt ceiling since World War II. The able and distinguished Senator from Georgia put that question to the Secretary of the Treasury, and he confirmed the fact that no administration has ever asked for such an increase in the debt ceiling as is being requested today.

Mr. TALMADGE. I thank the Senator.

Mr. BYRD of Virginia. Mr. President, never have I been more discouraged about the Government's financial position—or more alarmed. During the 12-year period beginning with fiscal year 1961 through the administration's projections for fiscal year 1972, the Government ran a deficit in the Federal funds budget every year.

The cumulative Federal fund deficit for that 12-year period is $146 billion.

But more to the point are these facts:

The accumulated deficit of the last 3 years of President Johnson's administration totals $49 billion; the accumulated deficit for the first 3 years of President Nixon's Administration will total at least $62 billion.

I ask unanimous consent to have printed in the RECORD at this point in my remarks a table captioned "Deficits in Federal Funds, 1961–72," which table shows the Federal fund receipts for each of these years, the Federal fund outlays, and the deficit by year.

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

DEFICITS IN FEDERAL FUNDS, 1961–72

[In billions of dollars]

	Receipts	Outlays	Deficit
1961	75.2	79.3	−4.1
1962	79.7	86.6	−6.9
1963	83.6	90.1	−6.5
1964	87.2	95.8	−8.6
1965	90.9	94.8	−3.9
1966	101.4	106.5	−5.1
1967	111.8	126.8	−15.0
1968	114.7	143.1	−28.4
1969	143.3	148.8	−5.5
1970	143.2	156.3	−13.1
1971 [1]	139.1	164.7	−25.6
1972 [1]	153.7	176.9	−23.2
12-year total	1,324.2	1,469.7	−145.9

[1] Estimated figures.

Mr. BYRD of Virginia. It will be noted from this table that while taxes taken from pockets of the wage-earners doubled during that 12-year period, the deficits have continued and increased.

I ask unanimous consent that another table, captioned "Federal taxes and spending" be printed in the RECORD at this point, the source of the figures being the Office of Budget and Management.

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

FEDERAL TAXES AND SPENDING (ALL YEARS ARE FISCAL YEARS, JULY 1–JUNE 30)

[Federal fund receipts in billions of dollars]

Fiscal year	1968	1969	1970	1971 (estimate)	1972 (estimate)
Individual income taxes	69	87	90	88	94
Corporate income taxes	29	37	33	30	37
Subtotal (income taxes)	98	124	123	118	131
Excise taxes (excluding highway)	10	11	11	11	11
Estate and gift	3	4	4	4	5
Customs	2	2	2	2	2
Miscellaneous	3	3	3	4	4
Total Federal fund receipts	116	144	143	139	153
Federal fund expenditures in billions: total outlays	143	149	156	164	176
Federal fund deficits (−): total deficits	−27	−5	−13	−25	−23
Trust fund receipts in billions: total receipts	38	44	51	55	64
Trust fund outlays in billions: total outlays	36	36	40	48	5
Trust fund surpluses: total surpluses	2	8	11	7	11
"Unified budget" surpluses or deficits (−): total net surplus or deficit (−)	−25	3	−2	−18	−12

Note: Trust fund totals consist mainly of Social Security contributions and payments.

Source: Office of Management and Budget.

Mr. BYRD of Virginia. The administration asserts that deficits for this year and next year combined will total $29 billion. But the fact is that the real deficit for these years will total $48 billion. Were this not the fact, it would not be necessary for the administration to recommend such a tremendous increase in the debt limit.

To understand the actual situation, it is essential to realize that under President Johnson, the Government changed its bookkeeping methods. It inaugurated the so-called unified budget.

Under the unified budget, surpluses in the trust funds—mainly social security—are lumped together with general funds, even though trust funds cannot be used for the general operations of Government.

This reduces the apparent deficit of the Government, but not the real deficit.

Putting aside this sleight-of-hand accounting, we find that actual deficits will reach $25 billion this year and $23 billion next year—and this assumes that the Government's financial estimates hold good.

So, according to normal accounting procedures, our Government will run a smashing deficit for the current fiscal year which ends June 30 and another smashing deficit for the following fiscal year. The Federal fund deficit for the 2 years, by the administration's own figures, will total $48 billion.

In my judgment, the 2-year total will be higher—maybe substantially higher.

With the administration deliberately embarking on a deficit spending program of major magnitude, naturally it seeks an increase in the ceiling on the public debt.

Mr. President, I wish to say at this point that I am inclined to support an increase in the debt ceiling under the conditions existing, but I do not want to support the tremendous increase being sought by this legislation. That is why I am pleased to support the amendment offered by the distinguished Senator from Alabama.

Contrary to many of my colleagues, I believe that Congress should keep a tight ceiling on the debt. The debt limit serves several good purposes.

One main purpose is restraint on the executive branch of the Government, which creates most of the pressure for Government spending.

It is true that the Congress must appropriate the funds for spending programs, but if the executive branch does not show restraint, Congress is at a severe disadvantage.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. BYRD of Virginia. Mr. President, I yield myself 3 additional minutes.

Despite this disadvantage, Congress does usually appropriate less than the executive branch requests.

Contrary to popular belief, the Congress has reduced appropriations below the budget requests from the President nearly every session in recent years.

I do not believe the Congress has made as many reductions in spending as it could have, or should have. But at least it has not increased spending over administration requests.

I cite one example: In fiscal 1969, for which President Johnson's administration prepared the budget, the total reduction by Congress in the Federal funds budget was $14.5 billion under the budget request sought.

Congress is the arena in which spending requests are debated and brought to the attention of the general public.

That fact suggests another reason why the debt limit is important.

The debt ceiling forces officials of the executive branch to come before the people's representatives in Congress and justify their contemplated use of tax funds.

In this process, public attention is focused on Government spending and on the national debt.

I submit that we need to focus public attention on public spending.

That is in the public interest.

It must never be forgotten that there is only one place the Government can get revenues—and that is from the pockets of the working men and women of our Nation.

These people—the wage earners of the United States—pay the Government's bills.

And it should be noted that one of the biggest items in the budget every year—the second largest nondefense item—is interest on the national debt.

As the national debt increases, the annual interest charges on that debt likewise increase.

I ask unanimous consent to have printed at this point in the RECORD a table showing the annual interest payments on the national debt, paid for by the taxpayers, for fiscal years 1967 through 1972.

There being no objecton, the table was ordered to be printed in the RECORD, as follows:

Interest on the national debt, 1967–72

[In billions of dollars]

1967	$13.4
1968	14.6
1969	16.6
1970	19.3
1971 (est.)	20.8
1972 (est.)	21.2

Mr. BYRD of Virginia. Mr. President, from this table it will be seen that the cost to the taxpayers of the interest on the public debt increased from $13.4 bil-

lion in fiscal year 1967 to $21.2 billion for fiscal year 1972, an increase of 59 percent during that short period of time.

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

Mr. BYRD of Virginia. I yield myself 3 additional minutes.

I believe that the taxpayers should realize that of every dollar of income tax paid by individuals and corporations, 17 cents goes to pay for interest charges on the national debt.

The huge increase in the cost of government must be paid for either by more taxes, or by more inflation—which is a hidden tax, and the cruelest tax of all.

It now seems certain that a tax increase will sooner or later be necessary because of the deficit financing with which the government has been operating.

In a recent interview, Secretary Connally admitted as much.

He said that while the Treasury will not be seeking any major new or increased taxes this year, "and maybe not next year," he sees little hope for avoiding increases in taxes "down the pike."

Mr. President, I interpret that "down the pike" to mean after next year's election—namely, January of 1973.

In that connection, I ask unanimous consent to have printed at the conclusion of my remarks an article published in the Washington Post of March 10 containing the interview with Secretary Connally.

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

(See exhibit 1.)

Mr. BYRD of Virginia. I am very much concerned about what the financial condition of the U.S. Government will be, and what the situation of the individual American taxpayer will be "down the pike."

It seems evident to me that our present fiscal policies mean that when we get to the point "down the pike" that Mr. Connally is talking about, both the Government and the taxpayer will be in even worse shape than they are today.

Somehow, some day, our political leaders must realize that you cannot go on forever running up huge Government deficits, the result of huge Government spending.

I hope that this realization comes soon. The longer it is delayed, the worse off will be the individual wage earner, the individual American citizen.

Mr. President, I feel that the best interests of our Nation would be served if the Senate were to adopt the amendment offered by the distinguished Senator from Alabama and reduce the increase in the debt ceiling from the amount requested by the administration—namely, a $430 billion ceiling to $420 billion.

EXHIBIT 1

[From the Washington Post, Mar. 10, 1971]

CONNALLY SEES FUTURE TAX RISE, LAW REVISION

(By Hobart Rowen)

Treasury Secretary John Connally said yesterday that to pay or "all the additional things that people want," the government will have to levy higher taxes "not this year, not next year, but somewhere down the pike."

He added that "we're not going to get new sources of revenue until we have a major overhaul of the tax laws in this country," and that such a revision could include the much-debated value-added tax, "which obviously has some merit."

His basic approach, Connally volunteered in a wide-ranging session with reporters at the Treasury Department, "is that I dislike all taxes. The question is, 'which ones do you dislike the most?' "

On other topics, Connally:

Described himself as "more optimistic" about prospects for economic recovery than he was 60 days ago, but acknowledged that it is not possible to say what "will happen, even what has happened" until the results for the first quarter of the year are apparent some time next month.

Bluntly called on the business community to assume its share of the burden in fighting inflation. To those businessmen "I know casually to well" who complain about the government, "I say: 'What the hell are you doing in your own business?' "

Insisted that the chances of getting the President's revenue-sharing proposals through Congress are not "hopeless," despite the strong opposition of House Ways and Means Committee Chairman Wilbur Mills (D–Ark.).

The new Treasury Secretary reported that a study of tax revision was now going on "in a halting way—it's not under forced draft." He refused to be pinned down more specifically on the value-added tax except to say that "it doesn't have to be regressive—it depends on how it's levied."

Critics have labeled the value-added tax a form of national sales tax that hits hardest at low and middle-income bracket families who must spend the largest part of their income.

Connally's moderately optimistic assessment of the economic outlook, he said, stemmed more from conversations with businessmen and bankers than from current statistical evidence. "I can't prove it, but there is a general feeling of greater confidence and greater assurance than there was at the start of the year," he said.

Yet, he would only summarize the present status of things as going "fairly well to very well." He restated his conviction that the January rate of expansion of the money supply by the Federal Reserve was not sufficient.

He warned against "drawing too much (optimism)" from the recent declines in unemployment (in December and January) because "too short a time" is involved.

He stressed in several ways that the administration was carefully watching economic developments, and was "flexible enough" to take additional measures if its economic forecasts at the start of the year did not work out.

"If I tell you something today," the Secretary said with a smile, "I don't know if it's going to be true 90 days from now. Anything might be subject to change, and in short order."

Connally's account of his pressure on businessmen to "apply leadership" in an anti-inflation role was in response to a question on what he tells businessmen who are anxious about the economy.

He said that businessmen generally had tended to demand government action when they had—by acts of commission and omission—contributed to inflation themselves.

"The truth is," Connally said, "that this is a matter for everyone. The business community has to assume its share of the burden . . . There have been times when the salaries of top people were going up faster than the wages of their employees, and I think that's inherently wrong."

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I yield back the remainder of my time.

Mr. BENNETT. Mr. President, I will take just a minute or so, and then I will be prepared to yield back the remainder of my time.

We are hearing many figures. One of the items that needs to be included in the figures taken into account is the record for fiscal 1971, which ends June 30. Since the budget for fiscal year 1971 was submitted in February 1970 outlays have exceeded the initial budget estimate by $12 billion and revenues have fallen short of the budget estimate by $8 billion, for a total of a $20 billion shortfall, from the administration's first estimate of what would be achieved in this budget. A shortfall of anything approaching this would bring us back shortly after the fiscal year is begun if we were to adopt the pending amendment.

I should also like to point out one other figure with respect to this debt ceiling. The debt ceiling is based on the theory that the administration's estimate of income and out-go this time would be accurate. No administration's estimate ever has been accurate; and if they had a shortfall of $20 billion last year, I am afraid we can expect that there will be a further shortfall this year.

Our staff estimates indicate that the revenue figure for next year, in their opinion, will be $6 billion below the administration figure. That would wipe out the contingency reserved in these figures and cut in half the amount of cash balance requested by the Treasury.

So I think that prudence and responsibility would dictate the defeat of the Allen amendment.

Mr. President, I yield to the Senator from Louisiana, or yield the floor to him.

Mr. LONG. I yield myself 2 minutes.

Mr. President, there is not 5 cents of expenditures subject to this debt limit which will not be expended subject to an authorization and appropriation voted in the Senate of the United States. Every nickel of it.

When Senators vote to spend the money and then vote to reduce or raise taxes, they voted to spend the money and had a chance to vote on the revenue bills, whether they voted to reduce or raise taxes. Unless we raise the debt limit, we are faced with the situation that the Government cannot pay its bills.

Every Senator has voted to reduce expenditures on something, I am sure. But when a majority of the Senate has voted to pass the authorization and appropriations bills and then votes not to pay them, by voting not to increase the debt limit, that means the Government cannot pay anybody's salary and cannot pay any contractor for working for the Government.

I sometimes think that I would like to wait and see what would happen, if the Government could not pay its bills. If I were President of the United States and that happened, I would say, "The Senate does not want to pay our bills. So nobody gets paid." If I were President of the United States, I would start with myself. I would not ask for a paycheck. Nobody would get paid. Then we would see how long the Senate could hold out. My guess is that they would hold out for no more than 2 weeks past the first paycheck. I

ould be willing to make a bet, to bet the at of my pants against the seat of the ants of the Senator, that the Senate will ot be able to hold out beyond the first aycheck. All the post office employees ould be calling in. All the other people ho work for the various agencies of the ederal Government would be calling in. omeone suggested to me that there ould be one good result if the debt limit ll were to fail, and that would be to ake Western Union and the A.T. & T. ery profitable because there would be so any telegrams showering Senators, and many outraged telephone calls being ade, that these companies would be le to solve all their financial problems.

The PRESIDING OFFICER (Mr. McINTYRE). All time on the amendment has ow expired.

The question is on agreeing to he——

Mr. ALLEN. Mr. President, will the enator from Louisiana yield me 2 inutes?

Mr. LONG. Mr. President, I yield the enator 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 inutes.

Mr. ALLEN. Mr. President, I would ke to mention to the Senator from ouisiana that the Senate and House ave not already passed these bills. The enator overlooks the fact that the debt mit increase is an increase that applies p to July 1 of 1972. I do not believe we ave appropriated for anything in fiscal ear 1972. If the Senator will look at the able in his own committee report, he ill see that it is projected that the total ebt of the United States at the end f this fiscal year will be $399.5 billion. hat includes $3 billion for contingencies, and $6 billion cash balance; hereas the amendment before us would rovide for a debt ceiling of $420 billion. here does not seem to be any indication that there is not going to be money o pay the appropriations, because the ebt limit is designed to cover appropriations for the next fiscal year as well, nd the Senate and the Congress could nd should cut down on the budget request. Has the Senator considered that oint?

Mr. LONG. Well, Senator, if the Senate oes not want to pass the appropriation ills for the coming year, then this debt mit will not give us any problem. But e are proposing a bill to provide the overnment with the essentials it needs o operate for 1 year. In my statement, said that I strongly doubted whether e had provided enough anyway, because n my judgment, and I think that the ecord will prove this—we will have to ake a look at it a year from now—usually spending is underestimated by he Budget Bureau, but the income is verestimated. The staff estimates that hose in the administration have been ptimistic about the level of economic ctivity and tax receipts and that tax eceipts will fall $6 billion short of what is anticipated. In addition, it is likely expenditures will be greater than anticipated—one indication of that is the social security bill which is one of the areas where Congress wants to spend more money. So, with less revenue and more expenditures than anticipated, even this increase in the debt limit will probably not be enough.

The PRESIDING OFFICER (Mr. BEALL). The time on the amendment has now expired.

Mr. ALLEN. Mr. President, will the Senator from Louisiana yield me 2 more minutes on the bill?

Mr. LONG. I yield the Senator from Alabama 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 additional minutes.

Mr. ALLEN. In all likelihood, however, under the amendment now under consideration, allowing for a debt ceiling of $420 billion, any appropriations heretofore made by Congress can be paid in full without exceeding the debt limit; is that not correct?

Mr. LONG. Probably not, but the amendment almost certainly would stop spending from appropriations that are forecast for the coming year. If Congress does not want to appropriate the money, the honest thing to do is not to do so. That is better than passing a law saying we cannot appropriate above a certain amount, but later do so, and give the President the power to spend the money whether he wants to or not. Experience shows that debt limitations have not stopped spending in the past and I see no reason why they will in the future.

Mr. BENNETT. Mr. President, I move to lay the amendment of the Senator from Alabama on the table.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BEALL). The question is on agreeing to the motion of the Senator from Utah to lay the amendment of the Senator from Alabama on the table.

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 Texas (Mr. BENTSEN), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

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

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

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. SAXBE), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from New York (Mr. BUCKLEY). If present and voting, the Senator from Texas would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 49, nays 31, as follows:

[No. 21 Leg.]

YEAS—49

Aiken	Griffin	Nelson
Allott	Hart	Pastore
Anderson	Hatfield	Pearson
Baker	Hruska	Percy
Beall	Humphrey	Prouty
Bennett	Inouye	Randolph
Bible	Jackson	Ribicoff
Boggs	Javits	Schweiker
Brooke	Jordan, Idaho	Scott
Burdick	Long	Smith
Cannon	Magnuson	Taft
Case	Mansfield	Tunney
Cooper	Mathias	Weicker
Cranston	McGee	Williams
Dole	McIntyre	Young
Fong	Mondale	
Gambrell	Moss	

NAYS—31

Allen	Eastland	Pell
Bayh	Ellender	Proxmire
Brock	Ervin	Roth
Byrd, Va.	Fannin	Sparkman
Byrd, W. Va.	Fulbright	Spong
Chiles	Gurney	Stennis
Church	Hansen	Symington
Cook	Hollings	Talmadge
Cotton	Hughes	Thurmond
Curtis	Metcalf	
Dominick	Miller	

NOT VOTING—20

Bellmon	Hartke	Muskie
Bentsen	Jordan, N.C.	Packwood
Buckley	Kennedy	Saxbe
Eagleton	McClellan	Stevens
Goldwater	McGovern	Stevenson
Gravel	Montoya	Tower
Harris	Mundt	

So Mr. BENNETT's motion to table Mr. ALLEN's amendment was agreed to.

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

Mr. ERVIN. Mr. President, I move that the pending bill, H.R. 4690, be committed to the Committee on Finance with instructions to the committee that the committee eliminate from the bill the provisions providing for an increase in the debt limit and forthwith return the other provisions of the bill to the Senate for its consideration.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mr. COTTON. Mr. President, may we have the motion read? Will the Senator send the motion to the desk?

Mr. ERVIN. Mr. President, I suggest the absence of a quorum so that I can reduce the motion to writing.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, so ordered.

Mr. ERVIN. Mr. President, I have reduced my motion to writing and notwithstanding my high respect for the reading ability of the clerk I will read my own writing first.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. ERVIN. The Senator from North Carolina moves that the pending bill, H.R. 4690, as amended, be committed to the Committee on Finance with instructions that the committee delete from the bill the provisions for an increase in the public debt limit and forthwith return the bill with all its other provisions intact to the Senate.

Mr. President, as I understand, I have an order for the yeas and nays on this motion.

The PRESIDING OFFICER. The Senator is correct.

Mr. ERVIN. Mr. President, I yield to myself such portion of the 15 minutes at my disposal as I may use.

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

The PRESIDING OFFICER. The Senate will be in order.

Mr. ERVIN. Mr. President, when I came to the Senate in 1954 the public debt limit of the United States was $275 billion.

With the provisions relating to its permanent and temporary limits, the national debt limit now amounts to $395 billion, an increase of $120 billion since I came to the Senate 17 years ago.

The Senator from North Carolina is not subject to the charge that he is responsible for a single penny of the increase in the debt limit. The Senator from North Carolina has always believed that the Federal Government should have enough courage and enough intelligence to cut its expenditures so that they will not exceed its income, or, in the alternative, increase its income by taxation so that its income will cover its expenditures.

With the exception of voting for the Tax Reform Act of 1969 and certain accelerated depreciation allowances, the Senator from North Carolina has voted against every proposal made since he came to the Senate to reduce Federal taxes, because the Senator from North Carolina believes in the principle of honesty embodied in the assertion that an individual or a government ought to be just before it is generous.

We have a disgraceful record of deficit spending. When we reach June 30, 1972, we will mark the end of an era of 43 years in which the expenditures of the Federal Government have exceeded its income 35 times. In other words, at that point we will mark the end of an era in which this Government had a balanced budget only eight times in 43 years. And on those eight occasions when the Federal Government did balance its budget, it had surpluses which approximated $19 billion. All of that surplus in those 8 years is going to be largely exceeded by the amount of the deficit in the fiscal year which ends on June 30, 1971.

We used to call this deficit spending, and everyone admitted that deficits fueled the fires of inflation; that it robbed those who had made any savings such as life insurance and the like of what they had saved through inflation. But the President has changed the name from deficit spending. He calls it a full employment budget.

Mr. President, in my book, a jimsonweed smells just as rank, regardless of what name one gives it. It does not keep deficit spending from being deficit spending by calling it a full employment budget.

It is just like the unified budget we have. It is just something to hide governmental iniquity from people who are susceptible to being deceived.

I recognize that if we do not grant some increase in the national debt limit within a reasonable time there will be danger of chaos. We spent 7 weeks of this session in considering a matter of little importance as compared with the matter of our fiscal state; that is, a change in the Senate rules. Surely, the Congress could postpone immediate action on the national debt and take a few days to consider whether or not its fidelity to the task entrusted to it by the people of the United States does not require it to be honest enough with its people to levy enough taxes to pay the expenditures it authorizes, or courageous enough to cut those expenditures to an amount which its income will pay.

The trouble with deficit financing, the trouble with a so-called full employment budget, is that it robs the past and it robs the future. We have robbed the American people of billions and billions and billions of dollars of their savings by deficit financing. In so doing we have robbed them of their past. Now it is proposed that they be robbed of their future by refusing to pay the expenses we authorize. Moreover, it is proposed that our children and our children's children be robbed of their future earnings to satisfy the actual or supposed needs of the present.

I have told this story once before on the floor of the Senate, but it illustrates the fiscal folly which has characterized the Federal Government for the past 41 years, and will characterize it for the next 2 years, making a total of 43 years. The story goes that many, many years ago a Member of the British Parliament offered a bill to provide for the issuance of an enormous amount of bonds whose proceeds were to be immediately expended to satisfy some of the real or the supposed needs of that generation. The bill provided that there should be no payments on the principal of the bonds for 50 years.

A Member of the British Parliament who entertained the economic philosophy of the Senator from North Carolina arose and stated his opposition to the bill saying, "This bill is not fair to posterity." The author of the bill got up and said, "Posterity has never done anything for me and I do not propose to do anything for posterity, and, furthermore, posterity can't vote in the next election."

That is a complete picture of the financial operations of the Federal Government during the period of 43 years next preceding July 1, 1972.

As I say, we ought to quit the practice of financing our Government through deficits, and we ought to quit trying to disguise deficit financing by calling it a full employment budget. We ought to be financially honest. We ought to be courageous enough to either cut a pattern to suit the cloth, or to get a little more cloth at the expense of the taxpayers.

The Senator from Louisiana talked about betting the seat of his pants on some proposition. The thing that concerns the Senator from North Carolina is that the taxpayers have just about lost their pants. Let us send this measure back to the committee, let the committee delete the provisions relating to the debt limit, and let us pass the bill with the other provisions, and then give some serious study as to how much longer we are going to continue to rob the American people of their past and of their future.

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

Mr. ERVIN. I yield to the distinguished Senator from New Mexico.

Mr. ANDERSON. I wonder what the Senator from North Carolina proposes to do about this situation. There is trouble; we have bills to pay, and the crisis will not be delayed for 60 days, it will be here next week.

Mr. ERVIN. I say to the Senator from New Mexico that if we can spend 7 weeks here agitating about a rule change, we might spend a week deciding whether after 43 disgraceful years of fiscal folly we are going to make a reasonable effort to set the Nation's financial house in order.

Mr. ANDERSON. Did not the Senator vote for these appropriation bills?

Mr. ERVIN. Not for many of them. No Senator can wave his gory locks at the Senator from North Carolina and say that he is responsible for a single penny of the increase in the debt limit. If a majority of the Senate and the House of Representatives had voted as I have since I got here, we would not have had this increase of $120 billion in the national debt limit. On the contrary, we would have had some money to apply on the retirement of the national debt, and to render a debt limit of less than $275 billion sufficient.

Mr. ANDERSON. What does the Senator suggest we do from here on out?

Mr. ERVIN. I would suggest that we ought to sit down and consider one of two propositions.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ERVIN. I ask unanimous consent to answer that question for 20 seconds.

Mr. LONG. I yield the Senator 2 minutes on the bill.

Mr. ERVIN. We ought to either resolve, here and now, that we are going to collect enough taxes from the taxpayers to pay in full the moneys we appropriate, or we ought to decide to cut

those appropriations so that they will be met by the tax moneys which come into the Treasury under existing law.

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

Mr. ERVIN. I have no more time.

Mr. DOMINICK. Will the Senator from Louisiana yield me 2 minutes on the bill? I wish to support the position of the Senator from North Carolina.

Mr. LONG. I yield the Senator 2 minutes.

The PRESIDING OFFICER. On the amendment, or on the bill?

Mr. LONG. On the bill.

Mr. DOMINICK. I thank the Senator from Louisiana. I just wish to express a position here. I intend to support the Senator from North Carolina, perhaps not for exactly the reasons he has stated, but I think my reasons are worth stating.

I have been here for only 10 years, not nearly as long as the Senator from North Carolina. Each year, we have had either one or two increases in the national debt limit, either temporary or permanent.

It seems to me that we ought to do one of two things. We either ought to abide by the limit we set, and make our expenditures that way, or we ought to abolish the legislative limit on the amount of the debt. Otherwise, we go through this procedure year after year, getting nowhere.

I intend to support the position of the Senator from North Carolina because I think we just go through a charade every year, without accomplishing anything.

Mr. ERVIN. Mr. President, that is exactly the reason that I make this proposal, that we sit down and consider this matter, and quit robbing our people, of their past savings, through inflation, and of their future earnings by deficit spending.

The PRESIDING OFFICER. Who yields time?

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

I have been here now for 23 years. When I first came here, I heard the old saying that the sure way to be reelected is to vote for every appropriation, and against every tax. That is said to be good politics; and that same logic is prevailing here—to spend money and refuse to provide any tax and also to refuse to vote to pay the bills when they come due.

But, may I say, in 23 years of service here in the Senate, I have not found here anyone who ever fooled anyone else about the debt limit. Just go back and check it. When has anyone ever asked, "Why did you want to vote to raise the debt limit?" No one has ever asked me that question in 23 long years. In some cases, I have voted against increases in the debt limit because I wanted to vote against the foreign aid program, and thought that that might be a good way to protest foreign aid.

But if anyone ever had asked me, I should have told him, "Look, it was not my idea to have a foreign aid program, or to vote for a number of these things, but all of that was done and the money was spent. Then questions come up: do we pay our debts, do we pay the Government employees for their month's work, do we pay the contractor who has performed on a solemn contract of the Government? Because if we do not either raise the taxes to pay them, or, having failed to raise taxes, raise the debt limit, we cannot pay them."

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

Mr. LONG. Permit me to explain my position, and then I shall be happy to yield.

If the Senator is successful in what he is trying to do, defeat this debt limit bill, it will mean that in 1 week the Government can no longer pay its bills.

When I referred to betting the seat of my pants, Mr. President, I was referring to a tradition between LSU and Tulane University, in connection with their football games. It used to be that every time, when the game was over, everyone would get out on the football field and fight over taking the goalposts home, so the schools started what they thought was a better tradition, which was that the captains of the respective teams would bet the seats of their pants.

So, for the last 20 years, the Tulane captain would appear at the LSU locker room when the game was over, and the LSU captain would ceremoniously remove the seat of his pants and have it framed for all eternity, because Tulane lost every game for 20 years in a row.

So, as a sporting proposition, I tell the Senator from North Carolina that I will bet the seat of my pants against the seat of his that if his amendment succeeds—and this richest Nation on earth should officially declare itself bankrupt and cannot even pay the postal worker his hard-earned monthly check—I am willing to bet we cannot hold out for a month, to the date of the second paycheck. I bet the Senator the seat of my pants—and he can take it off right here on the floor of the Senate—if he can hold out 2 months doing that. We are not fooling anyone, not a soul on earth.

It is true that the Government is in debt, but look how we are doing, compared to others. Private individuals have problems with their budgets. From 1946, at the end of World War II, until today, individual debt in this country has increased from $60 billion to $555 billion, more than an 800-percent increase in terms of dollars.

Goodness knows, corporations are concerned about debt. But what has happened to them? Their corporate debt, in dollars, went up from $109 billion to $861 billion—an increase of 700 percent.

How about State and local governments? They do not want to go in debt unnecessarily, but their debt went from $16 billion up to $137 billion—almost an 800-percent increase in the debt they owe.

How about the Federal Government? On outstanding Federal agency debts, the increase has been from $260 billion to $382 billion—an increase of about 45 percent. So we did almost 20 times as well in that respect as State governments, almost 20 times as well as individuals. About 15 times as well as corporations. If we are compared to anyone else, we did just great. But, no, we have to have this annual flagellation and have this effort to officially declare ourselves bankrupt because of our profligate ways, when Senators themselves, by majority vote, voted to pass these appropriation bills and spend that money.

Mr. President, I think it is a rather foolish thing to try to declare Uncle Sam bankrupt by an act of Congress. Why do we have a debt limit? Because when we exceed it, we would like to look at our fiscal position.

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

Mr. LONG. I yield myself 2 additional minutes.

To see where we stand, to go forward from here and take a look at what the budget would be for the following year.

Mr. President, having voted to spend the money, with a projection that this would mean the Government would be in debt, the time comes to extend the debt limit. If we fail to pass it and to provide an adequate increase in the debt limit, the Government would be in a difficult and an embarrassing position by an act of folly on the part of Congress. I cannot support that.

If the Senator wanted to vote against the debt limit bill, I do not know why he does not vote against it. We gave him a yea and nay vote on the social security bill so that he could say that he is for the social security increase. We gave him a yea and nay vote on the debt limit itself. Why does he not move to strike sections 1 and 2 of the bill and disassociate the Committee on Finance from something we think is a foolish thing to do?

Mr. ERVIN. Mr. President, will the Senator yield, so that the Senator from North Carolina can explain to the Senator from Louisiana why the Senator from North Carolina takes the position he does?

Mr. LONG. I yield.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. LONG. I yield myself 3 additional minutes.

Mr. ERVIN. The Senator from Louisiana has put the Senator from North Carolina and every other Member of the Senate, by his amendment, in quite a quandary. I have always voted against an increase in the debt limit. I favor the social security bill. Under the Senate rules, I cannot vote half of a "yea" in favor of the social security bill and half of a "nay" against the debt limit provisions. So the Senator has put me in a position in which I cannot express my true sentiments with reference to this matter. To my mind, that is a very unfortunate situation.

Mr. LONG. It seems to me that the Senator expressed himself in favor of the social security increase when he voted for the social security amendment, and he can express himself as being against the debt limit by voting against the bill. If he wished, he could also express himself against it by moving to strike sections 1 and 2 of the bill.

Mr. ERVIN. I may move that if the bill is not recommitted. I do not want to trespass upon the preserves of the Committee on Finance. I would rather for its members to do the striking.

Mr. LONG. If we think it is a foolish thing, why should we be required to be associated with it? Why not let it be the Senator's own handiwork?

In any event, Mr. President, whether it be the motion or the amendment that should be defeated, I think Senators are anxious to vote. Some have made plans to be elsewhere.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the motion to recommit has been yielded back.

The question is on agreeing to the motion of the Senator from North Carolina. 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 Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

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

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. SAXBE), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The Senator from Arizona (Mr. GOLDWATER) and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from South Dakota (Mr. MUNDT), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 16, nays 63, as follows:

[No. 22 Leg.]

YEAS—16

Allen	Ellender	Roth
Brock	Ervin	Spong
Byrd, Va.	Fulbright	Talmadge
Cook	Gambrell	Thurmond
Cotton	Hollings	
Dominick	Proxmire	

NAYS—63

Aiken	Beall	Brooke
Allott	Bennett	Burdick
Anderson	Bentsen	Byrd, W. Va.
Baker	Bible	Cannon
Bayh	Boggs	Case
Chiles	Humphrey	Pearson
Church	Inouye	Pell
Cooper	Jackson	Percy
Cranston	Javits	Prouty
Curtis	Jordan, Idaho	Randolph
Dole	Long	Ribicoff
Eastland	Magnuson	Schweiker
Fannin	Mansfield	Scott
Fong	Mathias	Smith
Griffin	McGee	Sparkman
Gurney	McIntyre	Stennis
Hansen	Miller	Stevenson
Hart	Mondale	Symington
Hatfield	Moss	Taft
Hruska	Nelson	Tunney
Hughes	Pastore	Weicker

NOT VOTING—21

Bellmon	Jordan, N.C.	Muskie
Buckley	Kennedy	Packwood
Eagleton	McClellan	Saxbe
Goldwater	McGovern	Stevens
Gravel	Metcalf	Tower
Harris	Montoya	Williams
Hartke	Mundt	Young

So Mr. ERVIN's motion to recommit the bill (H.R. 4690) was rejected.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. BYRD of Virginia. Mr. President, I yield back the remainder of my time.

Mr. TALMADGE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA) and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

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

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS) and the Senator from New Mexico (Mr. MONTOYA) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. SAXBE), the Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from New York (Mr. BUCKLEY), the Senator from South Dakota (Mr. MUNDT), the Senator from Ohio (Mr. SAXBE), and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Texas would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 80, nays 0, as follows:

[No. 23 Leg.]

YEAS—80

Aiken	Eastland	Moss
Allen	Ellender	Nelson
Allott	Ervin	Pastore
Anderson	Fannin	Pearson
Baker	Fong	Pell
Bayh	Gambrell	Percy
Beall	Griffin	Prouty
Bennett	Gurney	Proxmire
Bentsen	Hansen	Randolph
Bible	Hart	Ribicoff
Boggs	Hatfield	Roth
Brock	Hollings	Schweiker
Brooke	Hruska	Scott
Burdick	Hughes	Smith
Byrd, Va.	Humphrey	Sparkman
Byrd, W. Va.	Inouye	Spong
Cannon	Jackson	Stennis
Case	Javits	Stevenson
Chiles	Jordan, Idaho	Symington
Church	Long	Taft
Cook	Magnuson	Talmadge
Cooper	Mansfield	Thurmond
Cotton	Mathias	Tunney
Cranston	McGee	Weicker
Curtis	McIntyre	Williams
Dole	Miller	Young
Dominick	Mondale	

NAYS—0

NOT VOTING—20

Bellmon	Hartke	Mundt
Buckley	Jordan, N.C.	Muskie
Eagleton	Kennedy	Packwood
Fulbright	McClellan	Saxbe
Goldwater	McGovern	Stevens
Gravel	Metcalf	Tower
Harris	Montoya	

So the bill (H.R. 4690) was passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that the bill (H.R. 4690) be printed with the amendments of the Senate.

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

Mr. LONG. Mr. President, I move that the Senate insist on its amendment and request a conference with the House on the disagreeing votes thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to; and the presiding officer appointed Mr. LONG, Mr. ANDERSON, Mr. TALMADGE, Mr. BENNETT, and Mr. CURTIS conferees on the part of the Senate.

PRODUCTIVE WEEK

Mr. MANSFIELD. Mr. President, earlier today I made some remarks about the Senate's splendid achievement of yesterday in its extension of the regional development programs. That success, added to the debt ceiling-social security proposal just passed, the 18-year-old vote measure adopted on Wednesday

and the disposition of the rules change effort on Tuesday has made this a highly productive week.

For his efforts on the debt ceiling-social security proposal, the Senate is deeply indebted to the distinguished Senator from Louisiana (Mr. LONG). As the chairman of the Senate Committee on Finance, he has labored tirelessly in behalf of our elderly citizens. His expertise and leadership in this vital area is unsurpassed in this body. Today's achievement adds another outstanding accomplishment to his abundant record of public service. The Senate is deeply grateful.

Others contributed their support on this issue. Notable were the fine cooperative efforts of the distinguished senior Senator from Utah (Mr. BENNETT) and the distinguished senior Senator from Georgia (Mr. TALMADGE).

Just as Senator LONG may be proud of his achievement today so may the distinguished and able Senator from Indiana (Mr. BAYH) be justly proud of the adoption on Wednesday of the resolution pertaining to the Constitutional amendment that would enfranchise the 18-, 19-, and 20-year-olds in this country. As chairman of the Subcommittee on Constitutional Amendments he was most active in this effort and the Senate is indebted for his leadership and concern.

To be commended also on that issue for his untiring efforts is the Senator from West Virginia (Mr. RANDOLPH) who has expressed an active and vital interest in this subject since first coming to Congress. As principal sponsor of the resolution he brought great depth and insight to the discussion on the measure, and his contributions this year and in the past have been invaluable. He and the Senator from Massachusetts (Mr. KENNEDY), I am sure, feel greatly rewarded to have witnessed the passage of this amendment by the Senate.

For cooperating so splendidly to assure final disposition of the rules change effort on Tuesday, the Senate is grateful to the distinguished Senator from Idaho (Mr. CHURCH), and the distinguished Senator from Kansas (Mr. PEARSON). Their efforts to enable the Senate to reform its cloture rule are to be highly commended. The fact that the effort was not successful is no reflection on the quality of their advocacy.

Others who contributed to the extended debate on the rules change are also to be commended for presenting their forceful and thoughtful views. Those on both sides of the question were equally sincere in their efforts, and the Senate as a whole appreciates the contributions made by all who participated in the discussion.

The disposition of these many issues—may I say again—has made this a most productive week. It has been a week of great achievement for which all Senators may be proud.

AUTHORIZATION TO CORRECT S. 671 IN ITS ENGROSSMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized in the engrossment of S. 671, dealing with the Blackfeet and Gros Ventre Tribes, which the Senate passed yesterday, to change the word "of" found on page 2, line 4, to "to."

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

REREFERRAL OF A COMMUNICATION FROM THE DEPARTMENT OF DEFENSE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a communication from the Department of Defense on scholarships for military personnel, which was referred to the Committee on Labor and Public Welfare, be rereferred to the Committee on Armed Services.

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

JOINT COMMITTEE ON THE ENVIRONMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 2, Senate Joint Resolution 17. I do this so that it will be the pending business.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read the joint resolution, as follows:

A joint resolution (S.J. Res. 17) to establish a Joint Committee on the Environment.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

ORDER FOR ADJOURNMENT UNTIL TUESDAY, MARCH 16, 1971, AT 11 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until the hour of 11 o'clock a.m. on Tuesday next.

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

OCEAN DUMPING OF ARSENIC COMPOUNDS

Mr. NELSON. Mr. President, a front page story in the Evening Star reports that the ninth largest chemical company in the world—Rohm and Haas—is dumping up to 80 tons a month of arsenic compounds in the Atlantic Ocean off our east coast. This raises the moral question of corporate responsibility. How can people in America have confidence in our private institutions if they will cavalierly throw dangerous wastes into the oceans. Every responsible citizen and corporate leader ought to refuse to do business with Rohm and Haas Co., if any further arsenic dumping is carried out.

Unless the company permanently calls off this dumping, every effort should be made by the Federal Government to bring this practice to a halt. I have telegramed Russell Train, Chairman of the President's Council on Environmental Quality, and William Ruckelshaus, Administrator of the Environmental Protection Agency, to urge them to use every means at their command to persuade against or legally prevent the dumping of the arsenic.

Congress must take immediate action as well. More than a year ago, I introduced legislation which would not allow any ocean dumping from the United States without permits based on public hearings and thorough marine ecological studies, and by 1975, all dumping would be permanently banned.

Unlike other measures, my bill has not been held up in the current discussion over congressional committee jurisdiction in marine pollution. I urge the administration to support this measure so that it can be quickly acted on and all conceivable excuses removed for failing to stop the pollution of the sea.

Mr. President, I ask unanimous consent that a copy of the Evening Star story and a copy of my telegram to Mr. Train and Mr. Ruckelshaus be printed in the RECORD.

There being no objection, the news story and telegram were ordered to be printed in the RECORD, as follows:

ARSENIC DUMPING CONTINUES

(By Roberta Hornig)

On Saturday, following a two-year-old practice, a ship carrying about 70 tons of an arsenic compound will sail from Philadelphia, travel through Delaware Bay, and dump its potentially lethal cargo in the Atlantic Ocean.

The Norton Lilly Company of Philadelphia, which booked the load on the Italian vessel "Non-do Fassio," says that as far as it knows this sort of cargo, ranging between 30 and 80 tons, has been dumped at sea about once a month for "over two years."

Both Norton Lilly and the chemical company involved, Whitmoyer Laboratories of Myerstown, Pa.—a subsidiary of Rohm & Haas Company, the ninth largest in the world—says the dumping occurs about 150 miles out in the ocean.

President Nixon's Council on Environmental Quality, which is against dumping any potentially toxic materials in the sea, is trying to figure out what to do about this Saturday's dumping. At present, spokesmen say, there are no legal restraints.

Dr. Gordon McDonald, the lone scientist on the three-man council, says the dumping flouts Nixon's principles, but that only congressional action can stop it.

McDonald says the worry in this particular case is that when the 246 canisters containing the arsenic compound hit the water, they will break open and the sea water will change the composition of the chemical, making it particularly toxic to sea life in the area.

Both the administration and Sen. Edmund F. Muskie, chairman of the Senate Air and Water Pollution subcommittee, have offered bills to require permits for any kind of ocean dumping within 12 miles of the U.S. coastline and forbid any kind of dumping within that limit by any foreign government.

McDonald also said the U.S. Coast Guard alerted him to the latest chemical dumping and tends to be suspicious about how far out in the ocean the dumping occurs.

A spokesman for Whitmoyer Laboratories said the company considered other disposal methods but that it is "more economical to put it in a ship and dump it in the bottom" of the ocean.

A spokesman for Norton Lilly said, "We understand about this new anti-pollution—let's save the seas, of course."

But, he added: "The only thing here is we're in the middle. If we're in the wrong

(referring to the ocean dumping) I'd appreciate it if we'd get some official notification.

Government estimates are that 62 million tons of waste—ranging from DDT residues to old mattresses—are dumped off America's seacoasts annually.

TELEGRAM

(Telegram sent by Senator Gaylord Nelson Friday, March 12, to Mr. Russell Train, Chairman, President's Council on Environmental Quality, and Mr. William Ruckelshaus, Administrator, Environmental Protection Agency)

In a front page story, The Evening Star reports that a private company—Rohm and Haas—has been dumping up to 80 tons of arsenic compounds a month in the Atlantic Ocean off our east coast for the past ten years.

I think you will agree that this is a shocking act of corporate irresponsibility. How can people in America have confidence in our private institutions if they will cavalierly throw dangerous wastes in the oceans?

Unless the company permanently calls off this dumping, I think every effort should be made by the Federal government to bring the practice to a halt. I am certain that if the Administration contacts this corporation, it will defer to your request to terminate this practice.

In the meantime, I think it is important that we act immediately to pass legislation dealing with all ocean dumping. More than a year ago, I introduced a bill which would not allow any ocean dumping from the United States without permits based on public hearings and through marine ecological studies, and by 1975, all dumping would be permanently banned.

DOOR MAY STILL BE OPEN FOR AMICABLE SETTLEMENT OF TEXTILE DISPUTE

Mr. JAVITS. Mr. President, I have carefully reviewed the President's statement rejecting voluntary import restrictions proposed by the Japanese textile industry.

A careful reading of the President's remarks clearly indicates that the President has outlined in detail the type of agreement acceptable to him. The President, after outlining the type of agreement which would be acceptable, indicates:

I am directing the Secretary of Commerce to monitor imports of wool and man-made fiber textile products from Japan on a monthly basis. I am instructing that this monitoring begin immediately, with the results, including an analysis of any differences from what would have been the results under the terms we presented, to be made available to the entire Congress.

It is widely known that the Japanese Government made an offer last December which was rejected by the White House after consultation with our domestic industry. Reports indicate that the new offer of the Japanese textile industry, which apparently is acceptable to Chairman MILLS, is not as favorable as the earlier offer of the Japanese Government.

Thus, while the formulation put forward by our President differs from the formulation of the Japanese industry, it could be very close to the final offer made by the Japanese Government, which was rejected in December.

In viewing the textile dispute, the following observations seem pertinent:

First. The President's statement should not be viewed as closing the door to a mutually satisfactory arrangement with Japan.

Second. Any President would find it extremely difficult to agree to an offer less favorable than the offer the U.S. Government rejected earlier. However, the President, because of changed circumstance, might be willing to approach the Japanese Government's offer of last December.

Third. The President of the United States and Premier Sato have too much at stake to allow the textile dispute alone to affect overall U.S.-Japan relations with all the implications this would have on the Asian policies of both nations.

Fourth. The door to a settlement still seems wide open and both countries should walk through it. The consequences to the international economic system of the free world would be too shattering to contemplate if this were not the case.

Fifth. Japan should carefully read the President's words and be discerning on the position on textiles which is acceptable to the United States.

Sixth. The wisdom of the following remarks by Chairman MILLS should be a criterion for us all:

I cannot understand how under any circumstances a statutory proposal for the protection of a single industry can be developed which is exclusive of consideration of statutory programs for other affected industries.

The congressional consideration of the Trade Act of 1970 made clear that the Congress feels that if the textile industry is deserving of statutory quotas—other industries are equally or more deserving.

I join Chairman MILLS in the view that attempting to legislate statutory quotas for one industry, textile—only will result in a Christmas-tree type quota bill and consequently would lead to a trade war with our principal allies in the free world. The history of the Trade bill of 1970 is already an accurate guide on this matter.

So I urge our Government to use the open door which is the offer of a unilateral agreement to try to reach an amicable agreement with the Japanese Government. I urge the Japanese Government to accept the President's invitation toward that end.

I ask unanimous consent that the texts of statements by President Nixon and Representative MILLS of the other body be made a part of my remarks.

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

TEXTS OF STATEMENTS BY NIXON AND MILLS

[From the New York Times, Mar. 12, 1971]

WASHINGTON.—Following are the statements by President Nixon, rejecting voluntary import restrictions by the Japanese, and by Representative Wilbur D. Mills criticizing the President's action:

STATEMENT BY THE PRESIDENT

For two years, this Administration has attempted to negotiate a voluntary agreement with the Government of Japan curtailing the excessive wool and manmade fiber textile imports from Japan. The United States has sought to be as flexible as possible concerning the details of an agreement while consistently adhering to certain basic principles, which we consider essential to any agreement designed to curb these excessive imports. These principles are reflected in the following terms which have been presented to the Japanese Ambassador by the United States negotiator in meetings through January of this year:

A limited number of categories of particularly sensitive products, covering about one-half of those imports would be assigned specific import ceilings. The ceilings would be based upon imports from Japan in 1969, plus a reasonable growth factor. Shifting of imports among these categories would be permitted so as to reflect changing conditions in the United States market, subject to limitations to avoid excessive concentration in any of these sensitive categories.

If imports from Japan, of any other category exceeded the 1970 import level, plus a more liberal growth factor, the United States could request consultation with Japan, and impose specific limitations if a mutually satisfactory solution was not reached.

On Monday, following discussions between its Washington representative and the Chairman of the House Ways and Means Committee, the Japan Textile Federation announced that the Japanese textile industry is undertaking a unilateral program to limit future exports of textile products to the United States. At the same time, the Government of Japan issued a public statement endorsing this unorthodox action by a private Japanese group and terminating its negotiations with the United States Government. On its face, this unilateral program falls short of the terms essential to the United States in the following significant respects:

Only one over-all ceiling for all cotton, wool and manmade fiber fabric and apparel textiles is provided, with only a general understanding by the Japanese industry "to prevent undue distortions of the present pattern of trade." This allows concentration on specific categories, which could result in these categories growing many times faster than the over-all limits.

The over-all ceiling would be based on imports from Japan in the year ending March 31, 1971, plus a growth factor. During the two years that we have been negotiating with the Government of Japan, imports of manmade fiber textile products have greatly increased, and in January, 1971, they entered this country at a record-breaking level. Moreover, the program magnifies the potential growth of the sensitive categories by including in the base exports of cotton products which are already limited by agreement and which have been declining.

The deficiencies in the Japanese industry program make it clear that it will not result in an acceptable solution. It is well known that I would prefer a negotiated agreement to solve this problem. The answer of the Japanese industry, now apparently ratified by the Government of Japan, has effectively precluded further meaningful Government-to-Government negotiations, the resumption of which this country would welcome.

Consequently, I will strongly support the textile quota provisions of the legislation now pending before the Congress, H.R. 20, a bill passed by the House of Representatives last year and reintroduced this year by Chairman Mills and Congressman Byrnes of the Ways and Means Committee.

At the same time, I am directing the Secretary of Commerce to monitor imports of wool and manmade fiber textile products from Japan on a monthly basis. I am instructing that this monitoring begin immediately, with the results, including an analysis of any differences from what would have been the results under the terms we presented, to be made available to the entire Congress.

Under the circumstances and in order to

provide the relief necessary for United States textile workers and businesses this government must now give the fullest consideration to other alternative solutions to the textile problem.

STATEMENT BY MILLS

I understand that the President and his advisors, after considering the recent initiative of the Japanese Textile Federation toward a solution of the problem of textile imports, have decided to reject the Japanese proposal. Having responded on many occasions to requests from Administration officials during the past two years to assist in furthering a negotiated settlement of this problem, I am both surprised and disappointed at this decision.

This rejection of the Japanese initiative not only involves honest differences of opinion as to the extent and the nature of restraints on textile exports to the United States, it involves the very core of our trade relations with the textile exporting countries and indeed with our ability to deal on a realistic basis with the problems all our industries face in competing in our own markets and abroad.

While I can perhaps understand the position taken by the leaders in the textile industry in opposing the proposal, and I assume that they have given it serious study, it is difficult to understand an out-of-hand rejection of the proposal after two years of unsuccessful attempts to negotiate a settlement. My support of the industry's efforts and my support of the Administration's efforts to obtain a solution to this problem are a matter of public record. I regret that at this time the decision has been made to reject this avenue toward a meaningful accommodation of the international textile trade problem.

The President apparently knows of another way to obtain the protection which the textile industry is seeking, and, at the same time, prevent other protectionist developments from accompanying that relief, but I do not.

As I have pointed out before in several different ways, the stakes involved in an early settlement of the textile controversy are very great. Obviously, our trade problems go far beyond just the question of textiles, and I cannot understand how under any circumstances a statutory program for the protection of a single industry can be developed which is exclusive of consideration of statutory programs for other affected industries. As I have already said, I await with considerable interest the presentation of such a program by the Administration.

THE PRESIDENT'S STATEMENT ON TEXTILES

Mr. THURMOND. Mr. President, I was pleased that President Nixon repudiated the action of Representative MILLS, Chairman of the House Ways and Means Committee, in going along with the Japanese textile declaration that is unworkable, unsatisfactory, and which will not produce results.

I was also highly pleased that President Nixon has strongly endorsed legislation to give relief to the textile industry by limiting imports from Japan and other foreign countries.

In addition, President Nixon has indicated he is giving serious consideration to other alternative solutions to the textile problem and has directed the Secretary of Commerce to monitor Japanese imports on a monthly basis, which will show the inability of the Japanese declaration to solve this serious problem.

Mr. President, both textile workers and management in this country strongly support these actions by the President. It is surprising that the Chairman of the House Ways and Means Committee abandoned this legislation and endorsed an unworkable proposal by the Japanese. Last year this legislation passed the House and was acted upon favorably by the Senate Finance Committee. President Nixon is asking that the Mills bill be enacted into law and is giving full endorsement to it.

The Democrats control both Houses in Congress and they can enact this bill if they see fit to do so and most of the Republicans will favor its enactment. Partisan politics should be laid aside and full support given this legislation by both parties.

Mr. President, let us examine for a moment what the Japanese declaration really is. Senators will notice that I referred to it as a declaration rather than a proposal, for the reason that the Japanese textile industry acted unilaterally and there was nothing for this country to officially accept or reject. The Japanese textile industry wants to relegate to itself the responsibility for making decisions which affect the economic and social well-being of the people of the United States. It seems they are not even willing to leave it to the Governments of Japan and the United States to work the matter out. Of even further irony is that the Japanese textile industry is the very group which has caused the problem in the first place through excessive imports to this country. The President wisely rejected the Japanese declaration and repudiated any suggestion that the administration or the Congress should sanction it.

In addition, the details of the Japanese declaration show it to be entirely meaningless as a serious answer to the textile import problem. There are those who say half a loaf is better than none. Even the most casual examination of the so-called restraints suggested by the Japanese clearly reveals that the Japanese textile interests have come forth with nothing, not even a slice of bread let alone a half a loaf.

The proposal provides no limitations by product line and no differentiation of fibers. This allows the Japanese to move in on a particular product line with extremely heavy imports, totally disrupt the American market for that product, and then move on to another. In addition, the level of imports the Japanese industrialists suggest limiting themselves to, is a level which they have not obtained thus far, even though our textile industry is already suffering greatly. The administration's strategy was to use the 1968 level of imports as a base. The Japanese should not be rewarded for 2 years of dilatory negotiations during a time in which they flooded the American market at an unprecedented level.

Mr. President, experience has shown that a trade agreement is workable only if a government-to-government accord is in force, so that the governments can take the necessary steps to make sure the agreement is kept. I wish to praise the President for his strong and forthright repudiation of the Japanese declaration and for his firm endorsement of a legislative solution to the problem.

Let me conclude by calling on my colleagues of both parties in the Senate and my friends, both Democrat and Republican in the House, to recognize the urgency of the need to enact textile import quotas and to do so as quickly as is feasible.

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

Mr. THURMOND. I am pleased to yield to the distinguished Senator from Tennessee.

Mr. BROCK. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from South Carolina. I share his concern for the thousands of people across the entire United States who work in our vital textile industry. I think they have been subject to considerable abuse through previous governmental policies in this country regarding imports. The fact of the matter is that, they have not been allowed, in many instances, to compete fairly with these imports.

The fact that the Japanese, who have been so aggressive in promoting an export policy, have not only been dilatory, but have literally refused to negotiate a reasonable limitation on imports. This, I think, bears witness to the strength of the President's statement in which he said we simply cannot accept this so-called limitation on the part of the Japanese manufacturers.

As a matter of fact, it is not a limitation at all. I think the Senator would agree that they have asked, not for a decrease in imports, but for an increase over the exorbitantly high yield of 1970, which was already out of reason, and which was already having severe effects on the textile industry in this country.

If I recall correctly, in the 15 months prior to December of last year, this Nation had lost some 65,000 jobs in the textile industry alone due to imports. I think the Senator would agree that that constitutes a near crisis, if not a crisis, within a basic industry, an industry that is essential to the well-being of this Republic.

I want to say very strongly that I am in agreement with the Senator's position, but more specifically, I am grateful to the President of the United States for stating very clearly that such so-called limits are not accepted. I am also in agreement with his statement that we must pursue the legislative process; and I would note at this point that the Senator from South Carolina has been one of the prime movers in trying to achieve a legislative resolution of this problem.

He has introduced this year a bill, which I cosponsored, to bring reason back to this very fundamental problem. In addition, I congratulate the Senator from South Carolina for bringing this matter to the attention of the Senate today. I support him, and again I express my gratitude to the President for clearly and forthrightly stating his intention to stand with the American textile industry and its employees until we resolve this very difficult problem.

I thank the Senator for yielding.

Mr. THURMOND. Mr. President, I congratulate the distinguished Senator from Tennessee on his fine conception of this problem and his knowledge of the subject, and the dangers that he has the vision to see are facing the textile employees and the textile industry of this Nation.

The Defense Department has ranked textiles second to steel in importance from our national defense standpoint. We just cannot afford to see the textile mills of this Nation closed down.

One million people or more are employed in the textile industry. Furthermore, if they keep closing mill after mill, before we know it, we will not have any textile mills left in this country. We will then be dependent upon other countries for textiles. Suppose we should have a war; where would we be then?

We must be self-sufficient in textiles within the United States. This is most important from the standpoint of our own national security as well from the standpoint of preserving the jobs of, as I have stated, a million people.

For example, in my State 70 percent of the industrial payrolls come from textiles. Take textiles out of South Carolina and we would have a ghost State. The Federal revenues from that State would drop tremendously, until it could hardly be recognized as a State.

It is important, Mr. President, that we preserve this textile industry. It is important that we preserve these textile jobs for the good Americans working in the textile mills.

Again I commend the distinguished Senator from Tennessee.

Mr. BROCK. I thank the Senator.

THE 1972 DEFENSE BUDGET AND A POLICY OF REALISTIC DETERRENCE

Mr. THURMOND. Mr. President, it is with real concern that I view the fiscal year 1972 Defense budget and the new policy of "realistic deterrence," as we begin a 5-year defense plan keyed to preventing war and securing peace.

It appears the administration is embarked upon a "high risk" defense budget and a "low silhouette" defense policy. The $76 billion defense budget is obviously the very minimum we can get by with during the next fiscal year and barely maintain a sufficiency of military strength to provide a deterrence for would-be aggressors.

Mr. President, the situation is best described by saying that we are meeting an increased threat with less hardware and people.

The Defense Department makes it clear the Soviet threat has skyrocketed; the Red Chinese are nearing an intercontinental ballistic missile capability; and small nation belligerents such as Egypt, Cuba, and North Vietnam are as active as ever.

In his posture statement Secretary of Defense Melvin Laird acknowledges what he terms "a growing Soviet military capability and technological momentum." He also notes what he calls "an emerging Chinese Communist nuclear threat."

Yet, at the same time, we are reducing our military personnel strength to the lowest point in years.

Further, we have fewer planes and ships in our defense arsenal than we have had in well over a decade. Last year the United States built fewer planes than at any time since 1935, and 1935 was hardly a year when we faced much of a military challenge.

In the last month we have learned that the Soviet Union has developed a new ICBM and a new long-range bomber, either of which could further push the strategic balance of power in their favor. Presently, they are considerably ahead of the United States in megatonnage delivery capability and in the number of land-based ICBM's.

In his posture statement, Secretary of Defense Melvin Laird revealed the Soviets have a "new swing-wing bomber under development." It is no secret in U.S. defense circles that the Soviets are fairly close to production on this new bomber while here in the United States, Congress is cutting back on the first increments of funds to develop our own bomber program, the B–1.

This shifting balance of military power unfortunately finds us in a period during which a trend toward isolationist thinking prevails in the United States. This desire to withdraw from the world arena is taking hold of the minds and hearts of too many of our people. I believe this attitude, coupled with demands for more domestic programs, has forced the administration to offer a high-risk defense budget simply because they believe Congress would not approve a greater amount of money.

Thus, there are signs everywhere that we stand at the edge of an abyss from which there will be no easy or quick return. We must not yield to these powerful isolationist pressures at home. We must not take those fatal steps into the dreamland of halfway military preparedness. If we make such a mistake, we will be able to do little more than stand by and deplore the ravages of the aggressor and the depredations against peaceful nations which are sure to follow.

With this background, it appears to me that the fiscal year 1972 defense budget is a high-risk budget and the policy it turns on indicates a low silhouette for U.S. military might.

The budget is apparently so constructed because it is based on two conditions. First, it is predicated on our disengagement from Vietnam, and, second, it reflects the fiscal pressures for a reordering of national priorities.

Mr. President, all of us in Congress and the Nation must surely recognize that the President of the United States is taking us out of Vietnam. He is doing this with skill and courage, but his hand is undoubtedly weakened by the shrill calls for "peace now" and "immediate withdrawal," from the Halls of Congress and across the Nation.

Further, it is about time the Nation wakes up and realizes the present administration has already realined national priorities. The public needs to be told that nondefense Federal spending has grown by $90.3 billion from 1964 to 1972. At the same time, State and local spending for domestic needs has increased $89.9 billion. Thus, we can see that each of these figures is greater than the total defense budget of $76 billion fo fiscal year 1972.

Also, the Nation should consider tha today defense takes only 20.9 percent total public spending versus just unde 50 percent in 1953, and the present de fense budget is the lowest percent of ou gross national product since 1950.

Mr. President, the administration wi have my full support in its efforts to wi congressional approval for the new de fense budget. My regret is that they di not ask for more. Hopefully, Congress, a in some past years, will add items wher the need is most obvious.

Certainly, we must press forward wit development of a new bomber, new tac tical aircraft, and more advanced Nav ships and submarines.

In connection with this overall matte the Secretary of Defense is to be com mended for his efforts to strengthen an utilize the Nation's Reserve forces. Mor money is going into needed equipment fo our Reserves and Guard than ever be fore.

Unfortunately, the Defense Depart ment has been less realistic when i comes to handling Reserve personne While they are proposing many progres sive steps to achieve a volunteer arme services for Regulars, little is being of fered as inducements to maintain Re serve personnel strengths.

In recent months I have been investi gating the Naval Air Reserve reorganiza tion. While the reasoning for the reorga nization is sound, the Navy Air Reserv has moved too drastically away fron population centers and today finds itsel with a serious, if not critical, shortag of Navy Air Reserve enlisted personne

Few seem to realize that over 70 per cent of all reservists are draft moti vated; and when we move toward zer draft, Reserve strength is going to dro sharply unless enlistment inducement are greatly increased. Maintaining Re serve strengths in the years ahead wil be much more difficult than maintain ing Regular strengths.

The Navy Air Reserve has serious per sonnel problems, although it has re duced the number of real flying units i its organization. When the hard crunch for personnel comes a year or two from now, the Navy Air Reserve leaders wil wish they had stayed in some of the population centers abandoned last year It is a mistake to move away from population centers at the very time personnel problems are clearly on the horizon.

Mr. President, the Nixon administration is basing its 5-year defense plan on three pillars—strength, partnership, and negotiation.

Secretary Laird admits in his posture statement that we are walking on a tightrope which could fly from under us at any time. He states:

> There is some risk attached to our fiscal year 1972 Defense Budget for it continues the downward trend in overall Defense Department purchasing power at a time when the threats we face around the world continue to increase, not diminish.

There is no doubt in my mind that we in the Congress are being asked to consider a defense budget which does not come anyway near meeting the requirements necessary to positively insure our

national security. It is a high risk budget for a low silhouette defense policy called "realistic deterrence." I would much rather see us pay the bill to continue the military superiority this Nation has enjoyed since World War II. This would be good insurance.

In closing, I ask unanimous consent that the Washington Daily News article, by Mike Miller, titled "Russia Taking Arms Lead," be printed in the RECORD. This article appeared in the March 10, 1971, issue of the News, and covers the unclassified remarks of Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff, before the House Armed Services Committee.

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

DEEP GLOOM IN PENTAGON: RUSSIA TAKING ARMS LEAD

(By Mike Miller)

The nation's top military officer warned today that nuclear superiority by Russia "must be avoided at all costs" both because of its military implications and the adverse impact it might have on U.S. foreign policy.

Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff, said clear-cut strategic superiority by the Soviet Union could cause U.S. allies to lose faith in the deterrent power of the U.S. nuclear forces.

And Adm. Moorer, in his annual appearance before the House Armed Services Committee in support of the Defense Department budget, said that in his opinion the overall strategic balance "has drastically shifted in favor of the Soviet Union" over the past five to six years.

"Our comfortable lead has now all but vanished, and within the next five or six years we could actually find ourselves in a position of overall strategic inferiority," he said.

"We will pay a very high price in the effectiveness of our diplomacy if we permit the Soviet Union to achieve a clearly evident strategic superiority, even were that superiority to have no practical effect on the outcome of an all-out nuclear exchange."

Adm. Moorer said overall strategic nuclear power must be measured as a combination of three factors—megatonnage, numbers of delivery vehicles (missiles and planes) and numbers of nuclear warheads.

He said the Russians already have a substantial lead in megatonnage and could surpass the United States within one or two years in numbers of delivery vehicles.

"Only in numbers of strategic offensive warheads is the United States likely to maintain its lead over the Soviet Union during the 1970s," he said.

While the Russians recently have slowed construction of ICBMs, Adm. Moorer said, they have continued full speed in building new missile-carrying nuclear submarines at the rate of about eight per year. He predicted the Soviet Union will have 20 of these nuclear submarines at sea by mid-1971.

The United States has 41 Polaris missile-firing submarines. Defense officials estimate that at the current rate of construction, the Russians will overtake the United States in strategic nuclear submarines by 1974.

WILL AMERICAN DEMOCRACY BE A CASUALTY OF WAR?

Mr. PELL. Mr. President, the chairman of the Committee on Foreign Relations, the Senator from Arkansas (Mr. FULBRIGHT) delivered a speech at the Florida State University in Tallahassee, Fla., on March 2. Its title is "Will American Democracy Be a Casualty of War?"

The chairman made a number of significant observations about the impact of the Vietnam war on democracy at home. He referred not only to the economic impact of that war upon our society, but he also discussed some of the effects of the war upon relationships between the executive and legislative branches of the Government.

This is a significant speech not only for people who are concerned about our involvement in Indochina, but also for those who see the effects of that involvement on our basic governmental structure.

I find myself in agreement with this speech, and ask unanimous consent that Mr. FULBRIGHT's remarks be printed in the RECORD.

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

WILL AMERICAN DEMOCRACY BE A CASUALTY OF WAR?

Even if the statistics of war were highly accurate, they would tell us only a little about the cost of America's endless war in Vietnam. The figures can tell us how many pounds of rice have been captured in a Cambodian sanctuary and how many trucks have been demolished on the Ho Chi Minh Trail. They can tell us how many men we lost last week as against a much larger number of enemy dead, as if the difference were a margin of profit. They can tell us how many South Vietnamese villages have been transferred from the "insecure" category to "secure" on the tidy, multicolored charts of which the military are so fond.

With due allowance for the natural tendency of nations at war to exaggerate their successes and minimize their failures—and allowing even for the apparent failure thus far of the Laotian operation—I am not much inclined to quarrel with the charts and figures. By all available evidence, we have broken up enemy sanctuaries, pacified South Vietnamese villages, and imposed Saigon's political authority in places where it had not been before. With our vastly superior firepower and resources, it would be something of a miracle if we had not accomplished at least this much.

The charts and figures may demonstrate that we are doing a good job of what we are doing. What they do not show, and cannot show, is whether the job is, or ever was, worth doing. They can show that pacification is proceeding but not whether it is durable. They can show us how many died but not what they died for. They can show us what we have done to the enemy but not what we have done to ourselves, and to the people we are supposed to be saving from the enemy.

Our leaders have told us very little about the effect of the war on the civilian populations of Vietnam, Cambodia and Laos. They point with pride to the reduction in American casualties but they pass over such facts as the following, which have been ascertained by the Senate Subcommittee on Refugees: In the course of the war there have been over one million South Vietnamese civilian casualties of whom at least 300,000 have died. According to President Nixon, the number of civilians killed by the Vietcong since the war began is 40,000; most of the remaining 260,000 appear to have been killed by American bombs and guns. In Laos, so far as can be ascertained, there had been 30,000 civilian casualties, including 10,000 dead, prior to the recent American-South Vietnamese invasion. The Cambodian Government estimates its civilian casualties as being in the "tens of thousands." The war, in addition, has "generated"—to use the cold-blooded military term—some 4 million refugees in South Vietnam, out of a total population of 6 million; and 300,000 refugees in Laos; out of a total population of 2.7 million. Perhaps the final word on America's impact on Indochina was spoken by the American major who said after the Tet offensive in 1968 that he "had to destroy Ben Tre in order to save it."

I. THE PRICE AT HOME

What we are doing to others is inseparable from what we are doing to ourselves. People cannot commit acts of brutality without becoming brutalized themselves. I do not think that the American people have yet lost their basic humanitarianism, but, after a decade of war in Indochina, many of us are becoming anesthetized to the fact of mass killing and destruction. We no longer translate "body counts" into the human tragedy of dead young men and bereaved families. Death has been made into an abstraction, while the enemy himself stripped of his humanity; he is no longer a man but a "gook," and thinking of him as a "gook" makes it bearable to kill him. To assist this process of hiding the painful truth from ourselves, the military have supplied us with a glossary of antiseptic euphemisms—"ordnance" for bombs and bullets, "contact" for blood combat, "neutralize" for kill.

Even our concept of "peace" has been drastically modified: where once it referred to a condition in which nobody is killing anybody, it now refers to a future state of affairs in which Asians will be killing Asians with American guns, bombs and air support—but without American ground combat forces. As a prominent university president recently put it, American policy in Indochina is being shaped "as though America had no concern for the sanctity of human life, as such—as though, somehow, Americans cared only about American lives."[1]

In the same measure as it erodes our moral sensibilities, the war erodes our democracy. Any war, as Alexis de Tocqueville told us over a hundred years ago, is antithetical to democratic values. Democracy thrives on open discussion and humane enterprises; war by its very nature compels secrecy, deceit and the suspension of humanitarian policies at home and abroad. Even when a war is of limited duration, when its objectives are clear and defensible, when the people are united in support of it, and when the nation is led by men of integrity and vision—as was the case in both World War I and World War II—there is a legacy of lasting damage to democracy. Wars are invariably followed by periods of reaction and repressiveness, and the emergency powers yielded to the executive in wartime are never subsequently restored in their entirety to the people or the legislature.

When a war is of long duration, when its objectives are unascertainable, when the people are bitterly divided and their leaders lacking in both vision and candor, then the process of democratic erosion is greatly accelerated. Beset by criticism and doubt, the nation's leaders resort increasingly to secrecy and deception. The people in turn—and especially the young, who have no memory of better days—thereupon begin to lose trust, first in the government in power, then in the institutions of government. That is what is happening in America today, and it ought not to surprise us. When truth becomes the first casualty, belief in truth, and in the very possibility of honest dealings, cannot fail to become the second. And when mutual trust goes, so in time will democracy itself, the ultimate casualty of war. It is extraordinary, when you think of it, that so much of the time and energy of people concerned with foreign policy—students, scholars, reporters and members of Congress—is taken up in

Footnotes at end of article.

speculations about our country's true aims in Southeast Asia. What does President Nixon really intend? we ask ourselves. Does he really mean to get out? or does he plan, through the use of surrogate armies—backed by American money and air power—to fight on until he wins—whatever "winning" may mean?

The extraordinary thing is that in this free democracy we do not really know what we are fighting for. It is as if our war aims were the President's personal secret. The rest of us can debate and speculate if we like—especially if we don't mind being accused of giving aid and comfort to the enemy—but the real answer lies locked away in the inner recesses of the White House.

Americans may well ask how this state of affairs came about? Did our Constitution really intend for the President to be a remote, secretive and all-powerful leader in matters of foreign policy and a virtual dictator when it comes to starting wars and ending them? Historians have noted that in the great summit conferences of World War II Prime Minister Churchill used to make only provisional commitments, because he had to consult with his Cabinet while President Roosevelt made final decisions on the spot. Even Premier Kosygin of the Soviet Union deferred matters for his colleagues when he met with President Johnson at Glassboro, while the President felt himself to be under no such restraint. Was that the kind of official the Founding Fathers had in mind as the successor to George III?

Senators who serve on the Foreign Relations Committee are permitted from time to time to hear briefings on the war by the Secretary of State and other Administration officials. At the insistance of the Executive these briefings are almost always held in secret; recent Administrations have shown a keen dislike of having to explain their foreign policies in public. This is usually explained on the ground that sensitive matters of national security will be discussed; in fact I can hardly recall hearing anything of consequence in these secret briefings that I had not already seen in my morning paper. Quite obviously, the secrecy has little to do with protecting our country from a foreign enemy; its purpose is to protect the Administration from scrutiny and criticism at home.

Even if these briefings and hearings had real substance, they would still not provide Senators and Congressmen with the opportunity to discuss matters directly and candidly with the principal authors of our foreign policy. Occasionally the President will hold an audience at the White House for senior members of Congress or for members of his own party, but these are ceremonial occasions, on which the legislators demonstrate their awe and deference toward the Presidential office. Anyone who has the temerity to ask a direct question or express a candid opinion is frowned upon, like a child misbehaving in church. Occasionally too, the President's Assistant for National Security Affairs holds briefing sessions for selected members of Congress, or what are called "background" sessions for the press. Under no circumstances, however, will Mr. Kissinger or any of his staff accept an invitation to testify before a Congressional committee, in public or in private. When invited, these close advisers of the President invariably decline, invoking what they call "executive privilege."

As between the executive and legislative branches of our government, the effect of "executive privilege" is exactly the same as a break in diplomatic relations between nations. No direct communications take place between those who make foreign policy in the Executive branch and those in Congress who are supposed to participate in the making of policy and to oversee its execution. Like the Arabs and Israelis, they communicate through intermediaries, with the Secretary of State cast in the role of Ambassador Jarring.

These circumstances make it exceedingly difficult to ascertain what our objectives are in Indochina, or in any of the other "sensitive" areas of American foreign policy. I intend in the immediate future to introduce legislation which, if adopted, would help to correct that situation by opening a channel of direct communication between Congress and the men who make American foreign policy. This bill would require employees of the Executive branch to appear in person before Congress or appropriate Congressional committees when they are duly summoned, even if, upon their arrival, they did nothing more than invoke "executive privilege." It would require an official such as the President's Assistant on National Security Affairs to appear before an appropriate Congressional committee if only for the purpose of publicly stating, in effect: "I am not going to answer your questions about our foreign policy. I have been instructed in writing by the President to invoke 'executive privilege' and here is why. . . ."

The purpose of this bill is to make a small breach in the wall of secrecy which now separates Congress from the Executive in matters of foreign policy, and particularly in matters pertaining to the war in Indochina. The specific change of procedure that would be required by this bill is a limited one, perhaps even a minor one, but its intent goes to the core of the democratic process by reaffirming the principle of accountability to Congress in the conduct of foreign policy.

II. Our Aims in Indochina

An appreciation of the enormous risks involved in the endless war in Southeast Asia will underline the need for a return to clarity and candor in public discussion, and to constitutional accountability in matters of war and peace.

Although the tactics have been changed—by and large for the better, I readily agree—the objective of the Nixon Administration in Indochina is by all available evidence the same as that of the Johnson Administration: to win the war in the sense of establishing viable anti-communist regimes in South Vietnam, Cambodia and probably Laos. A compromise political settlement, which could only mean a sharing of power between Communists and noncommunists has been effectively ruled out. That is why the Paris negotiations have failed—because there has been nothing to negotiate, from the enemy's point of view, except the terms of their surrender. Starting two years with the peculiar assumption that "Vietnamization" would give the North Vietnamese and the Vietcong an incentive to negotiate with mild and easygoing Americans before the tough-minded South Vietnamese took over, Mr. Nixon has now written the Paris negotiations off. "We are not going to make any more concessions," he said at a recent press conference. He also said that the "primary" reason for continuing to pursue diplomacy was "to negotiate some settlement of the prisoners-of-war issue." The President did not explain how he proposes to negotiate the release of the prisoners without making any more concessions.[2]

Clearly a political settlement, which would involve some sharing of power with the Communists, is not the Nixon Administration's aim in Vietnam. Nor, as we are often encouraged to believe, is the Administration's aim simply to get the American forces out in good order—to "back out of the saloon" with both guns blazing. It insults the intelligence of the American people to tell them that we had to invade Cambodia and Laos simply in order to cover our withdrawal; I do not think the North Vietnamese and the Vietcong would be so stupid as to try to interfere with an authentic, total American withdrawal. Indeed, it is only in a political atmosphere dense with obfuscation and mendacity that it becomes necessary to deal with this argument at all.

For President Nixon, as for President Johnson, the objective is military victory. "Vietnamization" has been substituted for escalation and it has achieved certain successes. No informed critic would deny that our casualties are greatly reduced, that the South Vietnamese Army is fighting better than it used to, or that much of South Vietnam has been pacified. The point that the critics are making is a different one: that "Vietnamization" is not going to end the war, that we are marching in triumph down a dead-end street.

The Vietnamese Communists have been fighting for twenty-five years and they have given us every reason to believe that they will continue to fight until they gain power in South Vietnam or until a new government emerges in Saigon with which they can come to terms. They have withstood many reverses in their long years of fighting but they have not been subdued. As Mr. Kissinger noted before he became one of the managers of the war, if a guerrilla army is not defeated, then it has won. "And how long do you Americans wish to fight?" North Vietnamese Premier Pham Van Dong asked in Hanoi four years ago. "One year? Two years? Twenty years? We will be glad to accommodate you."[3]

Behind the tenacious North Vietnamese are the Russians and Chinese, both of whom have pledged continuing support for the North Vietnamese despite any temporary reverses they may suffer. The Chinese in fact have said repeatedly that they welcome a war of attrition as a drain on American military, political and psychological resources.

Taken together, all these factors show that "Vietnamization" means not an end to the war but its perpetuation—with Asians doing the fighting on the ground while Americans provide air power, supplies and money. That is, if "Vietnamization" goes well. If it goes badly, if the South Vietnamese or Cambodian armies falter, the residual American force will be threatened with military disaster—the very specter that has haunted the President for the last two years. What would we then do? Hastily pull out our remaining forces or raise the stakes by launching an all-out attack on North Vietnam? The President has repudiated any intention of using nuclear weapons—and for that we must be grateful—but it must also be remembered that people are least likely to behave rationally when their backs are to the wall, and President Nixon himself has not always responded prudently in conditions of adversity.

At best "Vietnamization" will keep us hostage to the fighting abilities of the South Vietnamese Army and the political ambitions of the Thieu-Ky regime. As far as the South Vietnamese Army is concerned, it has indeed improved, but, as is now being demonstrated in Laos, it is dependent upon massive American air and logistics support. As one American Air Force Officer told a reporter recently, "We will be around a long time to come. You won't see any deadlines on the withdrawal of air power from this place."

As to the Thieu-Ky government, it has ruled out any form of political compromise with the National Liberation Front. Advocates of a compromise peace are prosecuted and imprisoned in South Vietnam, and the countryside is littered with government propaganda slogans such as "Coalition with the Communists is suicide," and "Not one square inch of our land for the Communists!" They are now even threatening to invade North Vietnam—an adventure that they could not dream of carrying off without massive American support. "If we are to

Footnotes at end of article.

launch operations into neutral Cambodia and Laos," President Thieu said on February 22, "Why shouldn't we dare to attack the very origin of aggression?"[4] In his press conference of February 17, President Nixon pointedly declined to disavow American support for a South Vietnamese invasion of the North.

Perhaps, if General "Big" Minh should defeat Thieu for the presidency next October, a new South Vietnamese government would negotiate a settlement with the National Liberation Front. General Minh has said that he favors a compromise peace and a neutralized South Vietnam. Such a solution would of course be excellent from the standpoint of the United States: the Vietnamese would have settled their own conflict through a popularly elected leader.

The United States Embassy in Saigon, however, with the full support of the Nixon Administration is doing everything possible to help President Thieu stay in power. Ambassador Bunker is known to be a close friend and adviser to Mr. Thieu, and is also known to be contemptuous of General Minh. A former United States pacification adviser wrote recently that, a few days before he resigned last November, he was instructed to supervise an American-sponsored survey of popular attitudes toward the issues and personalities involved in the upcoming political campaign. The items in the survey relating to the presidential election, this American official was told, had been worked out in a meeting between President Thieu himself and Ambassador William Colby, the chief American pacification adviser in South Vietnam, and were designed specifically for the political benefit of President Thieu. If President Thieu is re-elected, it will be with the support of an American political apparatus more formidable than Tammany Hall in its heyday, despite clear evidence that his replacement may well be, in the words of one noted Vietnam expert, "the best remaining hope for an end to the war."[5]

To continue our survey of the possibilities, what if "Vietnamization" goes exceedingly well? What if—as now seems unlikely—the Laotian incursion is a big success and the South Vietnamese succeed in sealing off the Ho Chi Minh Trail? Will China permit her Indochinese allies to be defeated, or will she come to their assistance as she did for North Korea twenty years ago? President Nixon is confident the Chinese will not intervene. The incursions into Laos, he said recently, "present no threat to Communist China and should not be interpreted by Communist Chinese as being a threat against them."[6]

Perhaps the invasion of Laos "should not" be interpreted by China as a threat, but the more pertinent question is: will it? I do not think Mr. Nixon and Mr. Kissinger can guarantee Chinese nonintervention. Ominous statements have been heard from Peking since plans for the Laotian operation first became known. An article in the Peking *People's Daily* signed "Commentator"—a designation used for major official pronouncements—called the Laotian operation a "grave menace to China." The chief North Vietnamese delegate to the Paris peace talks, Xuan Thuy, has also publicly suggested—for the first time—that the invasion of Laos and the threat of a South Vietnamese invasion of North Vietnam might cause China to intervene in the war.

These may be idle threats, but I do not think they should be ignored, as President Truman and General MacArthur ignored the Chinese threat to intervene in Korea at great subsequent cost to the United States. I hope too that the Nixon Administration is not counting on its verbal assurances to persuade the Chinese that the expansion of the Indochina war is no threat to China. How can the Chinese be certain of American aims, when the American people themselves are profoundly uncertain of their Government's intentions? I do not think Mr. Nixon and Mr. Kissinger know, or can know, for certain that China will stay out of the war. My guess is that they are *taking a chance* on Chinese abstention as part of their larger gamble on military victory.

The ironic drawback in this policy is that the risk of Chinese intervention rises exactly in proportion as the gamble on victory seems likely to succeed. The greater our success in closing off the Ho Chi Minh Trail, the closer we come to defeating the North Vietnamese, the Vietcong and the Laotian Pathet Lao, the greater the chance of the Chinese coming to their rescue. Should the American people hope, therefore, for the failure of the Laotian question and for the continuance of a "Vietnamized" war of attrition as their own best protection against an all-out war with China? Such is the twisted logic of the policy of Vietnamization. Never to be forgotten either—for people who wish to preserve the United States as a humane democratic society—is that the morals of this war are as twisted as its logic. The death and destruction go on unabated for the civilian populations of Indochina, even though our own casualties are reduced. The "Vietnamized" war has become, in the words of Tom Wicker, "a slaughter of innocents."[7]

Implicit in this strategy of indiscriminate killing is the cruel and ignorant old supposition that Asians are indifferent to human life. In truth, as anyone who knows Asia at all can testify, the Chinese and Vietnamese and Cambodians and Laotians value their lives and the lives of their children as much as do Americans and Englishmen. They have simply been less successful at surviving, and their cries have been beyond our hearing. As much for the sake of our survival as a civilized society as for their physical survival, we cannot allow ourselves to forget that the victims of our bombs and bullets are people like ourselves, and although they die unheard and in great numbers, they do not die with indifference.

The great Community of 200 million people of which all of us are a part is bound together by devotion to the idea that every individual human being is entitled to be treated in a humane and civilized manner. We Americans are the descendants of people from all regions of this planet. For nearly 400 years our nation has received people seeking a haven from oppression and tyranny and an opportunity for self-expression and fulfillment. Our system of constitutional democracy was intended not only to provide for the security and welfare of those who came here or were born here, but also to serve as an example of democratic decency to the world.

We have scarcely doubted until recently that we had achieved a humane democratic society, but of late—and increasingly—that confidence has been eroded. Democracy is a process not a result. It is no particular set of policies, but a means of reaching them. It is a commitment to rational discourse, to persuasion, to restraint in the use of political advantage, to the renunciation of force or threats. The war in Indochina—its character and the way in which we have conducted it—is eroding our commitment to these values and, with it, our confidence in our selves and in our society.

Under the strain of this long and divisive war, we are conducting our affairs in a way that endangers the survival of our democratic society. "In any war," as a noted academic commented recently: "a democratic polity incurs certain inescapable damage. War by its nature required secrecy; democracy thrives on full disclosure. War causes people in authority not only to withhold the truth upon occasion; it tempts them to twist and distort it."[8] And as Alexis de Tocqueville warned us a century ago: "All those who seek to destroy the freedom of the democratic nations must know that war is the surest and shortest means to accomplish this. That is the very first axiom of their science."[9]

It is all fairly simple when you come right down to it: if democracy disappears from America, it will have been lost as a casualty of war.

FOOTNOTES

[1] Kingman Brewster, Jr. of Yale University, quoted by Joseph B. Treaster, in "Brewster Sees a 'Moral Flaw' in Vietnam Policy," *New York Times*, February 21, 1971, p. 3.

[2] February 17, 1971.

[3] Quoted by David Halberstam in "Laos and the Old Illusions," *New York Times*, February 25, 1971, p. 37.

[4] Quoted by Lee Lescaze, in "Thieu Asks Why Not Attack the North," *Washington Post*, February 25, 1971, p. A 22.

[5] Arthur M. Cox, "Last Chance for Peace in Vietnam," *Washington Post*, February 3, 1971.

[6] Press Conference of February 17, 1971.

[7] Tom Wicker, "A Slaughter of Innocents," *New York Times*, February 21, 1971, p. 11.

[8] Richard W. Lyman, President of Stanford University, "Democracy: Casualty of War," in Letters to the Editor, *New York Times*, February 19, 1971, p. 36.

[9] Alexis de Tocqueville, *Democracy in America* (New York: Harper & Row, Publishers, 1966), vol. II, ch. 22, p. 625.

POLLUTION OF THE OCEANS

Mr. PELL. Mr. President, the March 11, 1971, issue of the Washington Evening Star contains a story by Roberta Hornig which states that tomorrow—

> A ship carrying about 70 tons of an arsenic compound will sail from Philadelphia . . . and dump its potentially lethal cargo in the Atlantic Ocean.

According to the article, this practice of dumping arsenic at sea has been going on for 2 years on a monthly basis. Spokesmen for the companies responsible for the dumping say that it occurs about 150 miles out in the ocean. The only reason given for disposing of the arsenic in this manner is that it is more economical than any other method.

I ask unanimous consent that the article referred to be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit No. 1.)

Mr. PELL. Mr. President, the arsenic in question is only part of the estimated 60 million tons of waste dumped off American seacoasts every year. Nevertheless, I am deeply disturbed that this practice of dumping arsenic has been carried on for 2 years, particularly in view of the fact that when the arsenic comes in contact with sea water its composition is changed so as to make it potentially toxic to sea life in the area.

I realize that it may be too late to prevent the arsenic dumping which is to take place tomorrow. I have, however, sent a telegram to Mr. Vincent L. Gregory, president, Rohm & Haas Co., Philadelphia, Pa., urging him to postpone this disposal. I ask unanimous consent that this telegram also be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit No. 2.)

Mr. PELL. Mr. President, moreover, in an effort to prevent future dumpings of this nature, I am asking the Environmental Protection Agency to take such steps as may be necessary to obtain temporary restraining orders against any individual or company, based in the United States, engaged in disposing of its waste materials in the ocean. Although this would only represent a "stopgap" measure, it would at least put a halt to this onerous practice of using our oceans as an untreated septic tank for disposing of human and industrial wastes.

Mr. President, immediate action is necessary on both the domestic and international level if ocean dumping is to be brought under control. I hope, therefore, that the Senate will resolve the question as to which committee shall have jurisdiction over the legislation which is being held at the desk pending a decision as to where it should be referred. If the issue cannot be resolved quickly, then I suggest it certainly demonstrates the necessity of establishing a Joint Committee on the Environment as proposed by Senate Joint Resolution 17 which is presently our pending business.

The Foreign Relations Subcommittee on Oceans and International Environment, of which I am chairman, intends to hold hearings next month to receive testimony on conventions relating to pollution of the sea by oil. I might add that I expect the subcommittee to examine this whole question of ocean pollution in greater detail.

EXHIBIT 1

OCEAN POLLUTION: ARSENIC DUMPING CONTINUES

(By Roberta Hornig)

On Saturday, following a two-year-old practice, a ship carrying about 70 tons of an arsenic compound will sail from Philadelphia, travel through Delaware Bay, and dump its potentially lethal cargo in the Atlantic Ocean.

The Norton Lilly Company of Philadelphia, which booked the load on the Italian vessel "Nondo Fassio," says that as far as it knows this sort of cargo, ranging between 30 and 80 tons, has been dumped at sea about once a month for "over two years."

Both Norton Lilly and the chemical company involved, Whitmoyer Laboratories of Myerstown, Pa.—a subsidiary of Rohm & Haas Company, the ninth largest in the world—says the dumping occurs about 150 miles out in the ocean.

President Nixon's Council on Environmental Quality, which is against dumping any potentially toxic materials in the sea, is trying to figure out what to do about this Saturday's dumping. At present, spokesmen say, there are no legal restraints.

Dr. Gordon McDonald, the lone scientist on the three-man council, says the dumping flouts Nixon's principles, but that only congressional action can stop it.

McDonald says the worry in this particular case is that when the 246 canisters containing the arsenic compound hit the water, they will break open and the sea water will change the composition of the chemical, making it particularly toxic to sea life in the area.

Both the administration and Sen. Edmund F. Muskie, chairman of the Senate Air and Water Pollution subcommittee, have offered bills to require permits for any kind of ocean dumping within 12 miles of the U.S. coastline and forbid any kind of dumping within that limit by any foreign government.

McDonald also said the U.S. Coast Guard alerted him to the latest chemical dumping and tends to be suspicious about how far out in the ocean the dumping occurs.

A spokesman for Whitmoyer Laboratories said the company considered other disposal methods but that it is "more economical to put it in a ship and dump it in the bottom" of the ocean.

A spokesman for Norton Lilly said, "We understand about this new anti-pollution—let's save the seas, of course."

But, he added: "The only thing here is we're in the middle. If we're in the wrong (referring to the ocean dumping) I'd appreciate it if we'd get some official notification."

Government estimates are that 62 million tons of waste—ranging from DDT residues to old mattresses—are dumped off America's seacoasts annually.

EXHIBIT 2

Mr. VINCENT L. GREGORY, President,
Rohm & Haas Co.,
Independence Mall West,
Philadelphia, Pa.:

I have been advised of the planned ocean disposal this weekend of a large quantity of potentially harmful arsenic compound by your company subsidiary, Whitmoyer Laboratories.

As chairman of the Subcommittee on Oceans and International Environment of the Senate Foreign Relations Committee, I urge you to postpone this disposal until potential environmental damage can be fully assessed and until alternate disposal methods are explored. I am urging the environmental protection agency to provide consultation and technical assistance should you desire it, and I understand such assistance can be made available.

Your urgent consideration of this request is appreciated.

Senator CLAIBORNE PELL,
Chairman, Subcommittee on Oceans and International Environment.

Mr. HOLLINGS. Mr. President, I should like to commend the distinguished Senator from Rhode Island for his concern and leadership in the development of the oceans, and more particularly in solving the problem of the pollution of our oceans and the environment.

On reading the same news article regarding the dumping of arsenic in the ocean, the Subcommittee on Oceans and Atmosphere of the Commerce Committee contacted the Rohm & Haas Co. early this morning. Just a few minutes ago, I talked to Mr. John Haas, vice president of the company. Mr. Haas assured me that they will desist from the intended dumping of the arsenic and this particular shipment will not go out until further study and determination can be made.

In talking to Mr. Haas, he said that they will be glad to come and present their views at our subcommittee hearing later this month. They have contacted the White House and Dr. Gordon McDonald of the Council on Environmental Quality, and they have an appointment there on March 19. We shall arrange a hearing before the Subcommittee on Oceans and Atmosphere so that we can hear all the views, as well as to dovetail in with the ocean dumping hearings we are presently conducting.

The inference in the article in last night's Evening Star that there is the ocean dumping bill which now lies on the desk, but nothing else has been done. The fact is, however, that last August the subcommittee held ocean dumping hearings relative to nerve gas dumping. Last week, the Subcommittee on Oceans and Atmosphere of the Commerce Committee began hearings on S. 307, the National Oceanic and Environmental Research Act of 1971. The Secretary of the Navy appeared then and testified on Navy munitions dumping practices. In addition, various engineers appeared to discuss information they need to design proper waste disposal facilities. We are now near the close of the ocean dumping hearings in Congress, so that we can act promptly.

I believe that if we can proceed further with our particular interest in the subcommittee, working with the distinguished Senator from Rhode Island, who heads up the Foreign Relations Committee's concern with respect to the pollution of the seas and the international aspects thereof, then we can act to protect the public interest.

We are indebted to the news media for bringing this to our attention. Somehow, many groups are continuing to dump oil, arsenic, refuse, and sludge, using the oceans as a garbage can, due to lack of policy by Congress and the Government itself.

We hope to establish an overall, acceptable national policy governing ocean dumping during this 92d Congress. But until that policy is established, I have been assured that this particular arsenic dumping will not occur, and that Robin & Haas will hold it up. We shall hold hearings on the subject soon.

Mr. PELL. Mr. President, I should like to congratulate the junior Senator from South Carolina (Mr. HOLLINGS), who is an activist. While many of us talk, he takes action. What he reports is of real interest and of considerable news value.

I regret that while this was brought to our attention by the news media, I see only one body in the press gallery at the moment, so that the statement the Senator from South Carolina has just made may not receive the attention it deserves.

However, I congratulate him on his efforts, and say to him that one of the most enjoyable aspects of service in the Senate is working with the distinguished Senator from South Carolina on this question of solving the problem of ocean pollution.

We in the Committee on Foreign Relations believe that when international programs are involved, and the action of other nationals is involved, too, there is a real responsibility that we carry. We recognize that licensing and other actions of American citizens can only be handled by our own domestic or national jurisdiction, but we are concerned with the problems and activities involving international environment.

Mr. HOLLINGS. I thank my distinguished colleague from Rhode Island.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR FANNIN ON TUESDAY, MARCH 16, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next upon the completion of my remarks, for which an order has already been granted recognizing me, the able Senator from Arizona (Mr. FANNIN) be recognized for not to exceed 15 minutes.

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

ORDER FOR RECOGNITION OF SENATORS PERCY, JAVITS, AND SYMINGTON ON TUESDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, upon the conclusion of the remarks by Senator FANNIN, there be a period for not to exceed 30 minutes for a colloquy on arms control, the time to be controlled by the Senator from Illinois (Mr. PERCY), the Senator from New York (Mr. JAVITS), and the Senator from Missouri (Mr. SYMINGTON).

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

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next upon completion of the orders previously entered for recognition of Senators, there be a period for the transaction of routine morning business not to exceed 45 minutes, with statements therein limited to 3 minutes.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

DOES THE WHITE HOUSE REALLY WANT TEXTILE IMPASSE RESOLUTION?

Mr. HUMPHREY. Mr. President, I rise to address myself to the comments from the White House on the voluntary textile limiting agreement with Japan.

I frankly am amazed at yesterday's White House rejection of the yet-to-be-tried voluntary textile-limiting agreement with Japan, in securing which Chairman MILLS of the House Ways and Means Committee was properly helpful.

I reject thinly veiled Presidential irritation, over Chairman MILLS' participation, as political window-dressing. I also reject the pseudoconstitutional grounds the administration is using privately to justify this precipitate and unwise action. The Congress and the Executive have a singularly concomitant role in trade policy—and the White House knows it.

Chairman MILLS was able to achieve swiftly and effectively something the administration failed even to approach in over 2 years of negotiations so singularly inept they make one doubt the administration's supposed commitment to a negotiated settlement. I am not accusing the President or his top trade and economic advisers of being so far behind the times as to really want the type of bill that died in Congress this past January.

What I am saying is this administration is callously holding out false hope of relief to textile workers and textile industries, and indeed, to many other American businesses and groups of workers who are being threatened by increasing imports.

This is what I find so inexcusable—keeping these Americans on the string for 1, 2, now 3 years and then in a move, designed to preclude any quota legislation during this Congress, trying to place the political blame elsewhere.

This country nor any other can afford to see the beginnings of a trade war. Chairman MILLS, by his efforts, was trying to achieve a meeting of the minds. This administration, so identified with business acumen and insight, failed completely in its efforts.

Chairman MILLS appealed to the Japanese sense of fair play and their own long-term economic interests. He was able to conclude an agreement that the administration could have sent to the Congress assured of favorable consideration. These channels were still open. The Congress has had to choke on many an agreement the various administrations have negotiated. I see nothing wrong with the White House sending up a formalization of this agreement, in due time, after they review how the formal voluntary agreement was working and what effect it might have.

The fact is that the executive branch has entered into negotiations for agreements in other areas. We negotiated one on cotton fibers. This is voluntary on the part of the Japanese Government with respect to manmade fibers. I was privileged to serve as chairman 4 years on the Trade Policy Committee during my Vice-Presidency.

I have stated repeatedly on the matter of an agreement on manmade fibers that we were unable to do it. The magnificient leadership of Chairman MILLS of the House Ways and Means Committee has produced the very thing that three administrations had hoped that they might accomplish.

The fact that this agreement was encouraged by a Member of Congress should not in any way make it any less desirable. I would hope that this agreement would be accepted and indeed formalized.

Mr. President, I feel the American people are a lot smarter than the President thinks they are. He has spent over 2 years playing both sides against the middle on trade policy. And nothing has been done. Rejection of this agreement is a prime example.

An example of a President, who is supposedly for helping the States and localities through revenue sharing, restoring dignity and equity to a welfare system, and charting a fair but expanding trade policy for America, and then summarily and rudely dismisses the fine efforts of the man who chairs the committee that is so closely involved in achieving all these things, makes one wonder. Does the President really want all these things? I hope so. I must say that if he does, it might be well to look at what has been accomplished by Chairman MILLS of the Ways and Means Committee. Or would he rather blame someone else for these failures in 1972?

We owe a debt of gratitude to Representative MILLS for his leadership in convincing the Japanese textile industry that self-discipline and voluntary action is preferable to imposed quotas and tariffs. If the Japanese can see the value of such a policy, surely the President should be able to do so.

Mr. President, I ask unanimous consent that Chairman MILLS' statement on this rejection be printed in the RECORD.

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

STATEMENT BY CHAIRMAN MILLS

I understand that the President and his advisors, after considering the recent initiative of the Japanese Textile Federation toward a solution of the problem of textile imports, have decided to reject the Japanese proposal. Having responded on many occasions to requests from Administration officials during the past two years to assist in furthering a negotiated settlement of this problem, I am both surprised and disappointed at this decision.

This rejection of the Japanese initiative not only involves honest differences of opinion as to the extent and the nature of restraints on textile exports to the United States, it involves the very core of our trade relations with the textile exporting countries and indeed with our ability to deal on a realistic basis with the problems all our industries face in competing in our own markets and abroad.

While I can perhaps understand the position taken by the leaders in the textile industry in opposing the proposal, and I assume that they have given it serious study, it is difficult to understand an out-of-hand rejection of the proposal after two years of unsuccessful attempts to negotiate a settlement. My support of the industry's efforts and my support of the Administration's efforts to obtain a solution to this problem are a matter of public record. I regret that at this time the decision has been made to reject this avenue toward a meaningful accommodation of the international textile trade problem.

The President apparently knows of another way to obtain the protection which the textile industry is seeking, and, at the same time, prevent other protectionist developments from accompanying that relief, but I do not.

As I have pointed out before in several different ways, the stakes involved in an early settlement of the textile controversy

are very great. Obviously, our trade problems go far beyond just the question of textiles, and I cannot understand how under any circumstances a statuary program for the protection of a single industry can be developed which is exclusive of consideration of statutory programs for other affected industries. As I have already said, I await with considerable interest the presentation of such a program by the Administration.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM FOR TUESDAY, MARCH 16, 1971

Mr. BYRD of West Virginia. Mr. President, the program for Tuesday next is as follows:

The Senate will convene on Tuesday next at 11 a.m. following an adjournment. Following the disposition of the reading of the Journal and the recognition of the two leaders or their designees under the standing order, the junior Senator from West Virginia (Mr. BYRD) will be recognized for not to exceed 15 minutes for the purpose of submitting a resolution to amend rule XVI of the Standing Rules of the Senate and making a statement in connection therewith.

At the conclusion of my remarks, the distinguished Senator from Arizona (Mr. FANNIN) will be recognized for not to exceed 15 minutes; he will be followed by a colloquy for not to exceed 30 minutes, the time to be controlled by Senators PERCY, JAVITS, and SYMINGTON, on the subject of arms control, at the conclusion of which there will be a period for the transaction of routine morning business not to exceed 45 minutes with statements therein limited to 3 minutes.

Following the transaction of routine morning business the Senate will resume its consideration of the pending business, Senate Joint Resolution 17, to establish a joint committee on the environment. Upon concluding action on Senate Joint Resolution 17, which by virtue of the adjournment will become the unfinished business on Tuesday next, the Senate will consider Senate Resolution 17, a resolution amending rule XXIV of the Standing Rules of the Senate with respect to the nomination and appointment of committee members, introduced by Mr. HARRIS and Mr. MATHIAS.

Mr. President, there are certain resolutions on the calendar which have been reported from the Committee on Rules and Administration—five in number—beginning with Calendar Order No. 37 and going through Calendar Order No. 41. Any one or more of these resolutions may be considered on Tuesday morning next as unobjected to items on the Senate calendar. This would occur immediately following the disposition of the reading of the Journal and when the joint leadership is recognized under the standing order.

If action is completed on all of the foregoing measures on Tuesday next, I am authorized by the majority leader to state that the Senate, barring unforeseen developments, will adjourn over until Friday next so as to give committees the opportunity to put in some uninterrupted sessions.

Mr. President, I now ask the able minority whip if he has any questions or suggestions at this point before the motion to adjourn.

Mr. GRIFFIN. No.

ADJOURNMENT TO 11 A.M. ON TUESDAY, MARCH 16, 1971

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 11 a.m. on Tuesday next.

The motion was agreed to; and (at 4 o'clock and 21 minutes p.m.) the Senate adjourned until Tuesday, March 16, 1971, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 12, 1971:

U.S. ARMY

Brig. Gen. George Shipley Prugh, Jr., 559–22–8819, Army of the United States (colonel, Judge Advocate General's Corps, U.S. Army), for appointment as the Judge Advocate General, U.S. Army, as major general, Judge Advocate General's Corps, in the Regular Army of the United States and as major general, Army of the United States, under the provisions of title 10, United States Code, sections 3037, 3442, and 3447.

Brig. Gen. Harold Edward Parker, 069–05–3712, Army of the United States (colonel, Judge Advocate General's Corps, U.S. Army), for appointment as the Assistant Judge Advocate General, as major general, Judge Advocate General's Corps, in the Regular Army of the United States and as major general, Army of the United States, under the provisions of title 10, United States Code, sections 3037, 3442, and 3447.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 12, 1971:

U.S. ARMY

Gen. James Hilliard Polk [redacted], Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of general, under the provisions of title 10, United States Code, section 3962.

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Michael Shannon Davison, [redacted] Army of the United States (major general, U.S. Army).

The following-named officer, under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. George Marion Seignious II, [redacted] Army of the United States (brigadier general, U.S. Army).

The U.S. Army Reserve officers named herein for promotion as Reserve Commissioned officers of the Army, under provisions of title 10, United States Code, section 953(a) and 3384:

To be major general

Brig. Gen. James B. Faulconer, SSAN [redacted].

Brig. Gen. Stephen S. Ferebee, Jr., SSAN [redacted].

Brig. Gen. Harry J. Rockafeller, SSAN [redacted].

Brig Gen. Moise B. Seligman, Jr., SSAN [redacted].

To be brigadier general

Col. Edwin I. Creed, SSAN [redacted], Ordnance Corps.

Col. Richard T. Cuneo, SSAN [redacted], Infantry.

Col. Edward W. Gaupin, Jr., SSAN [redacted] Corps of Engineers.

Col. Frank C. Harold, SSAN [redacted], Medical Corps.

Col. Howard A. Louderback, Jr., SSAN [redacted] Infantry.

Col. George W. McGrath, Jr., SSAN [redacted] Field Artillery.

Col. Albert G. Peterson, SSAN [redacted], Infantry.

Col. Joseph G. Rebman, SSAN [redacted], Signal Corps.

Col. W. Stanford Smith, Jr., SSAN [redacted] Infantry.

Col. Edwin B. Taylor, SSAN [redacted], Infantry.

Col. Donald A. Yongue, SSAN [redacted], Infantry.

The Army National Guard of the United States officers named herein for promotion as a Reserve Commissioned officer of the Army, under the provisions of title 10, United States Code, section 593(a) and 3385:

To be brigadier general

Col. Kennedy C. Bullard, SSAN [redacted] Field Artillery.

Col. John F. Burk, Jr., SSAN [redacted], Infantry.

Col. O. T. Dalton, Jr., SSAN [redacted], Corps of Engineers.

Col. Sherman J. Gage, SSAN [redacted], Armor.

Col. Howard G. Garrison, SSAN [redacted] Armor.

Col. John J Godfrey, SSAN [redacted], Corps of Engineers.

Brig. Gen. Wilfred C. Menard, Jr., SSAN [redacted] Adjutant General's Corps.

Col. James L. Moreland, SSAN [redacted], Infantry.

Col. Edward M. Yoshimasu, SSAN [redacted] Infantry.

The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned officers of the Army, under provisions of title 10, United States Code, section 593(a) and 3392:

To be major general

Brig. Gen. William R. Sharp, SSAN [redacted] Adjutant General's Corps.

To be brigadier general

Col. John Blatsos, SSAN [redacted], Field Artillery.

Col. Charles J. Cronan III, SSAN [redacted] Field Artillery.

Col. Edward M. Frye, SSAN [redacted], Infantry.

Col. Van D. Nunally, Jr., SSAN [redacted] Armor.

Col. Guy N. Rogers, SSAN [redacted], Infantry.

Col. Willie L. Scott, SSAN [redacted], Air Defense Artillery.

U.S. NAVY

Having designated the following-named officers of the Navy for commands and other

duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving:

Rear Adm. Frank W. Vannoy, U.S. Navy.
Rear Adm. Means Johnston, Jr., U.S. Navy.
Rear Adm. Harold E. Shear, U.S. Navy.
Rear Adm. Frank W. Vannoy, U.S. Navy,

for appointment as Navy senior member of the Military Staff Committee of the United Nations pursuant to title 10, United States Code, section 711.

U.S. MARINE CORPS

Maj. Gen. William G. Thrash, U.S. Marine Corps, having been designated, in accordance with the provisions of title 10, United States Code, section 5232, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

Lt. Gen. Raymond G. Davis, U.S. Marine Corps, for appointment as Assistant Commandant of the Marine Corps, in accordance with the provisions of title 10, United States Code, section 5202, with the grade of general while so serving.

Maj. Gen. Wallace H. Robinson, Jr., U.S. Marine Corps, having been designated, in accordance with the provisions of title 10, United States Code, section 5232, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant general while so serving.

IN THE AIR FORCE

The nominations beginning John S. Ingari, to be major, and ending Ronald D. Wood, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on February 23, 1971.

IN THE NAVY

The nominations beginning Robert R. Abbe, to be commander, and ending David M. Muschna, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on February 23, 1971; and

The nominations beginning James R. Allen, to be ensign, and ending George D. Zeitler, to be chief warrant officer, W–2, which nominations were received by the Senate and appeared in the Congressional Record on March 1, 1971.

IN THE MARINE CORPS

The nominations beginning Rafael Candelario, to be second lieutenant, and ending Peter A. Zaudtke, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on February 23, 1971.

EXTENSIONS OF REMARKS

INTERNATIONAL DECADE OF OCEAN EXPLORATION

HON. JAMES G. FULTON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1971

Mr. FULTON of Pennsylvania. Mr. Speaker, it is a pleasure to place in the CONGRESSIONAL RECORD the excellent address of Feenan D. Jennings, head of the International Decade of Ocean Exploration to a luncheon of the American Oceanic Organization on Thursday, February 25, 1971.

Mr. Jennings, who studied oceanography at the Graduate School of the University of California and at Scripps Institution of Oceanography, is highly qualified to speak on this subject. He has done extensive work on the effects of radiation fallout in relation to oceanography, participating in nuclear tests at the Pacific Proving Ground, and was project officer for Project Redwing, a series of nuclear tests in 1956.

In 1958 Mr. Jennings served as head oceanographer, Geophysics Branch of the Office of Naval Research. In 1966 he was promoted to deputy director, Ocean Science and Technology Division, Office of Naval Research. His many awards include the Navy's meritorious civilian award in 1960; outstanding award in both 1961 and 1963; the Navy superior service award in 1966; and the 1970 Military Oceanography Award, oceanographer of the Navy.

I am sure that my colleagues and the American people will find much of interest in Feenan Jennings address on the "International Decade of Ocean Exploration."

PRESENTATION TO THE AMERICAN OCEANIC ORGANIZATION

(By Feenan D. Jennings)

It is a genuine pleasure for me to address this meeting of the American Oceanic Organization. In particular, I am pleased because this is the first opportunity we have had to discuss the international decade of ocean exploration program outside of the foundation.

As most of you know, the vice-president assigned responsibility for the management of the decade program to the National Science Foundation in November of 1969 as one of the President's five initiatives in marine sciences for fiscal year 1971. The vice-president said the United States would propose emphasis in the international decade of ocean exploration on the following goals:

(1) Preserve the ocean environment by accelerating scientific observations of the natural state of the ocean and its interactions with the coastal margin—to provide a basis for (a) assessing and predicting man-induced and natural modifications of the character of the oceans; (b) identifying damaging or irreversible effects of waste disposal at sea, and (c) comprehending the interaction of various levels of marine life to permit steps to prevent depletion or extinction of valuable species as a result of man's activities.

(2) Improve environmental forecasting to help reduce hazards to life and property and permit more efficient use of marine resources—by improving physical and mathematical models of the ocean and atmosphere which will provide the basis for increased accuracy, timeliness, and geographic precision of environmental forecasts;

(3) Expand seabed assessment activities to permit better management—domestically and internationally—of marine mineral exploration and exploitation by acquiring needed knowledge of seabed topography, structure, physical and dynamic properties, and resource potential, and to assist industry in planning more detailed investigations.

(4) Develop an ocean monitoring system to facilitate prediction of oceanographic and atmospheric conditions—through design and deployment of oceanographic data buoys and other remote sensing platforms;

(5) Improve worldwide data exchange through modernizing and standardizing national and international marine data collection, processing and distribution; and

(6) Accelerate decade planning to increase opportunities for international sharing of responsibilities and costs for ocean exploration, and to assure better use of limited exploration capabilities.

As you must recognize, the goals which I have just quoted are rather broad in their scope, and much of the effort during this first year has been devoted to refining an operating philosophy for the conduct of the program and in identifying more specifically, scientific problems upon which we should focus our attention.

First, I would like to outline three basic points of philosophy which have been used to shape the program and which we will use for the management of the projects during the coming years.

(1) The goals assigned by the vice-president were, in my opinion, well chosen in that they all involved an examination of man's interaction with the oceans. We recognized that a fledgling program such as ours would have to be designed carefully to avoid duplicating the prerogatives and even the assigned responsibilities of on-going Federal agency programs. This meant, for example, that we should not involve ourselves with research into tsunamis, tides, mapping and charting, fisheries research or operational prediction systems, all of which are responsibilities of the National Oceanic and Atmospheric Administration. Nor would we involve ourselves in detailed geological surveys which are rightfully the task of the U.S. Geological Survey; nor in an examination of the environmental quality of rivers and estuaries which, at first glance, are the responsibility of the Environmental Protection Agency and the Federal Water Quality Administration. Having blocked out those areas which were not our concern, we then attempted to arrive at an operational philosophy which would take advantage of existing talent and resources, to stretch the money available to IDOE as far as possible in attaining the goals outlined. We concluded that IDOE and other agencies could enhance each other's activities. This could be done with the Department of Defense and other agencies by encouraging cooperation on research projects. For example, the Navy in pursuit of an oceanographic environmental prediction capability, might support research in air/sea interaction; the IDOE, charged with the task of improving environmental forecasting for the benefit of mankind, would also need to examine the processes involved in the exchange of matter and energy between the atmosphere and the oceans. If we could combine our interests and our support in looking at large-scale air/sea interaction processes, it would benefit the goals of both the Navy and the decade programs.

The other method by which we could stretch our resources, and which was an inherent part of the decade program, would be to encourage and foster international cooperation in programs to which all participating countries actively contribute. Thus, we will seek joint support of the IDOE scientific investigations from other countries whenever it is mutually advantageous to do so.

(2) We have attempted to identify, within the broad goals outlined by the vice president, rather specific scientific problems