By Mr. O'NEILL:

H.R. 7644. A bill for the relief of Michele Pernice; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 7645. A bill for the relief of Mrs. Carmen Hernandez Macawile; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 7646. A bill for the relief of Horace H. Easterday; to the Committee on the Judiciary.

By Mr. ANDREWS of Alabama:

H. Res. 397. Resolution to authorize the pardon of Lieutenant Calley; to the Committee on Armed Services.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

59. By Mr. FUQUA: Petition of the citizens of Putnam County, Fla., registering their formal protest against the unjust prosecution and conviction of Lt. William Calley. It is their firm opinion that in order to justify the Army's action it would be necessary to try every man who dropped a bomb or fired a shot in warfare. It is their opinion that war itself is premeditated killing and therefore Lt. William Calley was trained, paid, and sent to Vietnam to do the very job he has now been convicted for. It is their opinion that the conviction of Lieutenant Calley constitutes an insult to the dignity of American men who have fought or will ever fight for their country; to the Committee on Armed Services.

60. Also, petition of the people of Starke, Fla., expressing their opposition to the conviction of Lt. William Calley, an American fighting man; to the Committee on Armed Services.

61. Also, petition of over 5,000 citizens of Live Oak, Fla., circulated by the Suwannee Broadcasting Co. The expression the feelings of these citizens that if Lt. William Calley is guilty, his only guilt is that of defending these great United States; to the Committee on Armed Services.

62. Also, petition of the citizens of Chiefland, Fla., circulated by Dr. Kenneth Wise, expressing their concern that the decision rendered in the Lt. William Calley case was unjust; to the Committee on Armed Services.

63. Also, petition of 11,633 citizens of Lake City, Fla., expressing their concern about the conviction of Lt. William Calley, Jr. The signers of the petition did so not only for the benefit of Lieutenant Calley, but also as a plea for a united America in the face of a world crisis; as a plea for justice for one, and for all; as a plea for the complete review of the Uniform Code of Military Justice; and as a plea for the enactment of laws that do not infringe on those guaranteed rights of the Constitution of the United States of America; to the Committee on Armed Services.

64. By the SPEAKER: Petition of the Board of Supervisors, County of San Luis Obispo, Calif., relative to airport and airway development; to the Committee on Appropriations.

65. Also, petition of the King County Council, Washington; relative to health security; to the Committee on Ways and Means.

SENATE—*Wednesday, April 21, 1971*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

O Thou giver of life, amid the tumult of our times, we would make our hearts a quiet sanctuary for Thy spirit, and here on an unseen altar offer to Thee ourselves—our souls, minds, and bodies in service to our fellow man. In Thy strength and in the light of Thy truth may the divine vocation be lived in common tasks. Enable all of us to keep our priorities just and true, and to keep commitments vivid and real. While we labor with all our human energies for a better world, may we keep alive our faith in Thee so that we may not be surprised or unprepared for the miracle of Thy grace in the affairs of nations.

When our work is done, give us the grace of gratitude for Thy providence at work in and through each of us.

We pray in the name of the Lord and Master of life. 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., April 21, 1971.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, April 20, 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.

ORDER FOR VOTE ON RIBICOFF AMENDMENT TO OCCUR AT 1:30 P.M.

Mr. MANSFIELD. Mr. President, after consultation with the distinguished minority leader, I ask unanimous consent that the vote on the pending Ribicoff amendment occur at the hour of 1:30, rather than 1 o'clock.

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

Mr. MANSFIELD. And, Mr. President, at that time, there will be a brief quorum call.

ORDER FOR EXTENSION OF THE PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time for the period for the transaction of routine morning business today be extended, but not to exceed one-half hour.

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

DIVISION OF TIME ON RIBICOFF AMENDMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, of the remaining time under the unanimous agreement for today, 2 hours be given to those who are opposed to the Ribicoff amendment and the remainder of the time, which will be less, to those in favor of the amendment.

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

ORDER FOR TIME LIMITATION OF 3 MINUTES DURING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the period for the transaction of routine morning business there be a time limitation of 3 minutes on statements made therein.

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. CIRCUIT COURTS

The assistant legislative clerk read the nomination of Donald Stuart Russell of South Carolina to be a U.S. circuit judge, fourth circuit.

Mr. MANSFIELD. Mr. President, I am delighted that this nomination is before the Senate. It will be a great honor and privilege to vote to confirm Judge Russell; he is a former colleague of ours in the Senate. He served here with great distinction. He performed his duties always with dignity, with industry, and with deep understanding. As a Senator, Donald Stuart Russell was a decided asset to this body. His contributions were outstanding. As a judge of the District

Court of South Carolina he carried on that same tradition of distinguished service. It is with the greatest pride that I view Judge Russell's elevation to the U.S. Circuit Court for the fourth circuit. In this new capacity, I am confident that his service will continue to enhance the Judiciary and the judicial branch of the Federal Government.

Mr. THURMOND. Mr. President, I am very much pleased that, upon my recommendation, the President has seen fit to appoint District Judge Donald Stuart Russell of South Carolina to the Fourth Circuit Court of Appeals.

Judge Russell has held many positions in public life. He was an Assistant Secretary of State. He was an assistant war mobilizer to James F. Byrnes during World War II. He was president of the University of South Carolina. He was also Governor of South Carolina, a U.S. Senator from the State of South Carolina, and he is now a U.S. district judge.

Judge Russell is well qualified by education, training, and experience. He is a man of unquestioned integrity and character. His appointment, in my opinion, will meet with the general approval not only of the Members of this body but also of the bench and bar throughout the country.

It is a great pleasure to me that I was able to recommend the nomination of Judge Russell. I feel that the State of South Carolina and the Nation as a whole are very fortunate to have judges of his caliber and kind.

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

U.S. DISTRICT COURTS

The assistant legislative clerk read the nominations in the U.S. district courts, as follows:

Robert E. Varner, of Alabama, to be a U.S. district judge for the middle district of Alabama.

Richard C. Freeman, of Georgia, to be a U.S. district judge for the northern district of Georgia.

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.

DEPARTMENT OF JUSTICE

The assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

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. PATENT OFFICE

The assistant legislative clerk read the nomination of John Finley Witherspoon, of Maryland, to be an examiner in chief, U.S. Patent Office.

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

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

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

LEGISLATIVE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania (Mr. SCOTT) is recognized.

(The remarks of Mr. SCOTT when he introduced S. 1598 and the ensuing debate are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate will proceed to the transaction of routine morning business for a period of not to exceed 15 minutes, with the statements therein limited to 3 minutes.

VERMONT LEGISLATURE PROVIDES FINANCIAL ASSISTANCE FOR PAROCHIAL AND OTHER NONPUBLIC SCHOOLS

Mr. AIKEN. Mr. President, yesterday I advised the Senate that the State of Vermont had become the first State in the Union to give young men and women between the ages of 18 and 21 all the rights and responsibilities of citizenship.

Today I wish to report a highly significant action which was taken by the Vermont Legislature last night just prior to adjournment.

The legislature of my State has passed a bill providing financial assistance for parochial and other nonpublic schools.

I have not seen the actual language in this bill, but I understand it meets the approval of the Governor of Vermont and will probably be signed into law this afternoon.

My report indicates this landmark legislation authorizes local school boards to lend teachers, textbooks, and materials to parochial schools. In exchange for this assistance, the State will reimburse the local school boards up to 50 percent of the cost.

Under the new program, teachers loaned to the parochial schools will be hired, supervised, and subject to dismissal under the direction of the public school superintendent. All courses taught by these teachers must conform to the curriculum requirements of the local school boards.

Mr. President, I wish to commend the Vermont State Legislature for action it has taken.

It is entirely in accord with a principle I have believed in for many years.

In Vermont we have had since colonial times a number of free academies which are partly public and partly private but are in a very real sense public schools serving the children of the district.

It is in this same spirit that the Vermont Legislature has acted to extend assistance to the parochial schools without in any way violating the church-State separation doctrine.

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

Mr. AIKEN. I yield.

Mr. MANSFIELD. Mr. President, the distinguished Senator from Vermont on yesterday elucidated a number of firsts in which his State has led the way. Since that time it has taken another step on its own initiative and has adopted a realistic attitude—a most realistic attitude—toward a situation which applies not only to Vermont but also, in my opinion, to most of the States of the Union.

A day or so ago the Archbishop of Detroit—Cardinal Dearden—announced the closing of 56 parochial schools, both elementary and high schools. That means, of course, that the public, through State and local government, is going to have to assume the responsibilities for teaching, for educating, for equipping and housing those students and thereby will the burden on the already overburdened treasuries concerned be further increased.

It appears to me that this action by the State of Vermont represents a step forward and a facing up to reality. I commend the Granite State.

Mr. AIKEN. The Green Mountain State.

Mr. MANSFIELD. I commend the Green Mountain State, and its Senator of granite character. Vermont has again demonstrated its initiative. It has faced up to a situation which really could not be avoided, and which, if not faced up to and solved, would have cost the State and local governments a good deal more.

Mr. AIKEN. I thank the Senator. The Granite State of New Hampshire, as well as the other 48 States of the Union could well take notice of the action of the Vermont Legislature in solving a very acute problem which will relieve them of a great deal of extra expense in the future.

Mr. MANSFIELD. What the State of Vermont has done will reverberate far beyond its borders because most States in the Union are faced with a very similar problem.

Mr. AIKEN. I have listed only a few instances in which Vermont has been first. There are innumerable other instances. When they take action, as in this instance, by example they help all the other States, and I think it is worth noting.

Mr. MANSFIELD. I agree with the Senator.

THE SUPREME COURT DECISIONS ON MASSIVE SCHOOL BUSING AND REDRAWING OF SCHOOL DISTRICT LINES

Mr. ALLEN. Mr. President, the Supreme Court of the United States yesterday struck another cruel blow at public school systems in the South and at schoolchildren black and white in the South by approving massive school bus-

ing and massive rearranging of school district lines. These decisions are against the best interest of all our children.

Southern school children, black and white, are being used for sociological experiments and little thought is being given to seeing that they receive a good education.

At the same time nothing is being done about segregated schools in the North where segregation is gaining by leaps and bounds.

I spoke in the Senate yesterday denouncing these decisions. I am outraged for I have never seen such sectional bias and antisouthern discrimination as is evident in the cruel dictates of the Supreme Court in these cases. We must have a uniform school desegregation policy for the Nation. A house divided against itself cannot stand.

The effect of these decisions is that as to desegregation of Southern schools, anything goes, no matter how vicious.

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

Mr. AIKEN. Mr. President, does the Senator from Alabama need more time?

The PRESIDING OFFICER. Does the Senator from Alabama need more time, in answer to the question of the Senator from Vermont?

Mr. ALLEN. No, I have concluded my remarks. I thank the distinguished Senator.

Mr. AIKEN. I was going to offer to yield the balance of my time in case the Senator from Alabama needed more time.

Mr. ALLEN. I thank the Senator. I believe I very well covered my opinion as to the Supreme Court opinion, I wish to say to the distinguished Senator from Vermont.

QUORUM CALL

The PRESIDING OFFICER. The absence of a quorum has been suggested. 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 PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

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

EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971—PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the further consideration today of the amendment offered by the distinguished Senator from Connecticut (Mr. RIBICOFF) two members of his personal staff, Mr. John Koskinen and Mr. Ted Leary, be accorded the privilege of the floor, together with the staff adviser of the distinguished Senator from Arkansas (Mr. MCCLELLAN), Mr. Emon Mahony.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the following staff members be accorded the privilege of the floor today: Mr. William Smith, Mr. Francis Hennigan, Mr. Bert Carp, and Mr. Leonard P. Strickman, all of whom are members of the staff of the Select Committee on Equal Educational Opportunity.

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

ORDER FOR RECOGNITION OF SENATOR TAFT TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the distinguished Senator from Iowa (Mr. HUGHES), the distinguished Senator from Ohio (Mr. TAFT) be recognized for not to exceed 15 minutes.

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

ORDER FOR PERIOD OF TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the recognition of Senators under orders entered today and heretofore, there be a period for the transaction of routine morning business not to extend beyond 30 minutes, with statements therein limited to 3 minutes, following which the unfinished business, if there be such, be laid before the Senate.

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

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Without objection, it is so ordered.

ORDER FOR EXTENSION OF THE PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be continued for a period not to exceed 20 minutes.

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

QUORUM CALL

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

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

SENATE RESOLUTION 101—SUBMISSION OF A RESOLUTION REGARDING USE OF THE MALL BY VIETNAM VETERANS

Mr. HART. Mr. President, I rise to submit a resolution. I shall, at the conclusion of these brief remarks, ask that it be printed in the RECORD.

The purpose of the resolution, very briefly, is to express the sense of the Senate that the Secretary of the Interior and the Superintendent of the National Park Service authorize the Vietnam veterans now in this community to use the area in the Mall where they are presently located, to petition us with respect to the war.

I think all of us are generally familiar with the sequence of events. A formal notice of intent for such use was filed by the veterans within the prescribed period as Government officials had suggested they do. The Department of the Interior and the Park Service objected. The district court sustained the objection. The Circuit Court for the District of Columbia held that the district court was in error. One of the appellate judges raised the fact of precedents of earlier uses and indicated that there might be some inhibition on the exercise of first amendment rights. It was also suggested that there was a symbolism to the presence of these veterans on the Mall, as opposed to other vacant areas in the city.

The court of appeals issued no opinion; but, in any event, the court did sharply modify the lower court order so as to permit the veterans to camp with some limitation.

Yesterday, the Chief Justice set aside the circuit court's decision and returned the situation to that which resulted from the district court's order.

I think, Mr. President, that the precedents would persuade us that this group, if any group, is entitled to an exception. I have no quarrel with the Boy Scout Jamboree—surely a laudatory, worthwhile endeavor. But if the Government can make an exception for the use of the Mall by the Boy Scouts, surely they can make an exception to permit the Vietnam veterans to be here and to try to persuade us as to the unwisdom of continuing the war that they have actually been fighting for us.

The first amendment right ought not have a price tag on it. We should not say to these men, in effect, if you can afford to put up at the Washington Hilton, you can petition your Congress. But, if you are only a discharged Vietnam veteran, without the dough to go to the Hilton, then don't bother us with respect to the Mall. It is all right for the Boy Scouts; it is not right for the Vietnam veterans. That is nonsense.

Mr. President, I hope very much that the Senate will express its opinion that

it is nonsense and that these men under reasonable limitations should be welcomed to the Mall to assemble in the process of petitioning their representatives and to rest there at night as well.

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

Mr. HART. I yield.

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

Mr. RIBICOFF. May I have 3 minutes?

The PRESIDING OFFICER. The Senator from Connecticut is recognized in his own right.

Mr. RIBICOFF. I ask unanimous consent that I may be listed as a cosponsor of the Hart resolution.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. RIBICOFF. This morning a group of Vietnam veterans from the State of Connecticut came to my office. We talked for about an hour. Over the course of many years, a great many groups have come to talk with me on a variety of subjects. I do not think I have ever talked with a group of men or women who were so concerned, so involved, and so sincere. They were deeply disturbed over the human and moral consequences of our past and present military participation in the Indochina conflict.

These veterans come peacefully, seeking an opportunity to present their views and experiences to Members of Congress. All of us should give these veterans the chance to discuss this vital matter with us and testify before the appropriate committees.

Many of these veterans are unemployed, victims of the present poor economic situation with its high rate of unemployment. They do not have the funds to stay over at hotels. Because of the importance of their mesage I would hope that they be permitted to remain in Washington until the end of the week.

I commend the Senator from Michigan for submitting this resolution, and I am pleased to be a cosponsor. I hope the Senate will adopt this resolution, and that its purpose be implemented. But if it does not, it would be my hope that the executive branch would desist from ejecting these veterans, and allow them to camp on the Mall for the duration of their stay here in Washington.

Mr. HART. Mr. President, the Senator from California (Mr. CRANSTON) also has asked to be joined as a cosponsor, and I ask unanimous consent that that be done.

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

Mr. HART. Mr. President, I offer the resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 101

Whereas, the Vietnam Veterans Against the War have requested permission from the Superintendent of National Parks to stay overnight on National Park Service Grounds known as the "Mall Area" during the period of their presentation of their views to their elected representatives here in Washington, and

Whereas, the request has been denied and the Government has obtained an injunction against the requested use of the Mall Area to camp.

It is hereby resolved that the sense of the Senate is that the Superintendent of National Parks and the Secretary of Interior should grant this request, notwithstanding any portions of the Federal regulations governing the normal use of this property so that the Vietnam Veterans may effectively petition the Government during this period.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. THURMOND. Mr. President, reserving the right to object, I should like to ask the distinguished Senator from Michigan this question: Has not the Chief Justice issued an order against this?

Mr. HART. Mr. President, I have not read the opinion of the Chief Justice. The reason why I offered the resolution is that the opinion of the Chief Justice, as I understand it, did not question the authority of the Park Service to grant the request. The Chief Justice sustains the Park Service in that discretionary action and says that permission is not constitutionally required.

I say that we in Congress have every right to express our views, and I feel we have an obligation to indicate that in our judgment the request made to the Park Service for the use of the Mall by the Vietnam veterans should be approved.

Mr. THURMOND. Mr. President, the Chief Justice has issued an order against this. In what position is the Senator from Michigan placing the Superintendent of the Park Service and the Secretary of the Interior?

There is an order by the Chief Justice of the United States that it cannot happen. Are we, the Senate, going to pass a resolution and request the Superintendent of the Park Service and the Secretary of the Interior to do it, anyway? This matter is now in the courts. The courts will have to dispose of it. After all, there are three branches of government. Since this matter is in the courts and it is a matter for the courts, I shall have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The resolution will go over under the rule.

Mr. HART. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. The objection having been interposed, is it correct that on tomorrow, the next legislative day, assuming an adjournment today, this resolution will come down at the end of the morning business and become and be the pending business of the Senate until the conclusion of the morning hour?

The PRESIDING OFFICER. The Senator is correct.

Mr. HART. I would hope very much, Mr. President, though unable to act on it today, that we will be free to do so tomorrow and that we will adopt the resolution.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Pastore rule, paragraph 3 of rule VIII, run for 5 hours today, rather than the normal 3 hours.

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

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

Mr. BYRD of West Virginia. I yield.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. I ask unanimous consent that when the Senate complete its business today, it stand in adjournment until 10 a.m. tomorrow.

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 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.

SENATE JOINT RESOLUTION 84— CHANGE OF REFERENCE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of Senate Joint Resolution 84, a joint resolution to establish the National Wildlife Refuges, and that the joint resolution be referred to the Committee on Commerce.

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

HOLDING OF COURT IN MORGANTOWN, W. VA.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 64, S. 230.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

S. 230, to authorize the U.S. District Court for the Northern District of West Virginia to hold court at Morgantown.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of setion 129(a) of title 28, United States Code, is amended to read as follows: "Court for the Northern District shall be held at Clarksburg, Elkins, Fairmont, Martinsburg, Morgantown, Parkersburg, and Wheeling.".

Mr. BYRD of West Virginia. Mr. Presi-

dent, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-62), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to provide for the holding of court in the Northern District of West Virginia in Morgantown.

STATEMENT

An identical bill was approved by the committee on December 10, 1970, and was passed by the Senate as reported, but no action on it was taken in the closing days of the 91st Congress by the House of Representatives.

In its favorable report on the identical bill in the 91st Congress, the committee said:

"In recent years the area in and about Morgantown, W. Va., has experienced a significant population growth as well as an influx of Federal programs and facilities. As a result the Federal judicial business generated by the area has increased significantly. It is anticipated that this growth will continue to accelerate. Consequently, your committee agrees with the view of the chief judge of the Northern District of West Virginia that it is 'not only convenient but advisable and helpful for the U.S. District Court for the Northern District of West Virginia to be authorized to hold court in the city of Morgantown.'"

The committee believes the bill is meritorious and recommends its favorably.

EXECUTIVE COMMUNICATIONS, ETC.

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

PROPOSED LEGISLATION TO AMEND THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT

A letter from the Under Secretary of Agriculture, submitting a draft of proposed legislation to amend the Soil Conservation and Domestic Allotment Act, as amended (with accompanying papers); to the Committee on Agriculture and Forestry.

APPROPRIATION FOR THE CANAL ZONE GOVERNMENT

A letter from the Director, Office of Management and Budget, Executive Office of the President, pertaining to pay increases effective January 10, 1971 to classified and related employees of the Canal Zone government; to the Committee on Appropriations.

REPORT OF LIMITATION ON SECOND SUPPLEMENTAL APPROPRIATIONS OUTLAY

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the operation of the limitation through March 31, 1971, as contained in the Second Supplemental Appropriations Act, 1970 (with an accompanying report); to the Committee on Appropriations.

REPORT OF THE OFFICE OF CIVIL DEFENSE

A letter from the Secretary of Defense, transmitting, pursuant to law, the 1970 Annual Report of the Office of Civil Defense, covering civil defense functions assigned to the Secretary of Defense by Executive Order 10952 of July 20, 1961 (with an accompanying report); to the Committee on Armed Services.

PROPOSED FACILITIES FOR THE AIR NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing) transmitting, pursuant to law, a list of facilities projects proposed to be undertaken for the Air National Guard; to the Committee on Armed Services.

PROPOSED CONSUMER PRODUCT SAFETY ACT OF 1971

A letter from the Secretary of Health, Education, and Welfare, submitting a draft of proposed legislation to protect the public health and safety by reducing the risks of death, illness, and injury associated with the use of consumer products (with accompanying papers); to the Committee on Commerce.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the financial feasibility of rural water and sewer systems, Farmers Home Administration, Department of Agriculture (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION PROVIDING FOR GSA TRASH-REMOVAL CONTRACTS

A letter from the Assistant Administrator of the General Services Administration transmitting proposed legislation to amend the Federal Property and Administrative Services Act of 1949, as amended, to authorize the Administrator of General Services to enter into contracts for janitorial services, trash removal, and similar services in federally owned and leased properties for periods not to exceed 3 years, and for other purposes (with accompanying papers); to the Committee on Government Operations.

PROPOSED LEGISLATION DEALING WITH CERTAIN OIL LEASES OFFSHORE OF CALIFORNIA

A letter from the Secretary of the Department of the Interior transmitting proposed legislation to terminate and to direct the Secretary of the Interior and the Secretary of the Navy to take action with respect to certain leases issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, offshore of the State of California; to explore Naval Petroleum Reserve Numbered 4, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FOR THE RELIEF OF VYACHESLAV PAVLOVICH ARTEMIEV, and OTHERS

A letter from the Secretary of the Army, submitting a draft of proposed legislation for the relief of Vyacheslav Pavlovich Artemiev, and others (with accompanying papers); to the Committee on the Judiciary.

PROPOSED FEDERAL WAGE SYSTEM ACT OF 1971

A letter from the Chairman, U.S. Civil Service Commission, submitting a draft of proposed legislation to amend title 5, United States Code, to establish a Federal wage system for fixing and adjusting the pay of certain employees of the Government (with accompanying papers); to the Committee on Post Office and Civil Service.

AMENDMENT TO PROSPECTUS FOR PROPOSED LEASE CONSTRUCTION—SHREVEPORT, LA.

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, an amendment which revises the authorized project for lease construction of a courthouse and office building at Shreveport, La. (with accompanying papers); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A joint memorial of the Legislature of the State of Idaho; to the Committee on Commerce:

"HOUSE JOINT MEMORIAL NO. 1

"A joint memorial to the Honorable Senate and House of Representatives of the United States in Congress assembled, and the Honorable delegation representing the State of Idaho in the Congress of the United States

"We, your Memorialists, the Senate and the House of Representatives of the state of Idaho assembled in the First Extraordinary Session of the Forty-first Idaho Legislature, do hereby respectfully represent that:

"Whereas, the pursuit of agriculture generates one billion two hundred million dollars in personal income for the citizens of the state of Idaho, and

"Whereas, fifty-three thousand citizens of the state of Idaho are agricultural employees, and

"Whereas, recent regulations imposed by the Bureau of Motor Carrier Safety of the Department of Transportation have classified farm trucks as commercial motor vehicles, thereby prohibiting their operation by anyone under the age of twenty-one, and the effect of such prohibitive restrictions places an unnecessary and unreasonable burden upon the success of any farming operation, and

"Whereas, under present regulations duly and lawfully promulgated by the state of Idaho which reasonably regulate this area to the end that farm vehicles are operated in a safe and prudent manner so as to protect the public,

"Now, therefore, be it resolved by the First Extraordinary Session of the Forty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that we most respectfully urge the Congress of the United States of America to take such action as is necessary to render null and void those regulations promulgated by the Department of Transportation which classifies farm vehicles as commercial vehicles.

"Be it further resolved that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and to the Senators and Representatives representing this state in the Congress of the United States."

A concurrent resolution of the Legislature of the State of Alabama; to the Committee on Foreign Relations:

"RESOLUTION NO. 9

"Urging the signatories of the last Geneva Convention to exert their influence in an effort to persuade the Government of North Vietnam to live up to the rules of the last Geneva Convention concerning prisoners of war; and for other purposes

"Whereas, the signatories of the last Geneva Convention established a common brotherhood to insure humane treatment of prisoners of war; and

"Whereas, there are more than 1,600 American servicemen classified by the United States Government as prisoners of war or missing in action in Southeast Asia; and

"Whereas, the Government of North Vietnam is violating every rule adopted by the signatories at the last Geneva Convention concerning the prisoners of war; and

"Whereas, no nation should be allowed to ignore or disobey the rules of the last Geneva Convention because if such conduct can occure against the prisoners of war of one of the signatories, it can happen to the prisoners of war of any of the other signatories; and

"Whereas, it behooves all of the signatories of the last Geneva Convention to become intermediaries between the United States Governmnet and the Government of

North Vietnam in a united effort to assure that the Government of North Vietnam complies with the rules of the last Geneva Convention; and now therefore,

"Be it resolved by the Legislature of Alabama, both houses thereof concurring, That this body does hereby urge the signatories of the last Geneva Convention to exert their influence to persuade the Government of North Vietnam to meet the following minimal conditions:

"1. Release sick and injured POW's immediately.

"2. Treat prisoners of war more humanely.

"3. Establish better communications between prisoners of war and their families.

"4. Allow international inspection of prisoner of war camps.

"5. Release a complete and bona fide roster of prisoners of war and the names of prisoners of war who have died.

"6. Allow prisoners of war to receive mail and packages from home on a regular basis.

"7. Establish a policy whereby future prisoners of war may be properly repatriated through existing organizations such as the Red Cross.

"Be it further resolved that the Secretary of the Senate is hereby authorized and directed to forward an appropriate copy of this Resolution to the Chief Executive of all of the countries which adopted the rules of the last Geneva Convention, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of Defense and the Speaker of the House and President of the Senate of the legislatures of each of the other 49 states."

A resolution from the Board of Supervisors of the County of San Luis Obispo, State of California, requesting appropriation of funds for airport and airways development; to the Committee on Appropriations.

A resolution from the Metlakatla Indian Community, Metlakatla, Alaska, requesting assistance to the fishing industry of Alaska; to the Committee on Commerce.

A memorial of the Council of King County, State of Washington, endorsing the concept of national health security; to the Committee on Finance.

A resolution of the City Council of Hattiesburg, Miss., expressing approval and support of the Federal revenue-sharing program; to the Committee on Finance.

A letter from the School of Law of Saint Louis University, St. Louis, Mo., calling for the general support of youth rights and for the creation of a youth bill of rights; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF A COMMITTEE

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

By Mr. EASTLAND, from the Committee on the Judiciary:

Raymond J. Broderick, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania;

William E. Doyle, of Colorado, to be a U.S. circuit judge, 10th circuit;

James E. Barrett, of Wyoming, to be a U.S. circuit judge, 10th circuit;

Robert A. Sprecher, of Illinois, to be a U.S. circuit judge, seventh circuit;

Thomas R. McMillen, of Illinois, to be a U.S. district judge for the northern district of Illinois; and

Walter T. McGovern, of Washington, to be a U.S. district judge for the western district of Washington;

By Mr. FONG, from the Committee on the Judiciary:

Herbert Y. C. Choy, of Hawaii, to be a U.S. circuit judge, ninth circuit.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

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

S. 1598. A bill to provide health care insurance for people of the United States and to improve the availability of health services, and for other purposes. Referred to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. BAKER, Mr. BENNETT, Mr. BIBLE, Mr. BOGGS, Mr. BROOKE, Mr. BUCKLEY, Mr. DOMINICK, Mr. FANNIN, Mr. GURNEY, Mr. HRUSKA, Mr. RANDOLPH, Mr. SAXBE, Mr. SCHWEIKER, Mr. TALMADGE, and Mr. TOWER):

S. 1599. A bill to establish a Commission to conduct a study and investigation of ways and means of maintaining an adequate military Reserve force after transition to an all volunteer system for meeting the military manpower needs of the Nation. Referred to the Committee on Armed Services.

By Mr. FANNIN:

S. 1600. A bill to amend title XVIII of the Social Security Act to provide coverage under the supplementary medical insurance program for surgical services furnished in certain facilities which are established to perform surgery without inpatient hospitalization. Referred to the Committee on Finance.

By Mr. TALMADGE (by request):

S. 1601. A bill to amend the Federal Crop Insurance Act, as amended. Referred to the Committee on Agriculture and Forestry.

By Mr. PEARSON:

S. 1602. A bill to provide assistance to encourage States to establish consumer claims courts. Referred to the Committee on the Judiciary.

By Mr. EAGLETON (for himself, Mr. BIBLE, Mr. INOUYE, Mr. STEVENSON, and Mr. TUNNEY):

S. 1603. A bill to provide an elected Mayor and City Council for the District of Columbia, and for other purposes. Referred to the Committee on the District of Columbia.

By Mr. EAGLETON:

S. 1604. A bill to direct the establishment of health standards for employees of food service establishments in the District of Columbia. Referred to the Committee on the District of Columbia.

By Mr. MOSS:

S. 1605. A bill to amend section 3109 of title 5, United States Code, relating to temporary or intermittent employment of experts and consultants, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. BROOKE:

S. 1606. A bill to establish an interagency advisory council to study and evaluate the potential domestic application of Department of Defense research projects. Referred to the Committee on Armed Services.

By Mr. BELLMON:

S. 1607. A bill to provide for additional acreage diversion to protect the environment or the local economy of any area from the results of a natural disaster. Referred to the Committee on Agriculture and Forestry.

By Mr. SPARKMAN (for himself, Mr. ALLEN, Mr. CHURCH, Mr. EASTLAND, Mr. HART, Mr. JACKSON, Mr. METCALF, Mr. BENNETT, Mr. HATFIELD, Mr. TOWER, and Mr. YOUNG):

S. 1608. A bill to designate certain lands on the Bankhead National Forest in Alabama as wilderness. Referred to the Committee on Agriculture and Forestry.

By Mr. GRAVEL:

S. 1609. A bill for the relief of Michael A. Korhonen. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 1610. A bill for the relief of Miss June Noronha. Referred to the Committee on the Judiciary.

By Mr. PEARSON:

S. 1611. A bill to amend the Interstate Commerce Act, section 204. Referred to the Committee on Commerce.

By Mr. MILLER (for himself, Mr. BELLMON, Mr. BENNETT, Mr. ROTH, Mr. DOLE, Mr. DOMINICK, Mr. FANNIN, Mr. FONG, Mr. HANSEN, and Mr. BOGGS):

S. 1612. A bill to establish a revenue-sharing program for rural development. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1598. A bill to provide health care insurance for people of the United States and to improve the availability of health services, and for other purposes. Referred to the Committee on Finance.

THE HEALTH RIGHTS ACT

Mr. SCOTT. Mr. President, I observed late last summer that the 92d Congress would come to be known as the "health care Congress." Today, at the risk of fulfilling my own prophecy, I am introducing my own suggestions for health care reform. I am pleased to be joined in this effort by the distinguished senior Senator from Illinois, Senator PERCY.

There is a growing consensus among the American people that reform of our Nation's health delivery system is needed; that improvement in the overall quality of health care is needed; and that action on a national level is necessary to make good health care available to all our citizens. There are, of course, wide differences of opinion on how best to implement or induce these needed reforms.

Our purpose in proposing the Health Rights Act is to place additional suggestions for reform before the Congress. We hope that this act will add significantly to the ideas which have been put forth in other national health care proposals.

I have previously expressed, and again affirm, my broadly general support of President Nixon's comprehensive health care proposals. This Health Rights Act is introduced as an incentive for further discussion and eventual action, with an opportunity to consider my proposals as alternative courses of action.

The American people are demanding improvements in the quality and availability of health care. We elected representatives of the people must now begin the difficult task of formulating and agreeing upon the program for reform.

I ask unanimous consent that a summary of the major provisions of the Health Rights Act, as well as the text of the bill, be printed at this point in the RECORD.

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

S. 1598

A bill to provide health care insurance for people of the United States and to improve

the availability of health services, and for other purposes

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Rights Act of 1971".

TITLE I—ADMINISTRATIVE AND GENERAL PROVISIONS DEFINITIONS, ETC.

SEC. 101. For purposes of this Act—

Inpatient Hospital Services

(a) The term "inpatient hospital services" means the following items and services furnished to an inpatient of a hospital and (except as provided in paragraph (3)) by the hospital—

(1) bed and board;

(2) such nursing services and other related services, such use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by such hospital for the care and treatment of inpatients;

(3) such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by others under such arrangements;

(4) medical or surgical services provided by a physician, resident, or intern when billed through the hospital; and

(5) medical or surgical services provided by a dental surgeon for surgery related to the jaw or any structure related to the jaw or any facial bone, where billed through the hospital; and

(6) the services of a private-duty nurse or other private-duty attendant, when certified by the attending physician as necessary.

Inpatient Psychiatric Hospital Services

(b) The term "inpatient psychiatric hospital services" means inpatient hospital services furnished to an inpatient of a psychiatric hospital where the patient is under an active program of treatment by a psychologist or psychiatrist.

Hospital

(c) The term "hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) maintains clinical records on all patients;

(3) has bylaws in effect with respect to its staff of physicians;

(4) has a requirement that every patient must be under the care of a physician;

(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times;

(6) has in effect a hospital utilization review plan which meets the requirements of section 108;

(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing; and

(8) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution, except that such other requirements may not be higher than the comparable requirements prescribed for the accreditation of hospitals by the Joint Commission on Accreditation of Hospitals.

Psychiatric Hospital

(d) The term "psychiatric hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a psychologist or psychiatrist, psychiatric services for the diagnosis and treatment of mentally ill persons;

(2) has a requirement that every patient be under the care of a psychologist or psychiatrist;

(3) has bylaws in effect with respect to its staff of psychologists or psychiatrists;

(4) satisfies the requirements of paragraphs (5) through (8) of subsection (c);

(5) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to hospital insurance benefits under title II;

(6) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institutions; and

(7) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "psychiatric hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

Tuberculosis Hospital

(e) The term "tuberculosis hospital" means an institution which—

(1) is primarily engaged in providing, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis;

(2) satisfies the requirements of paragraphs (3) through (8) of subsection (c);

(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals covered by the insurance program established by title II;

(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "tuberculosis hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

Secondary Care Services

(f) The term "secondary care services" means the following items and services furnished to an inpatient of a secondary care facility and (except as provided in paragraphs (3) and (6)) by such secondary care facility—

(1) nursing care provided by or under the supervision of a registered professional nurse;

(2) bed and board in connection with the furnishing of such nursing care;

(3) physical, occupational, or speech therapy furnished by the secondary care facility or by others under arrangements with them made by the facility;

(4) medical social services;

(5) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the secondary care facility, as are ordinarily furnished by such facility for the care and treatment of inpatients;

(6) medical services provided by an intern or resident-in-training of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of subsection (l)), under a teaching program of such hospital approved as provided in the last sentence of subsection (a), and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect; and

(7) such other services necessary to the health of the patients as are generally provided by secondary care facilities; excluding, however, any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital.

Secondary Care Facility

(g) The term "secondary care facility" means an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (l)) with one or more hospitals and which—

(1) is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) has policies, which are developed with the advice of (and with provision of review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides;

(3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies;

(4) (A) has a requirement that the health care of every patient must be under the supervision of a physician, and (B) provides for having a physician available to furnish necessary medical care in case of emergency;

(5) maintains clinical records on all patients;

(6) provides twenty-four-hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time;

(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

(8) has in effect a utilization review plan which meets the requirements of section 108;

(9) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(10) meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Secretary may find necessary;

except that such term shall not include any institution which is primarily for the care and treatment of mental diseases or tuberculosis.

Agreements for transfer between secondary care facilities and hospitals

(h) A hospital and a secondary care facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them or (in case the two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that—

(1) transfer of patients will be effected between the hospital and the secondary care facility whenever such transfer is medically appropriate as determined by the attending physician; and

(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

Any secondary care facility which does not have such an agreement in effect, but which is found by the Secretary to have attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and the information referred to in paragraph (2), shall be considered to have such an agreement in effect if and for so long as the Secretary finds that to do so is in the public interest and essential to assuring extended care services for persons in the community who are eligible for payments with respect to such services under this title.

Home Health Services

(i) The term "home health services" means the following items and services furnished to an individual, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services are, except as provided in paragraph (7), provided on a visiting basis in a place of residence used as such individual's home—

(1) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(2) physical, occupational, or speech therapy;

(3) medical social services under the direction of a physician;

(4) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

(5) medical supplies (other than drugs and biologicals), and the use of medical appliances, while under such a plan;

(6) in the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital, under a teaching program of such hospital approved as provided in the last sentence of subsection (a); and

(7) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or extended care facility, or at a rehabilitation center which meets such standards as may be prescribed in regulations, and—

(A) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

(B) which are furnished at such facility while he is there to receive any such item or service described in clause (A), but not including transportation of the individual in connection with any such item or service;

excluding, however, any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital.

Post-Inpatient Home Health Services

(j) The term "post-inpatient home health services" means home health services furnished an individual within one year after his most recent discharge from a hospital of which he was an inpatient or (if later) within one year after his most recent discharge from a secondary care facility of which he was an inpatient entitled to payment under title II, but only if the plan covering the home health services is established within 14 days after his discharge from such hospital or secondary care facility.

Home Health Agency

(k) The term "home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which—

(1) is primarily engaged in providing skilled nursing services and other therapeutic services;

(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(3) maintains clinical records on all patients;

(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing; and

(5) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization;

except that such term shall not include a private organization which is not a nonprofit organization exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or a subdivision of such organization) unless it is licensed pursuant to State law and it meets such additional standards and requirements as may be prescribed in regulations; and except that for purposes of title II such term shall not include any agency or organization which is primarily for the care and treatment of mental diseases.

Outpatient Physical Therapy Services

(l) The term "outpatient physical therapy services" means physical therapy services furnished by a provider of services, a clinic, rehabilitation agency, or a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency, or public health agency to an individual as an outpatient—

(1) who is under the care of a physician, and

(2) with respect to whom a plan prescribing the type, amount, and duration of physical therapy services that are to be furnished such individual has been established, and is periodically reviewed, by a physician (as so defined);

excluding, however—

(3) any item or service if it would not be included under subsection (b) if furnished to an inpatient of a hospital; and

(4) any such service—

(A) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

(i) provides an adequate program of physical therapy services for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may specify,

(ii) has policies, established by a group of professional personnel, including one or more physicians (associated with the clinic or rehabilitation agency) and one or more qualified physical therapists, to govern the services (referred to in clause (i)) it provides,

(iii) maintains clinical records on all patients,

(iv) if such clinic or agency is situated in a State in which State or applicable local law provides for the licensing of institutions of this nature, (I) is licensed pursuant to such law, or (II) is approved by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(v) meets such other conditions relating to the health and safety of individuals who are furnished services by such clinic or agency on an outpatient basis, as the Secretary may find necessary, or

(B) if furnished by a public health agency, unless such agency meets such other conditions relating to health and safety of individuals who are furnished services by such agency on an outpatient basis, as the Secretary may find necessary.

Physician

(m) The term "Physician", when used in connection with the performance of any function or action, means (1) a doctor of medicine, optometry, podiatry or osteopathy legally authorized to practice medicine and surgery as provided in section 501.

Dentist

(n) The term "dentist", when used in connection with the performance of any function or action, means a doctor of dentistry or oral surgery who is legally authorized to practice dentistry as provided in section 501.

Non-diagnostic Medical Examination

(o) The term "non-diagnostic medical examination" means examinations by a physician or by other medical or paramedical personnel under a physician's direction, to determine whether an undetected diseased condition exists.

Medical and Other Health Services

(p) The term "medical and other health services" means any of the following items or services:

(1) physicians' services;

(2) (A) services and supplies (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) furnished as an incident to a physician's professional service, of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physicians' bills;

(B) hospital services (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) incident to physicians' services rendered to outpatients;

(C) diagnostic services which are—

(i) furnished to an individual as an outpatient by a hospital or by others under arrangements with them made by a hospital, and

(ii) ordinarily furnished by such hospital (or by others under such arrangements) to its outpatients for the purpose of diagnostic study; and

(D) outpatient physical therapy services;

(3) diagnostic X-ray tests (including tests under the supervision of a physician, furnished in a place of residence used as the patient's home, if the performance of such tests meets such conditions relating to health

and safety as the Secretary may find necessary), diagnostic laboratory tests, and other diagnostic tests;

(4) X-ray, radium, and radioactive isotope therapy, including materials and services of technicians;

(5) surgical dressings, and splints, casts, and other devices used for reduction of fractures and dislocations;

(6) durable medical equipment, including iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home, whether furnished on a rental basis or purchased;

(7) ambulance service where the use of other methods of transportation is contraindicated by the individual's condition, but only to the extent provided in regulations;

(8) prosthetic devices (other than dental) which replace all or part of an internal body organ, including replacement of such devices; and

(9) leg, arm, back, and neck braces, and artificial legs,

(10) diagnostic tests performed in a laboratory which is independent of a physician's office or a hospital shall be included within paragraph (3) where—

(i) the patient has been referred by a physician, and only for such tests as specified by the physician; and

(ii) such laboratory meets such conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.

There shall be excluded from the diagnostic services specified in paragraph (2) (C) any item or service (except services referred to in paragraph (1)) which—

(i) would not be included under subsection (b) if it were furnished to an inpatient of a hospital; or

(ii) is furnished under arrangements referred to in such paragraph (2)(C) unless furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff.

None of the items and services referred to in the preceding paragraphs (other than paragraphs (1) and (2)(A)) of this subsection which are furnished to a patient of an institution which meets the definition of a hospital shall be included unless such other conditions are met as the Secretary may find necessary relating to health and safety of individuals with respect to whom such items and services are furnished.

Provider of Services

(q) The term "provider of services" means a medical care institution.

Reasonable Cost

(r) (1) The reasonable cost of any services shall be determined in accordance with regulations establishing the method or methods to be used, and the items to be included, in determining such costs for various types or classes of institutions, agencies, and services; except that in any case to which paragraph (2) or (3) applies, the amount of the payment determined under such paragraph with respect to the services involved shall be considered the reasonable cost of such services. In prescribing the regulations referred to in the preceding sentence, the Secretary shall consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such principles) in computing the amount of payment, to be made by persons other than the recipients of services, to providers of services on account of services furnished to such recipients by such providers. Such regulations may provide for determination of the costs of services on a per diem, per unit, per capita, or other basis, may provide for using different methods in different circumstances, may provide for the use of estimates of costs of particular items or services, may provide for separate estimates in different geographical areas, and may provide for the use of charges or a percentage of charges where this method reasonably reflects the costs. Such regulations shall (A) take into account both direct and indirect costs of providers of services in order that, under the methods of determining costs, the costs with respect to individuals covered by the insurance programs established by this title will not be borne by individuals not so covered, and the costs with respect to individuals not so covered will not be borne by such insurance programs, and (B) provide for the making of suitable retroactive corrective adjustments where for a provider of services for any fiscal period, the aggregate reimbursement produced by the methods of determining costs proves to be either inadequate or excessive.

Such regulations in the case of secondary care services furnished by proprietary facilities shall include provision for specific recognition of a reasonable return on equity capital, including necessary working capital, invested in the facility and used in the furnishing of such services, in lieu of other allowances to the extent that they reflect similar items. The rate of return recognized pursuant to the preceding sentence for determining the reasonable cost of any services furnished in any fiscal period shall not exceed one and one-half times the average of the rates of interest, for each of the months any part of which is included in such fiscal period, on obligations issued for purchase by the Federal Health Care Trust Fund.

(2)(A) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or secondary care services is in accommodations more expensive than semi-private accommodations, the amount taken into account for purposes of payment under this Act with respect to such services may not exceed an amount equal to the reasonable cost of such services if furnished in such semi-private accommodations unless the more expensive accommodations were required for medical reasons.

(B) Where a provider of services which has an agreement in effect under this Act furnishes to an individual items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under part A or part B, as the case may be, the Secretary shall take into account for purposes of payment to such provider of services only the equivalent of the reasonable cost of the items or services with respect to which such payment may be made.

(3) If the bed and board furnished as part of inpatient hospital services (including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or secondary care services is in accommodations other than, but not more expensive than, semi-private accommodations and the use of such other accommodations rather than semi-private accommodations was neither at the request of the patient nor for a reason which the Secretary determines is consistent with the purposes of this Act, the amount of the payment with respect to such bed and board under part A shall be the reasonable cost of such bed and board furnished in semi-private accommodations (determined pursuant to paragraph (1)) minus the difference between the charge customarily made by the hospital or extended care facility for bed and board in semi-private accommodations and the charge customarily made by it for bed and board in the accommodations furnished.

(4) For purposes of this subsection, the term "semi-private accommodations" means two-bed, three-bed, or four-bed accommodations.

Family

(s)(1) The term "family" means—

(A) two or more individuals—

(i) who are related by blood, marriage, or adoption, and

(ii) who are living in a place of residence maintained by one or more of them as his or their home, but excluding any adult individual who—

(iii) is not a dependent of any other of such individuals, or

(iv) does not provide more than 50 per centum of the economic support of any other of such individuals, or

(v) is not the spouse of any other of such individuals;

(B) an adult individual who is not included as a member of any family under subparagraph (A); or

(C) any individual who is not included within subparagraphs (A) and (B).

(2) For purposes of paragraph (1)(A)(ii), a child of an individual who is attending school away from home shall be considered to be living in the place of residence of his parent.

(t) The term "dependent" means one who depends upon another for more than 50 percentum of his economic support.

(u) The term "adult" means a person over 18 years of age.

(v) the term "child" means a person under 18 years of age.

(w) The term "family income" means the total of the adjusted gross income for all family members, as defined by section 62 of the Internal Revenue Code of 1954, and any other cash income received which is otherwise exempt from taxation including but not limited to Federal or State public assistance and Social Security payments.

(x) The term "family health cost ceiling" means 15 per centum of the annual per person family income, except where—

(1) the annual per person family income is $2,000 or less, than 10 per centum of the annual per person family income;

(2) The determination of the adjusted gross income shall be made from a review of the income tax return of the family. A family may request a review of the adjusted gross income where there has been a change of circumstances which would reflect a change in the family health cost ceiling. The Secretary may review the adjusted gross income of a family, not more than quarterly, where he has reason to believe that circumstances have changed that would reflect a change in the health cost ceiling of a family.

(y) The term "per person family income" means the quotient of the total family income divided by the family size percentage.

(z) The term "family size percentage" means—

(1) in the case of a family consisting of one adult, 1.25;

(2) in the case of a family consisting of one adult, plus spouse or one dependent, 1.75;

(3) in the case of each additional dependent, .50.

(aa) The term "State" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa. The term "United States" when used in a geographical sense includes all the States as defined in this subsection.

Medical Care Institutions

(bb) The term "medical care institutions" includes hospitals, psychiatric hospitals, tuberculosis hospitals, secondary care facilities, and other facilities rendering medical and mental health services covered by this Act.

Health Maintenance Organization

(cc) The term "health maintenance organization" means a public or private organization which—

(1) provides, either directly or through arrangements with others, health services to enrollees on a per capita prepayment basis;

(2) provides with respect to enrollees for benefits under title IV to whom this section applies (through medical care institutions) all of the services and benefits covered under titles II and III of this Act;

(3) provides physicians' psychologists', psychiatrists', or dentists' services directly through such professionals who are either employees or partners of such organization or under arrangement with an organized group or groups of such professionals which is or are reimbursed for services on the basis of an aggregate fixed sum or on a per capita basis;

(4) demonstrates to the satisfaction of the Secretary proof of financial responsibility and proof of capability of provide comprehensive health care services, including institutional services, efficiently, effectively, and economically; and

(5) has arrangements for assuring that the health services required by its members are received promptly and appropriately and that the services that are received measure up to quality standards which it establishes in accordance with regulations.

OFFICE OF HEALTH CARE

SEC. 102. (a) There is hereby established within the Department of Health, Education, and Welfare, under the general authority of the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), an Office of Health Care, the functions of which shall be the administration of the provisions of this Act.

(b) The Office of Health Care shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The functions of the Secretary under this Act shall be administered through the Director of the Office of Health Care (hereinafter referred to as the Director).

ADMINISTRATIVE POWERS

SEC. 103. In carrying out his functions under this Act, the Secretary is authorized to—

(1) establish regional offices within each of the ten Health, Education, and Welfare Regions, and such sub-regional offices as he deems necessary to administer the provisions of title II of this Act;

(2) appoint and fix the compensation of such personnel as the Director deems necessary in accordance with title 5, United States Code;

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

(4) promulgate such rules, regulations, and procedures, in accordance with section 553, title 5, United States Code, as may be necessary to carry out the functions vested in him, and delegate authority for the performance of any function to any officer or employee of the United States under his direction and supervision;

(5) utilize, with their consent, the services, personnel and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(6) request such information, data, and reports, from any Federal agency as the Director may from time to time require, and as may be produced consistent with other law;

(7) with approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions under this Act;

(8) enter into and perform such contracts (including contracts with independent insurance carriers to administer claims under title III of this Act), leases, cooperative agreements or other transactions, in the conduct of his functions consistent with the purposes of this Act, in accordance with section 3648 of the Revised Statutes (31 U.S.C. 529).

COMPENSATION

SEC. 104. Section 5314, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(58) Director, Office of Health Care".

UTILIZATION REVIEW

SEC. 105. (a) Each medical care institution providing services or receiving payments under this Act shall develop a utilization review plan.

(b) Such review plans shall include provisions for a review of the medical necessity—

(1) of all medical and other health services received by individuals from such medical care institutions;

(2) of hospitalization for over 7 days and every 7 days thereafter; and

(3) of additional medical and other health services which may be required from such medical care institution.

(c) Reviews shall be conducted by a committee of members of the organization providing such services, composed of two or more physicians, or dentists, or psychiatrists or psychlologists as the case may be. However where the size of the organization is such that the establishment of an internal review committee is impractical, a similar committee established by the local medical, dental or mental health association shall be established to carry out the purposes of subsection (b) of this section.

(d) Utilization review committees in the same geographical area (as prescribed by regulations published by the Secretary), and from the various organizations, shall meet from time to time but not less than yearly, as determined by the Secretary, to—

(1) discuss available facilities for medical care and treatment in the area;

(2) discuss plans for sharing highly specialized or high cost facilities;

(3) make recommendations to the regional or subregional health services review committee for sharing of facilities and personnel where such sharing would promote higher efficiency in health delivery and reduce overall costs.

HEALTH SERVICES REVIEW COMMITTEE

SEC. 106. (a) There shall be established in each region or subregion a Health Services Review Committee, the members of which shall be appointed by the Director. Each such committee shall be (1) commensurate in size with the population of the region or subregion served by it (but not to exceed nine members); (2) shall be composed of representatives of the medical, dental, mental health, and allied health professions providing health care in such area, and of representatives of consumers of health care services provided in such area.

(b) Any such Health Services Review Committee shall—

(1) review, on a sample basis, the utilization review being performed by medical care institutions providing, in the area served by such Committee, health care services for which payment is authorized to be made under this Act;

(2) review the administration of this Act in regard to efficiency and cost;

(3) review the effectiveness of this Act in providing the health services intended to be provided; and

(4) report to the Health Services National Review Board, from time to time as the Secretary shall prescribe, but not less often than annually, the status of the programs established by this Act and recommend new legislation where needed.

(c) Members of the Health Services Review Committees shall be appointed for terms of three years and may be reappointed. No member shall, during his term of office, engage in any other business, vocation or employment. Members of any such Committee who are officers or full-time employees of the United States shall serve without compensation other than the compensation received for their services as such officers or employees.

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(131) Members, Health Services Review Committees.".

HEALTH SERVICES NATIONAL REVIEW BOARD

SEC. 107. (a) There is hereby established in the Department of Health, Education, and Welfare a Health Services National Review Board (hereinafter referred to as the Board), to be composed of five members appointed by the President, by and with the consent of the Senate, without regard to the provisions of title 5, United States Code. The members of such Board shall be appointed within 120 days after the date of enactment of this Act. Each member so appointed shall be a person who, as a result of his training, experience and attainments, is exceptionally qualified to appraise programs and activities under this Act.

(b) The Committee shall select its own Chairman from among its members. Members shall be appointed for three year terms, except that of the members first appointed two shall be appointed for terms of one year and three shall be appointed for terms of three years as designated by the President at the time of appointment. Any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. A vacancy in the Board shall not affect its activities and three members thereof shall constitute a quorum. The Secretary shall be an ex-officio member of the Board. During his term of office no member shall engage in any other business, vocation, or employment. A member of the Board who is an officer or employee of the Federal Government shall serve without additional compensation.

(c) The Secretary shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

(d) The Board shall—

(1) review reports of regional and subregional Health Services Review Committees;

(2) continually review the overall administration of this Act;

(3) develop and issue minimum national standards of training for physicians, dentists, psychologists, psychiatrists, and nurses providing services covered by this Act;

(4) develop and issue minimum standards of training for allied health personnel employed by, or to be employed by providers, including, but not limited to, medical technologists, radiologic technologists, optometric technologists, dental hygienists, dental assistants, dental laboratory technicians, dietary technicians, practical nurses, nursing aides, pharmacy aides, physical therapists, physical therapy assistants, inhalation therapy technicians, electrocardiograph technicians, electroencephalograph technicians, and surgical aides;

(5) hold hearings and consult with appropriate professional or other organizations to assist in the development of the standards in paragraphs (3) and (4);

(6) in its discretion, require the revision of a provider's staffing patterns, or its standards for the selection and retention of professional or other personnel, which fail to meet said minimum standards;

(7) in its discretion, provide, for the allied health personnel covered in paragraph (4), special programs for the training, or retraining of personnel employed by providers

who fail to meet minimum standards of training;

(8) compile a generic list of prescription drugs (i) for use by organizations supplying services under titles II and IV, and (ii) for use outside such organizations under titles III and IV when furnished by or on prescription of a physician, psychiatrist, or dentist, subject to the provisions of section 303(b);

(9) prescribe national standards for health service organizations, corporations, and associations in the health care field;

(10) make an annual report, to the Congress through the Secretary, containing a review of the overall effectiveness and administration of this Act and recommending new legislation if needed.

(e)(1) Section 5315, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(96) Chairman, Health Services National Review Board.".

(2) Section 5316 of such title is amended by adding at the end thereof the following new paragraph:

"(132) Members, Health Services National Review Board (4).".

TITLE II—INPATIENT HEALTH CARE BENEFITS PROGRAM ESTABLISHED

SEC. 201. There is hereby established an insurance program to provide insurance benefits, in accordance with the provisions of this title, financed by the Federal Government.

ELIGIBILITY

SEC. 202. (a) Except as provided in subsection (b) of this section every resident of the United States and every nonresident citizen thereof, while within the United States, is eligible to receive health care benefits under this Act.

(b)(1) The Secretary is authorized to enter into agreements with foreign governments, international organizations, or other entities to extend the benefits of this title to persons within the United States who are alien employees (as defined in regulations) of a foreign government, of an instrumentality of a foreign government exempt from the tax imposed by section 3111(b) of the Internal Revenue Code of 1954, or of an international organization (as defined in the International Organizations Immunity Act). An alien admitted as a permanent resident and living in the United States, or an alien admitted for employment and employed within the United States, is for the purposes of this title a resident of the United States.

(2) Agreements entered into by the Secretary in accordance with paragraph (1) of the subsection shall be in consideration of payment to the United States of the estimated cost of furnishing benefits to such persons, or of reciprocal agreement.

(c) Every individual who qualifies (in accordance with regulations published by the Secretary) for benefits under this title shall be entitled to benefits for medical and other health services rendered after January 1, 1973, which are covered by this title. An individual receiving medical and other health services at the time he becomes eligible for benefits under this title shall receive benefits only from the date that he becomes eligible for such benefits.

(d) The Secretary shall prescribe regulations providing for automatic coverage of newly born children up to the age of three months.

SCOPE OF BENEFITS

SEC. 203. (a) Every eligible individual shall be entitled to have payment made on his behalf, or in such situations as the Secretary may allow, to him, for any covered service which is furnished to him within the United States by an approved hospital or medical care facility if such service is certified necessary and appropriate by the attending physician, dentist, psychologist, or psychiatrist, for the diagnosis, treatment, maintenance, or rehabilitation of such individual.

(b) Every individual who is eligible for benefits under this title shall be covered for the cost of—

(1) inpatient hospital services;

(2) inpatient dental services;

(3) inpatient psychiatric services, not to exceed 180 patient days during the lifetime of the patient;

(4) inpatient services in a Secondary Care Institution; and

(5) home health services following covered inpatient status.

(c) Any service furnished otherwise than in accordance with this title or rules promulgated thereunder is not a covered service, except that, as specified in regulations prescribed by the Secretary, the services of a Christian Science Sanatorium are covered services if it is operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

PAYMENT OF BENEFITS

SEC. 204. (a) As a condition precedent to any benefits paid under this title a family or individual must expend for services covered by this title an amount equal to one-half its family health cost ceiling (as defined in section 101(x)) plus an amount equal to 50 per centum of the cost of such services that are above one-half of the family health cost ceiling and the family health cost ceiling.

(b) In no case shall benefits be paid for services that are performed for cosmetic reasons unless such services are performed to restore the patient to a condition equivalent to his condition immediately prior to the injury or disease on account of which such services are performed.

PROCEDURE FOR PAYMENT

SEC. 205. Payment for services described in this title shall be made in accordance with such rules and regulations as are promulgated by the Secretary.

FINANCING

SEC. 206. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Federal Health Care Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to such fund as provided in this section.

(b) There are hereby appropriated to the Trust Fund for the fiscal year ending June 30, 1972, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated amounts equal to 100 per centum of—

(1) the taxes imposed by section 3101(b) and 3111(b) of the Internal Revenue Code of 1954 with respect to wages reported to the Secretary of the Treasury or his delegate to subtitle F of such Code after December 31, 1965, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to such wages, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with such reports; and

(2) the taxes imposed by section 1401(b) of the Internal Revenue Code of 1954 with respect to self-employment income reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns. The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

(3) Report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed. The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(a) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs or the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum,

the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(d) Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f)(1) The Managing Trustee is directed to pay from time to time from the Trust Fund into the Treasury the amount estimated by him as taxes imposed under section 3101(b) which are subject to refund under section 6413(c) of the Internal Revenue Code of 1954 with respect to wages paid after December 31, 1972. Such taxes shall be determined on the basis of the records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with the wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of the Internal Revenue Code of 1954, and the Secretary of Health, Education, and Welfare shall furnish the Managing Trustee such information as may be required by the Managing Trustee for such purpose. The payments by the Managing Trustee shall be covered into the Treasury as repayments to the account for refunding internal revenue collections.

(2) Repayments made under paragraph (1) shall not be available for expenditures but shall be carried to the surplus fund of the Treasury. If it subsequently appears that the estimates under such paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

(g) The Managing Trustee shall also pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses.

(h) There are hereby transferred to the Trust Fund all assets and liabilities of the Federal Hospital Insurance Trust Fund established by section 1817, title XVIII, of the Social Security Act. This subsection shall become effective on the date that benefits under this title begin.

(i) There are hereby appropriated such funds as may be necessary to defray the expenses of the Trust Fund.

TITLE III—SUPPLEMENTARY MEDICAL INSURANCE PROGRAM ESTABLISHED

SEC. 301. There is hereby established a voluntary insurance program to provide medical insurance benefits, in accordance with the provisions of this title to those individuals who elect to enroll under such program, to be financed from premium payments by enrollees together with contributions from funds by the Federal Government.

ELIGIBILITY AND ENROLLMENT

SEC. 302. (a) Every individual who is eligible for benefits under title II of this Act is eligible to enroll for benefits under this title.

(b) An individual may enroll for coverage under this title only in such manner and form as shall be prescribed by the Secretary by regulation, and only during enrollment periods prescribed in or under this Act.

(c) There shall be a general enrollment period, during which all eligible individuals may enroll, beginning on June 1, 1972, and ending on March 31, 1973. Thereafter enrollment shall be open during the month of November of each year, for coverage to begin on January 1, of the next following year.

(d) Aliens shall be eligible to enroll in accordance with the provisions of the agreements reached under section 202(b)(1).

(e) The Secretary shall prescribe regulations providing for automatic coverage of newly born children up to the age of three months.

SCOPE OF BENEFITS

SEC. 303. (a) The benefits provided to an individual by the insurance program established by this title shall consist of—

(1) entitlement to have payment made to him or on his behalf (subject to regulations prescribed by the Secretary) for medical and other health services; and

(2) entitlement to have payment made on his behalf for—

(A) home health services for up to 100 visits during the calendar year; and

(B) outpatient physical therapy services.

(3) entitlement to have payment to him or made on his behalf for professional services of a dentist including diagnostic and therapeutic services, except that—

(A) services of orthodontists are excluded, unless performed in relation to restoration of a prior condition; and

(B) for persons above the age of eleven years, services are only covered with regard to inpatient dental services as defined in section 101(a).

(4) entitlement to have payment made to him or on his behalf for professional services of a psychologist or a psychiatrist provided on an outpatient basis (subject to regulations prescribed by the Secretary), with an individual lifetime limit of one hundred and four visits or sessions.

(5) entitlement to have payment made to him or on his behalf for nondiagnostic medical examinations (as provided by regulations prescribed by the Secretary) but including—

(A) biyearly examinations for children between birth and the age of four; and

(B) three examinations during the term of each pregnancy.

(b) The benefits provided to an individual by the insurance program established by this title shall include drugs which are—

(i) used in the treatment of long-term or chronic illnesses (as prescribed by the Secretary); and

(ii) are prescribed by a physician from the list developed in accordance with the provisions in section 107(d)(8).

PAYMENT OF BENEFITS

SEC. 304. (a) Subject to the provisions of this section, there shall be paid from the Supplementary Health Care Trust Fund, in the case of each individual who is covered under the insurance program established by this title and incurs expenses for services with respect to which benefits are payable under this title, amounts equal to—

(1) 100 per centum of the reasonable costs of the services described in section 303(a) (1), (2), (4), and (5), less (A) $50 per person per calendar year, where the per person family income exceeds $2,000 per year, or (B) $25 per person per calendar year where the per person family income is greater than $1,000 but less than $2,000, or (C) $10 per person per calendar year where the per person family income is less than $1,000.

(2) 100 per centum of the reasonable costs of the services described in section 303(a)(3) less (A) $25 per person per calendar year, where the per person family income exceeds $2,000 per year, or (B) $15 per person per calendar year where the per person family income is greater than $1,000 but less than $2,000, or (C) $10 per person per calendar year where the per person family income is less than $1,000.

(b) No payment may be made under this title with respect to any services furnished an individual to the extent that such individual is entitled to have payment made with respect to services under title II.

(c) No payment may be made under this title to any provider of services or other person under this title unless there has been furnished such information as may be necessary in order to determine the amounts due such provider or other person under this title for the period with respect to which the amounts are being paid or for any prior period.

PROCEDURE FOR PAYMENT

SEC. 305. Payment for services described in section 308(a) shall be made by the insurance carrier who has contracted to cover the region or sub-region in which the services were rendered upon the submission to such insurance carrier, a claim in such manner as prescribed by the Secretary by published regulations.

FINANCING

SEC. 306. (a)(1) The Secretary shall, during December 1972, and of each year thereafter determine and promulgate the dollar amount which shall be applicable for premiums for each region and subregion for months occurring in the 12-month period commencing July 1 in each succeeding year. Such dollar amount shall be such amount as the Secretary estimates will be equal to the Federal share of the total of the premium costs which he estimates will be payable from the Supplementary Health Care Trust Fund for such 12-month period.

(2) The Federal share of the premiums for Supplementary Health Care under this title shall be equal to—

(A) 100 per centum of the premium where the per person family income is less than $1,000;

(B) 75 per centum of the premiums where the per person family income is more than $1,000 but less than $1,500;

(C) 50 per centum of the premiums where the per person family income is more than $1,500 but less than $2,000; and

(D) 25 per centum of the premiums where the per person family income is more than $2,000 but less than $2,500. The balance (of the premium) not covered by the Federal share shall be paid by the family and where the per person family income exceeds $2,500 per person the Federal share shall be 0 per centum.

(b) If any monthly premium determined under the foregoing provisions of this section is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

PAYMENT OF PREMIUMS

SEC. 307. (a) Payment of the family share of the premium under this title shall be made, in a manner specified by regulations promulgated by the Secretary, to the designated insurance carrier in the region or subregion in which the family resides.

(b) The Secretary shall encourage and provide regulations for the insurance carriers of the regions and subregions to enter into agreements with employers to deduct from the salaries and wages of their employees the amount of their premiums.

(c) Nothing in this Act shall be construed as impairing or restricting any contract or employee health-benefit agreement now in effect or to become effective in the future, between an employer and a health insurance carrier. Such health insurance shall be in addition to the health care plan provided under this title.

(d)(1) In the case of an individual who is entitled to monthly benefits under section 202 of the Social Security Act, his monthly premiums under this title (except as pro-

vided in subsection (g) of this section) shall be collected by deducting the amount of such monthly benefits. Such deductions shall be made in such manner and at such times as the Secretary shall by regulations prescribe.

(2) The Secretary of the Treasury shall from time to time, transfer from the Federal Old-Age and Survivors' Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Supplementary Health Care Trust Fund the aggregate amount deducted under paragraph (1) of this subsection, for the period to which such transfer relates from benefits under section 202 of the Social Security Act which are payable from such trust fund. Such transfer shall be made on the basis of a certification by the Secretary of Health, Education, and Welfare and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(e) (1) In the case of an individual who is entitled to receive for a month an annuity or pension under the Railroad Retirement Act of 1937, his monthly premiums under this title shall (except as provided in subsection (g)) be collected by deducting the amount thereof from such annuity or pension. Such deduction shall be made in such manner and at such times as the Secretary shall by regulations prescribe. Such regulations shall be prescribed only after consultation with the Railroad Retirement Board.

(2) The Secretary of the Treasury shall, from time to time, transfer from the Railroad Retirement Account to the Supplementary Health Care Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfers shall be made on the basis of a certification by the Railroad Retirement Board and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(f) In the case of an individual who is entitled both to monthly benefits under section 202 and to an annuity or pension under the Railroad Retirement Act of 1937 at the time he enrolls under this title, subsection (d) shall apply so long as he continues to be entitled both to such benefits and such annuity or pension. In the case of an individual who becomes entitled both to such benefits and such an annuity or pension after he enrolls under this part, subsection (d) shall apply if the first month for which he was entitled to such benefits was the same as or earlier than the first month for which he was entitled to such annuity or pension, and otherwise subsection (e) shall apply.

(g) If an individual to whom subsection (d) or (e) applies estimates that the amount which will be available for deduction under such subsection for any premium payment period will be less than the amount of the monthly premiums for such period, he may (under regulations) pay to the Secretary such portion of the monthly premiums for such period as he desires.

(h) (1) In the case of an individual receiving an annuity under subchapter III of chapter 83 of title 5, United States Code, or any other law administered by the Civil Service Commission providing retirement or survivorship protection, to whom neither subsection (d) nor subsection (e) applies, his monthly premiums under this part (and the monthly premiums of the spouse of such individual under this part if neither subsection (d) nor subsection (e) applies to such spouse and if such individual agrees) shall, upon notice from the Secretary of Health, Education, and Welfare to the Civil Service Commission, he collected by deducting the amount thereof from each installment of such annuity. Such deduction shall be made in such manner and at such times as the Civil Service Commission may determine. The Civil Service Commission shall furnish such information as the Secretary of Health, Education, and Welfare may reasonably request in order to carry out his functions under this part with respect to individuals to whom this subsection applies. A plan described in section 8903 of title 5, United States Code, may reimburse each annuitant enrolled in such plan an amount equal to the premiums paid by him under this part if such reimbursement is paid entirely from funds of such plan which are derived from sources other than the contributions described in section 8906 of such title.

(2) The Secretary of the Treasury shall, from time to time, but not less often than quarterly, transfer from the Civil Service Retirement and Disability Fund, or the account (if any) applicable in the case of such other law administered by the Civil Service Commission, to the Supplementary Health Care Trust Fund the aggregate amount deducted under paragraph (1) for the period to which such transfer relates. Such transfer shall be made on the basis of a certification by the Civil Service Commission and shall be appropriately adjusted to the extent that prior transfers were too great or too small.

(i) In the case of an individual who participates in the insurance program established by this title but with respect to whom none of the preceding provisions of this section applies, or with respect to whom subsection (g) applies, the premiums shall be paid to the designated insurance carrier at such times, and in such manner as the Secretary shall by regulations prescribe.

(j) Amounts paid to the Secretary under subsection (g) or (i) shall be deposited in the Treasury to the credit of the Supplementary Health Care Trust Fund.

(k) In the case of an individual who participates in the insurance program established by this title, premiums shall be payable for the period commencing with the first month of his coverage period and ending with the month in which he dies or, if earlier, in which his coverage under such program terminates.

(l) The Managing Trustee shall pay from time to time, but not less than yearly, to the insurance carriers such amounts as the Secretary certifies are necessary to pay the Federal share of the premiums under this title.

(m) Where an individual or family fails to pay his share of the premium, coverage shall continue either partially or fully, for a period not to exceed one year, subject to regulations prescribed by the Secretary.

SUPPLEMENTARY HEALTH CARE TRUST FUND

SEC. 308. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "Supplementary Health Care Trust Fund" (hereinafter in this section referred to as the "Trust Fund"). The Trust Fund shall consist of such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

(b) There are hereby transferred to the Trust Fund, all assets and liabilities of the "Federal Supplementary Medical Insurance Trust Fund", established by section 1842, title XVIII of the Social Security Act. This section shall be effective on the date on which benefits under this title begin.

(c) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the "Board of Trustees") composed of the Secretary of the Treasury, the Secretary of Labor and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the "Managing Trustee"). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

(1) Hold the Trust Fund;

(2) Report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years;

(3) Report immediately to the Congress whenever the Board if of the opinion that that amount of the Trust Fund is unduly small; and

(4) Review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(d) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on orginal issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

(e) Any obligations acquired by the Trust Fund (except public debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

(f) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(g) There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Federal Old-Age and Survivors Insurance Trust Fund and from the Federal Disability Insurance Trust Fund amounts equivalent to the amounts not previously so transferred which

the Secretary of Health, Education, and Welfare shall have certified as overpayments (other than amounts so certified to the Railroad Retirement Board) pursuant to this Act. There shall be transferred periodically (but not less often than once each fiscal year) to the Trust Fund from the Railroad Retirement Account amounts equivalent to the amounts not previously so transferred which the Secretary of Health, Education, and Welfare shall have certified as overpayments to the Railroad Retirement Board pursuant to this Act.

(h) There are hereby appropriated such funds as may be necessary to defray the expenses of the Trust Fund.

(i) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this title, and the payments with respect to administrative expenses.

TITLE IV—HEALTH MAINTENANCE ORGANIZATIONS GRANTS FOR DEVELOPMENT

SEC. 401. (a) The Secretary shall, upon the the recommendations of the Health Delivery Committee (as provided in section 504) promulgate rules and regulations for the establishment and financing of public or private pre-paid health maintenance organizations (as defined in section 101(cc)).

(b)(1) There is hereby authorized for the fiscal years ending June 30, 1973, June 30, 1974 and June 30, 1975, such sums as may be necessary to carry out the provisions of this Title, which shall be used by the Secretary to make grants or loans to cover the costs of planning and establishing such organizations including construction costs, to such groups or entities which meet the qualifications for such grants or loans, as established by the Secretary.

(2) In no case shall a grant to any one health maintenance organization exceed 50 per centum of the development costs of the organization, except that organizations which locate in and serve areas that are located in physician shortage areas (as defined by the Secretary) may receive grants up to 70 per centum of the total development costs.

(3) Loans to such organizations shall be made on such terms and conditions as the Secretary may prescribe by regulation or in the agreement with the organization. Such loans shall be repayable in equal or graduated installments over a twenty-year period which begins upon the date of commencement of such organization. Such loans shall bear interest on the unpaid balance, computed only for periods during which the loan is repayable, at the rate of 3 per centum per annum.

CONTRACTS WITH HEALTH MAINTENANCE ORGANIZATIONS

SEC. 402. (a) The Secretary is authorized to enter into contracts with existing qualified health maintenance organizations to administer and provide services covered under title III, through December 31, 1973. In no case shall the individual and Federal contribution for such services be greater than the individual and Federal payments made to the carriers in that region or subregion for the benefits conferred by title III.

(b) The Secretary is authorized to enter into contracts (without regard to section 3709 of the Revised Statutes or any other provision of law requiring competitive bidding) with qualified health maintenance organizations to provide the services described in titles II and III to be rendered after December 31, 1973.

FINANCING

SEC. 403. (a) Premiums shall be paid to health maintenance organizations in the same manner as they are paid to insurance carriers under title III.

(b) The Federal share of the premium for participants in the health maintenance organizations shall be determined in accordance with section 306(a)(2) and section 204(a).

(c) The Secretary shall during December 1973, and each year thereafter determine and promulgate the dollar amount which shall be applicable for premiums for organizations within each region and sub-region for months occurring in the 12-month period commencing July 1 in each succeeding year. Such dollar amount shall be such amount as the Secretary estimates will be equal to the Federal share of the total of the premium costs which he estimates will be payable from the Federal Health Maintenance Organization Trust Fund for such 12-month period.

PAYMENT OF PREMIUMS

SEC. 404. Payment of premiums under this title shall be made in a manner similar to the payment of premiums prescribed by section 307 and any regulations prescribed by the Secretary.

ELIGIBILITY

SEC. 405. Any individual who is eligible for benefits under title II or III shall be eligible to enroll for benefits under this title.

ENROLLMENT

SEC. 406. (a) An individual may allow for coverage under this title only in such manner and forms as shall be prescribed by the Secretary by regulation, and only during enrollment periods prescribed in or under this Act.

(b) The Secretary may provide for limited membership in health maintenance organizations except that membership in any one such organization must reflect as nearly as possible an age ratio of the region or subregion in which it is located.

TITLE V—MISCELLANEOUS PROVISIONS

FEDERAL HEALTH CARE STANDARDS

SEC. 501. Health personnel and allied health personnel listed in Sec. 107(d) (3), and (4) who are legally authorized by a State to practice their respective professions, and who meet national standards established by the Board pursuant to section 107(d), (3), (4), and (5) are hereby authorized to practice such profession in any other State, either independently or on behalf of an organization (including hospitals).

CORPORATE PRACTICE

SEC. 502. If any proposed or existing medical care institution or health maintenance organization meets the standards prescribed by the Board is ineligible to incorporate under State law for reasons deemed incompatible by the Secretary, with the purposes of this Act, the Board shall issue a certificate of incorporation allowing such medical care institution or health maintenance organization to provide the services described in this Act in accordance with provisions of State law applicable corporations in such State.

APPEALS

SEC. 503. (a) The determination of whether an individual is entitled to benefits under titles II, III, and IV, and the determination of the amount of benefits under title II, shall be made by the Secretary in accordance with regulations prescribed by him.

(b) Any individual dissatisfied with any determination under subsection (a) as to entitlement under titles II, III, and IV, or as to amount of benefits under title II, where the matter in controversy is $100 or more, shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) of the Social Security Act, and in the case of determination as to entitlement or as to amount of benefits where the amount in controversy is $1,000 or more, to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) of the Social Security Act.

(c) Any individual or organization dissatisfied with any determination by the Secretary that he does not qualify under this Act, to provide services, shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) of the Social Security Act, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) of the Social Security Act.

HEALTH DELIVERY COMMITTEE

SEC. 504. (a) There is hereby established in the Department of Health, Education, and Welfare a Health Delivery Committee (hereinafter referred to as the Committee) to be composed of nine members appointed by the President, by and with the advice and consent of the Senate, for terms of two years without regard to the provisions of title 5, United States Code. Each member so appointed from the medical and allied health fields shall be a person who as the result of his training, experience and attainments is exceptionally qualified to perform his duties on this Committee. A vacancy in the Committee shall not affect its activities and six members thereof shall constitute a quorum. The members shall choose their own chairman. A member of the Committee who is an officer or employee of the Federal Government shall serve without additional compensation. During his term of office no member shall engage in any other business, vocation or employment.

(b) The Committee shall—

(1) study the current need for medical personnel and facilities in the United States;

(2) study the estimated need for such personnel and facilities in the next succeeding two decades;

(3) study the solution to meeting the needs found, with particular emphasis on prepaid or health maintenance plans; and

(4) submit a report, every 6 months, to the Secretary of its findings and recommendations, the first of such reports to focus on preliminary recommendations for the establishment of prepaid or health maintenance plans.

(c) The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities.

(d) The Committee shall be appointed within 180 days after the date of enactment of this Act, and shall continue for two years thereafter.

(e) There is hereby appropriated such sums as may be necessary to carry out the provisions of this section.

(f)(1) Section 5315, title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(97) Chairman, Health Delivery Committee."

(2) Section 5316 of such title is amended by adding at the end thereof the following new paragraph:

"(133) Members, Health Delivery Committee (8)."

EFFECTIVE DATE

SEC. 505. (a) Benefits conferred by titles II and III of this Act shall commence January 1, 1973.

(b) Benefits conferred by title IV of this Act shall commence January 1, 1974.

(c) Benefits conferred by titles I and V are effective as of the date of enactment of this Act.

PROHIBITION AGAINST ANY FEDERAL INTERFERENCE

SEC. 506. Nothing in this Act shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided, or over the selection, tenure, or compensation of any officer or employee of any institution, agency, or person providing health services; or to exercise any supervision or control over the administration or operation of any such institution, agency, or

person except as provided in sections 501 and 502.

FREE CHOICE BY PATIENT GUARANTEED

SEC. 507. Any individual entitled to insurance benefits under titles II and III may obtain health services from any institution, agency, or person qualified to participate under titles II and III if such institution, agency, or person undertakes to provide him such services.

OPTION TO INDIVIDUALS TO OBTAIN OTHER HEALTH INSURANCE PROTECTION

SEC. 508. Nothing contained in this title shall be construed to preclude any State from providing, or any individual from purchasing or otherwise securing, protection against the cost of any health services.

EFFECT UPON OTHER ACTS

SEC. 509. (a) Title XVIII of the Social Security Act is repealed, effective upon the date that the health benefits of this Act become effective.

(b) Chapter 89, title 5, United States Code is repealed effective upon the date the health benefits of this Act become effective.

(c) The Retired Federal Employees Health Benefits Act (74 Stat. 749) is repealed effective upon the date the health benefits of this Act become effective.

(d) After the effective date of health security benefits no State (as defined in section 1101(a)(1) of the Social Security Act) shall be required, as a condition of approval of its State plan under title XIX of that Act, to furnish any service which constitutes a covered service under title I of this Act, and any amount expended for the furnishing of any such service to a person eligible for services under title I of this Act shall be disregarded in determining the amount of any payment to a State under such title XIX. The Secretary shall by regulation prescribe the minimum scope of services required (in lieu of the requirements of section 1902(a)(13) of the Social Security Act) as a condition of approval, after the effective date of health security benefits, of a State plan under such title XIX. Such minimum scope of services shall, to the extent the Secretary finds practicable, be designed to supplement the benefits available under title II of this Act, and with respect to the furnishing of dental services and of drugs to persons not entitled to such services, or not entitled to such drugs, under title II of this Act.

STUDENT LOANS

SEC. 510. Upon enactment of this Act, (a) Section 741(a) of the Public Health Service Act is amended to read as follows:

"Loans from a loan fund established under this part may be in an amount equal to the total yearly costs of tuition, laboratory fees, and required texts and materials, plus a living allowance of up to $1,000 (under such regulations as prescribed by the Secretary)."

(b) Section 741(c) of such Act is amended by striking out "ten-year period" and inserting thereof "twenty-year period."

(c) Section 823(a) of such Act is amended to read as follows:

"Loans from a loan fund established under this part, may be in an amount equal to the total yearly costs of tuition, laboratory fees, and required texts and materials."

(d) Section 823(b) of such Act is amended by striking out "ten-year period" and inserting thereof "twenty-year period."

AID TO MEDICAL SCHOOLS

SEC. 511. Upon enactment of this act, and for a period of five years thereafter, the Secretary will award to accredited medical schools—

(a) grants in the amount of $20,000 for each entering student who represents an enrollment increase over the prior year's entering class at that school of medicine;

(b) grants in the amount of $20,000 for each graduating student who represents an increase over the prior year's graduating class at that medical school.

AUTHORIZATIONS

SEC. 512. Such sums are authorized under this Act as are necessary to carry out its provisions.

SUMMARY OF THE MAJOR PROVISIONS OF THE HEALTH RIGHTS ACT

A. PROGRAMS TO PROVIDE ADEQUATE HEALTH CARE FOR ALL AMERICANS

The Health Rights Act establishes two programs to assure all Americans of protection from unmeetable financial obligations due to the costs of health maintenance and recovery from illness. It replaces both the Medicare and Medicaid programs now in effect.

The first program provides Federally administered, inpatient, "major illness" protection for all individuals. It differs from traditional catastrophic plans by covering all costs above *each family's* "health cost ceiling".

The second program is an optional, outpatient, health maintenance insurance plan. The Federal government will contract with private insurers to make available a standard health maintenance benefit package for all families.

Administration

Inpatient Plan—is administered by regional or subregional offices of the newly created Office of Health Care within the Department of Health, Education and Welfare.

Outpatient Plan—is administered by private insurance carriers who have contracted with the Office of Health Care to make available insurance for health services covered under the outpatient plan.

Financing

Inpatient Plan—is financed in part through present health insurance portion of Social Security payroll taxes and in part through general revenues.

Outpatient Plan—is financed through individual premium payments which will be supplemented in whole or in part with Federal payments for low income families. Employers may arrange to finance all or part of their employees' premiums under this plan.

Benefits (see sample figures in chart)

Inpatient Plan—pays all covered costs above each family's "health cost ceiling". This health cost ceiling is determined, on a family by family basis, by use of a formula taking into account both family income and family size. The family must spend an amount equal to one-half of its cost ceiling on covered expenses before there is any Federal contribution. Covered expenses between one-half the cost ceiling and the cost ceiling will be matched on a 50%–50% coinsurance basis. Families may cover costs which fall under their health cost ceiling either with their own assets or through a personally purchased insurance policy. All covered expenses above the family's cost ceiling are covered by Federal payments. For low income families, this program completely supplements the outpatient program.

Outpatient Plan—pays all covered costs above an individual deductible of $50 per year, with lower individual deductibles for low income persons. There is an additional individual deductible of $25 for covered dental services, with lower individual deductibles for low income persons. The small initial payment for, and the breadth of, covered outpatient services will encourage illness prevention and discourage overutilization of inpatient services.

Covered services

Inpatient Plan—covers hospital inpatient services, secondary care inpatient services (without a prior requirement of hospital care), and home health services following inpatient status in either a hospital or secondary care facility. Inpatient mental health services are also covered, with a lifetime limit of 180 inpatient days for each individual.

Outpatient Plan—covers outpatient physician services, including diagnostic services, limited "check-up" examinations, well-child care for children under the age of 5; dental care for children under the age of 12; and outpatient mental health services, with a lifetime limit of 104 visits for each individual.

Effect on other Federal health programs

The Health Rights Act replaces both the Medicare and Medicaid programs.

Utilization review and coordination of health services

By Providers—inpatient and outpatient plans require each participating provider to have an approved utilization review program in effect, as is presently required under the Medicare program. Within each region or subregion, utilization review committees of each provider must meet periodically to review health care resources and services within the region, to institute programs for the coordination and sharing of facilities, and to make administrative and legislative recommendations to the regional Office of Health Care for improvements in these programs.

By Office of Health Care—each regional or subregional office of the Office of Health Care will have a health services review committee to review, on a sample basis, the administration and effectiveness of the program within its region or subregion and make any administrative and legislative recommendations which would improve the quality and delivery of health services in the region.

B. PROGRAM TO ENCOURAGE THE DEVELOPMENT AND UTILIZATION OF HEALTH MAINTENANCE ORGANIZATIONS

The Health Rights Act authorizes Federal grants and loans for the planning and development, including construction, of prepaid health maintenance organizations. A new Health Delivery Committee, composed of representatives of the medical and allied health fields, is established for a two-year period within the Department of Health, Education and Welfare. The first function of the Committee is to prepare preliminary specifications for the establishment of health maintenance organizations under this Act.

Grants for the planning and development of health maintenance organizations may cover 50% of the development costs. For health maintenance organizations which locate in and serve patients in physician shortage areas, grants may cover 70% of the development and initial operating costs.

As of January 1, 1974, the Secretary of Health, Education and Welfare is authorized to enter into contracts with qualified health maintenance organizations to provide the services covered by the outpatient and inpatient plans described above.

C. PROGRAMS TO INCREASE HEALTH MANPOWER RESOURCES

To provide an immediate incentive for an increase in health manpower training, the Health Rights Act improves the medical and nursing student loan programs under the Public Health Service Act to enable all qualified students the opportunity to attend schools of medicine and nursing. The loan repayment period is increased from ten to twenty years; the total amount of each loan is increased from $1,500 to the full cost of tuition, laboratory fees, and required texts and materials, plus a special living allowance of up to $1,000 per year.

The Health Rights Act also establishes a special program of yearly capitation grants to new and existing medical schools, for an initial period of five years. The capitation grants are designed to allow medical schools to increase their enrollment and to encourage them to shorten their required term of study.

Medical schools will receive a direct Federal grant of $20,000 for each entering student who represents an enrollment increase over the prior year's entering class. In addition, medical schools will receive a direct Federal grant of $20,000 for each graduate who represents an increase over the graduating class of the prior year.

SAMPLE FIGURES FOR COST PROVISIONS UNDER HEALTH RIGHTS ACT

Family size	Family income	Family health cost ceiling for inpatient plan (on a scale of $0 to $6,000)	Supplementary outpatient insurance plan: Insurance cost (percent) — Individual payment	Insurance cost (percent) — Federal payment	Deductibles (per person) — Medical	Deductibles (per person) — Dental
1	$1,000	$80	0	100	$10	$10
	1,500	120	25	75	25	15
	2,000	160	50	50	25	15
	4,000	480	100	0	50	25
	6,000	720	100	0	50	25
	10,000	1,200	100	0	50	25
	14,000	1,680	100	0	50	25
	20,000	2,400	100	0	50	25
2	1,000	57	0	100	10	10
	1,500	86	0	100	10	10
	2,000	114	25	75	25	15
	4,000	342	75	25	50	25
	6,000	514	100	0	50	25
	10,000	857	100	0	50	25
	14,000	1,200	100	0	50	25
	20,000	1,714	100	0	50	25
4	1,000	36	0	100	10	10
	1,500	54	0	100	10	10
	2,000	73	0	100	10	10
	4,000	145	25	75	25	15
	6,000	327	75	25	50	25
	10,000	545	100	0	50	25
	14,000	763	100	0	50	25
	20,000	1,090	100	0	50	25
6	1,000	27	0	100	10	10
	1,500	40	0	100	10	10
	2,000	53	0	100	10	10
	4,000	107	25	75	25	15
	6,000	161	50	50	25	15
	10,000	400	100	0	50	25
	14,000	560	100	0	50	25
	20,000	800	100	0	50	25

Mr. SCOTT. Mr. President, last night, in Pittsburgh, the distinguished Senator from Missouri (Mr. EAGLETON), speaking on the crisis in health care, made an excellent suggestion, that there are many bills being introduced in the Senate on this subject, as well as the administration's bill, and he proposed that all the proponents of health care legislation should consult among themselves and seek, if possible, to avoid the sheer pleasure or privilege of attempting to obtain individual credit, that that should be abrogated in favor of a common attempt to find a good, comprehensible, and workable health care program in this current health Congress.

I think it is a good idea and I welcome the suggestion. I am very much honored that, in introducing my bill, the distinguished Senator from Illinois (Mr. PERCY) has approved it and has been good enough to join me as one of the original sponsors.

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

Mr. SCOTT. Mr. President, I am glad to yield to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I am very honored today to join the minority leader, the distinguished Senator from Pennsylvania (Mr. SCOTT) in introducing our suggestions for health care reform, which we believe would make good health care readily available to every citizen, whatever his economic status.

In my judgment, 1971 will see the successful adoption of a national health program, one of the really basic reforms of our time. Senator SCOTT and I hope that our Health Rights Act will contribute to and be a part of our Nation's new commitment to solving the great and complex problems of providing health care rationally and effectively for all.

Two years ago, President Nixon said America's medical system faced a "massive crisis." Now, he says that crisis has deepened. I say that crisis is upon us.

In the decade of the 1960's hospital daily service charges rose 127.2 percent, and physicians' fees increased 46.6 percent. Medical costs have gone up twice as fast as the cost of living. Hospital costs have risen five times as fast as other prices. Two years ago the Nation's health bill was $59.9 billion. By the end of fiscal 1970, it had equaled 7 percent of our gross national product—$67.2 billion. The cost of care for a growing number of Americans is becoming prohibitive. And even for those who can most afford medical care, a prolonged illness can impoverish or even bankrupt them.

My colleagues may be interested to know that over 2,500 practicing physicians in Illinois contributed to my coming to grips with questions involved in the Health Rights Act. On March 5, I sent questionnaires to 10,000 practicing physicians throughout Illinois to determine how those closest to the problems of health care delivery in my own State feel about health legislation. Their response was gratifying. Approximately 2,500 physicians took time out from their busy schedules to answer the questionnaires; over 100 of them sent in extensive letters, many as long as four or five pages. I want these physicians to know that their responses were considered seriously. The Health Rights Act reflects their opinions and is directly in line with their comments and suggestions.

The Health Rights Act will provide protection for all against the financial calamity of catastrophic illnesses, supplemented by comprehensive outpatient coverage. Catastrophic protection is so necessary because no family in America should have to face financial ruin due to illness.

The major emphasis of this act, however, is on outpatient coverage. Today's health financing plans place pressure on patients and doctors alike to hospitalize patients whether it is really needed or not. Too much of the ordinary diagnostic procedures, minor surgery, and day-to-day medical care is being handled by hospitals. Extensive outpatient coverage will enable families to visit doctors on a regular basis to maintain good health and prevent major illnesses.

Everyone is eligible for the benefits provided by our plan, but no one is required to take part. Those who so desire can choose whatever health program they want. Our plan is totally voluntary, but it protects through Federal financing those who are financially unable to meet their health care costs. No one should be prevented from receiving care just because he cannot afford it.

At the same time, our plan is not free—no plan actually ever is. Everyone pays something, based on his income, except the destitute. A payment, however small, will help preserve some element of cost consciousness within our health care system and reduce the drain on general revenue.

Our plan provides strong Federal participation, but it also draws heavily on the private enterprise system. I have always believed that a pluralistic system will serve the public much better than a monolithic one.

Finally, the Health Rights Act provides incentives for doctors to locate in areas where there is a shortage of medical personnel. Every American, including those in the rural areas and the inner cities, should have access to quality health care.

Mr. President, I ask unanimous consent that a synopsis of my health questionnaire findings be printed at this point in the RECORD.

There being on objection, the synopsis was ordered to be printed in the RECORD, as follows:

HEALTH QUESTIONNAIRE FINDINGS

On March 5, 1971, 10,000 questionnaires were sent to physicians throughout Illinois. Approximately 2,500 responses were returned. A 25% return is significant. To check for significance of geographical variation, the responses were sorted according to region.

This synopsis highlights those questions which are of particular interest to pending legislation.

FINDINGS

Question.—Where is the basic problem in the national shortage of medical personnel: (a) Physicians and nurses; and (b) Paramedical personnel.

In all regions there was felt a need for both a and b. However, in the northern, central and southern regions, a majority of respondees felt physicians and nurses are needed more than paramedical personnel. In the Chicago area respondees felt paramedical personnel are needed almost as much as physicians and nurses.

Question.—Do you feel group practice can significantly improve the availability of medical services? Yes —. No —.

Of the questionnaires received, responses indicated that physicians are more or less equally divided as to whether group practice can improve the availability of medical services. Those in favor have a slight edge in the Chicago, Northern and Central regions; those against score an edge in the South. The regional breakdown is as follows:

Chicago: 54% yes.
North: 51% yes.
Central: 54% yes.
South: 55% no.

Question.—Would you favor a program which offered federal incentives to doctors to encourage them to locate in rural areas, urban ghettos or other areas which have a shortage of physicians? Yes— No—.

Physicians in all regions are overwhelmingly (more than 85%) for federal incentives to encourage doctors to locate in shortage areas. The regional breakdown is as follows:

Chicago: 91% yes.
North: 80% yes.
Central: 81% yes.
South: 75% yes.

Question.—How should the health plan be administered? Through existing private insurance companies (PIC)——or through the federal government?——.

Physicians in all regions are overwhelmingly for administering health plans through private insurance companies (more than 85%). The regional breakdown is as follows:

Chicago: 85% PIC.
North: 96% PIC.
Central: 85% PIC.
South: 76% PIC.

Question.—Should a plan be voluntary—, or compulsory—?

Of the total sample, more than two-thirds are for voluntary plans. However, a number of respondees qualified their responses with a suggestion that voluntary plans ought to be available for those who can afford it while compulsory plans should be available for the poor. The regional breakdown is as follows:

Chicago: 71% for voluntary plans.
North: 76% for voluntary plans.
Central: 62% for voluntary plans.
South: 73% for voluntary plans.

Question.—Of the plans advanced to date, which do you believe is best? A) Administration plan; B) Kennedy plan; C) AMA plan; D) AHA plan.

Physicians in none of the regions were overwhelmingly for any of the plans advanced to date. The competition was between the Administration and the AMA. In the Chicago and Northern regions the Administration outpolled the AMA. In the Central and Southern regions the AMA outpolled the Administration. Differences, however, were slight. The regional breakdown is as follows:

[In percent]

Plan	Chicago	North Central		South
A. (Admin)	43.5	56	39	44
B. (Kennedy)	14.0	1	5	11
C. (AMA)	41.0	43	53	45
D. (AHA)	1.5	0	3	0

EXCERPTS

Respondees repeatedly commented on the following topics:

I. Today's health care system

1. "Today too much ordinary diagnostic procedures, minor surgical emergencies, and the ordinary medical care are being handled by hospitals. It's like going to an ignition specialist to have your sparkplug changed or going to a body and fender man to have your windshield wiped". *Chicago.*

2. "In the past, people went to physicians because they were sick. Today they go to physicians for a whole variety of reasons. Because they get much free medical care or partially paid medical care, they want to get all the services they can and take advantage of any prepayments". *Harvey.*

3. "I see many abuses of the present programs (Public Assistance, Medicare). People who are on a free ride are kept in hospitals too long at terrific expense to the taxpayer. I feel too that some doctors write too many orders for lab, X-ray etc. on patients that don't need them." *Salem.*

II. General health insurance coverage

1. "What needs to be done is to have a program of medical care available to all people provided by private physicians, administered by private insurance companies, under the aegis of the Federal Government." *Chicago.*

2. "Health care must never be free or it will be considered without value. At the same time no one should be prevented from getting care because they cannot afford it." *Freeport.*

3. "There is great need for outpatient coverage, as pressure today is great on doctors to hospitalize where needed or not." *Chicago.*

4. "Concerning health financing, I believe in the free enterprise system and feel that those who are financially able, should assume their own health care responsibilities. Those who are genuinely indigent should receive public aid." *Quincy.*

5. "I believe that private health insurance companies should be maintained for those people who are capable of carrying their own insurance. Those, because of financial problems, who are incapable of meeting their obligation must have some type of protection furnished by the federal government." *Spring Valley.*

III. Catastrophic coverage

1. "I have long felt that our major need was for catastrophic insurance for all." *Rockford.*

2. "Comprehensive insurance, at least from a catastrophic illness point of view, should be available to all citizens." *Carol Stream.*

3. "I feel that we certainly need an increase or broadening of health insurance, and this is especially true in catastrophic illnesses. We see patients whose entire family is bankrupt because of an unfortunate and prolonged severe illness." *Springfield.*

4. "I feel very strongly that there is definitely a need for a plan that will protect the average family against medical disaster. I feel this plan must be compulsory and federally financed in order to be most effective." *Chicago.*

5. "I do not see any need whatsoever to change or tamper with the financing of medical care for the bulk of the population as it stands now on a federal level. An only exception I could see is some type of compulsory catastrophic health insurance."

IV. Medical personnel shortage

1. "Medicine is becoming so highly specialized, splintered and fragmented, that the human being is no longer a whole human being but has become decimated into many parts. There is cognizance only of diseased organs which are either ambulatory or bedridden." *Harvey.*

2. "It is not a matter of shortage of medical personnel as much as it is a poor distribution of personnel and the fact that fewer graduates have entered the field to take care of sick people. It is a paradox that a kid goes to medical school to learn to care for the sick and on graduation seeks fields of medicine which are administrative, highly specialized and otherwise unrelated to the practice of medicine." *Pinckneyville.*

3. "I feel we need about 5% more specialists and about 1200% more general practicioners. Specialists don't make house calls nor do they work long hours, and they are not available in the evenings when the patient comes home from work." *Chicago.*

4. "The ironic part of this scarcity of general practitioners is that this was brought about by the philosophy of the medical schools. When I was a medical student attending the University of Illinois, I was led to understand that taking an internship outside the City of Chicago was as good as falling off the end of the earth. I was told that if I did not take an internship in a Chicago hospital, I would never be able to specialize and the general practice was for those who were not too bright." *Rockford.*

5. "We certainly have maldistribution of doctors, and no federal legislation will make a doctor want to take his life into his hands by making a house call in the Chicago slums or practicing in certain rural areas where there are both professional and cultural disadvantages." *Winnetka.*

V. Mal-practice suits

1. "As a physician I am aware that many of my services can be equally well performed by paramedical personnel such as Navy Corpsmen and Army Medics. In my opinion, the fear of malpractice suits as well as fear of diminished income and prestige are the main deterrants to the development and deployment of this badly needed additional manpower." *Oak Park.*

2. "Most of us in practice are extremely reluctant to use any para-medical personnel because of the expanding threat of malpractice claims." *Des Plaines.*

3. "Liability does not allow delegation of duties and is the major source of our terrible medical costs." *Libertyville.*

Mr. SCOTT. Mr. President, I am very much encouraged by the comments of the distinguished Senator from Illinois.

By Mr. THURMOND (for himself, Mr. BAKER, Mr. BENNETT, Mr. BIBLE, Mr. BOGGS, Mr. BROOKE, Mr. BUCKLEY, Mr. DOMINICK, Mr. FANNIN, Mr. GURNEY, Mr. HRUSKA, Mr. RANDOLPH, Mr. SAXBE, Mr. SCHWEIKER, Mr. STEVENS, Mr. TALMADGE, and Mr. TOWER):

S. 1599. A bill to establish a Commission to conduct a study and investigation of ways and means of maintaining an adequate military Reserve force after transition to an all volunteer system for meeting the military manpower needs of the Nation. Referred to the Committee on Armed Services.

ARMED FORCES RESERVE STUDY COMMISSION

Mr. THURMOND. Mr. President, on behalf of myself and Senators BAKER, BENNETT, BIBLE, BOGGS, BROOKE, BUCKLEY, DOMINICK, FANNIN, GURNEY, HRUSKA, RANDOLPH, SAXBE, SCHWEIKER, TALMADGE, and TOWER, I introduce a bill to establish a group to be known as the Armed Forces Reserve Study Commission. This Commission will conduct a study and investigation of ways and means of maintaining an adequate military Reserve force after transition to an all-volunteer system or the attainment of a zero draft.

This group would be made up of 12 members to include one majority and one minority Member from each House of Congress; two Defense Department officials appointed by the President; and six persons from outside the Government appointed by the President, three of whom could have no reserve affiliation.

The study and recommendations of the Commission would cover the following areas: reserve strength levels needed to provide an adequate backup to an all-volunteer armed forces; inducements or amenities needed to maintain minimum reserve strength levels if the draft ends; and any other problem areas likely to

occur if the United States is to maintain an adequate and well trained reserve in a zero draft or all-volunteer environment.

Mr. President, the need for this Commission is based on several basic points. First, over 70 percent of the men currently in military reserve units enlisted because of the threat of the draft. Second, once the legal obligation of military service is removed many experts feel reserve strength levels will drop sharply.

It is my view this approaching situation will possibly be more serious than forecast because of the general antimilitary attitude now prevalent in this country.

Thus, with zero draft or volunteer armed forces approaching it is obvious something must be done to determine exactly what strength levels are needed in the reserves and what steps are necessary to attain these levels.

Hearings before the Armed Services Committee so far this year have convinced me the Nation will face unprecedented problems in maintaining reserve force levels in a zero draft or volunteer armed forces environment. I have questioned Secretary Laird, the Service Secretaries, the Joint Chiefs and the Reserve Chiefs reference this matter. They all agree that reserve force levels can be maintained in the 1970's only through inducements such as pay raises, reenlistment bonuses, and so forth. One member of the Joint Chiefs, in response to my question, said the reserve would face a chaotic situation once the draft ends.

At my request earlier this year the Defense Department looked into reserve enlistment rates to see if possibly there was some meaningful retention of reservists who had no legal obligation. The findings revealed that in the Reserves only around 5 percent of reservists reenlisted after completing their obligatory time. The percent of servicemen coming from extended active duty to the reserve program also rests on the 5 percent mark.

Thus, it is obvious this country faces some big questions ahead in the way of maintaining military manpower.

Mr. President, as my colleagues in the Senate know, the Gates Commission made a study of the volunteer armed services in 1969. The main thrust of this study concerned the programs and inducements that would be needed if the United States is to maintain the necessary active military forces without the draft. Only brief attention was given to the reserve forces.

All four services are now taking some administrative steps to increase reserve readiness. Just what action the Congress should take in the way of legislation to make the reserve forces more attractive, and thus maintain minimum strength levels, remains unclear. Higher pay, reenlistment bonuses, extension of the GI bill, and other inducements, have been discussed.

It has always been my opinion that reserve forces should be called to active duty in the event of a military conflict such as Vietnam. The course of this war may have been different if reserve forces rather than draftees had been called upon to bear the burden of this engagement. The present administration favors a reserve call-up in the event of another military conflict, and thus is taking steps to provide for a more ready reserve.

It is important that this Nation have a ready reserve, especially in a time when our active duty forces are being reduced and the enemy threat is increasing.

Mr. President, the cost of this Commission would be small due to its limited scope and period of operation. It is my view the benefits which could come from the Commission may be considerable. We must know what it will take to maintain the minimum strength levels of U.S. reserve forces. Only by knowing can the United States avoid a sharp downturn in our military strength at a time which may well coincide with a clear shift in the balance of power to the Soviet Union.

While there are many differences among us here in the Senate as to the timing and degree of U.S. disengagement from Vietnam, it is my view we all favor a meaningful military preparedness. The establishment of the Armed Services Reserve Study Commission will help insure the continuance of that military preparedness.

Finally, an identical bill to establish a Reserve Study Commission is being introduced today in the U.S. House of Representatives by the Honorable ROBERT L. F. SIKES, of the First District of Florida, top ranking majority member of the House Defense Subcommittee on Appropriations. Mr. SIKES is highly regarded in the Congress and throughout the Nation for his understanding of military matters. His leadership on defense affairs in the Congress during the past three decades has resulted in great benefit for this Nation and her people.

Mr. President, I introduce this bill for appropriate referral.

By Mr. FANNIN:

S. 1600. A bill to amend title XVIII of the Social Security Act to provide coverage under the supplementary medical insurance program for surgical services furnished in certain facilities which are established to perform surgery without inpatient hospitalization. Referred to the Committee on Finance.

EXPANSION OF HEALTH CARE SERVICES

Mr. FANNIN. Mr. President, today I am introducing a bill which would help expand health care services and cut costs of minor surgery without sacrificing quality.

The bill would provide that medicare coverage be extended to approve ambulatory surgical centers for specified purposes. Such centers can serve as intermediate facilities for cases that are too serious to be handled in the doctors' office, yet are not severe enough to really justify costly hospitalization.

Many surgical operations now performed in hospitals can be carried out in these centers at great savings to patients, insurance companies and Government.

This is not some scheme that is hot off the drawing boards of politicians or bureaucrats. The soundness of the idea already has been proven by a facility known as Surgicenter.

Surgicenter has been performing operations in Phoenix for more than a year now and has had a most impressive record.

It is estimated that there was a savings of $385,000 in medical costs for the first 3,000 cases handled in Surgicenter. In other words, it cost on the average about $128 less per case to handle the procedure at Surgicenter than at a hospital.

More than 80 commercial health care insurance carriers have approved Surgicenter so that their policyholders can use the facility.

My legislation would permit medicare patients to use Surgicenter and other such health care facilities. There is no sound reason why the taxpayers footing the bill for medicare should not benefit from these savings.

Mr. President, while officials here in Washington have been debating how best to expand health care in our Nation, some people around the Nation have been doing something about it on their own. We need to encourage these dedicated people.

In the case of Surgicenter, it was two Phoenix doctors who came up with an idea to provide better health care at lower costs.

Dr. John L. Ford and Dr. Wallace A. Reed became concerned about the fact that once inexpensive surgery was costing their patients hundreds of dollars. They set out on their own, without Government subsidy, to cut the cost of minor operations.

On February 12, 1970, they opened Surgicenter near Good Samaritan Hospital in Phoenix.

This facility escapes many costs of regular hospitals because it can eliminate services and facilities that are required in a 24-hour operation. There is no cafeteria, no overnight facilities. It does not require round-the-clock X-ray or laboratory services and it can make maximum use of disposable equipment.

Insurance carriers are now realizing that the requirement that a person be hospitalized to qualify for surgical benefits is out of date.

There are a number of reasons why we need such innovations in health care facilities.

Dr. Reed summed up two of the most important reasons cogently in a recent speech:

> With new construction reaching a price of over $60,000 for each bed, it would seem wise economy to limit use of hospital beds to patients who really need them.
>
> The need for relief in this area has been emphasized repeatedly by leaders in every segment of our society from the President on down. And it is certainly no wonder that our attention is being directed to keeping more patients ambulatory, for with the coming of a national health insurance program it is obvious to almost everyone that, just as was the case in England, the requests for elective operations will far exceed the capacity of the health care system to deliver these operations, and the waiting list will become months long—perhaps years long—unless there are facilities which can assume a part of the load by caring for the intermediate patient.

Dr. Reed estimates that 30 to 40 percent of the persons now hospitalized for

surgical procedures could be taken care of more efficiently in intermediate facilities like surgicenter.

I believe Dr. Reed made some very good points.

He has proven that it is possible to use private funds to build intermediate facilities that offer quality care at a great savings. This is something that can be applied nationwide to provide a significant breakthrough in both lowering cost and increasing efficiency.

During the first year of operation, Surgicenter patients spent an average of 3½ hours in the facility. Dr. Reed reported that:

> On no occasion have we had to transfer a patient to the hospital as an emergency, although we have, of course, transfer arrangements worked out in case this becomes necessary some day.

Surgicenter also has the advantage of providing service at a set fee. When a person enters a hospital, he usually has only a vague idea what his final bill will be. At an intermediate facility, an all-inclusive charge can be made so that the patient knows exactly what the cost will be.

Mr. President, the bill I am introducing today would require that the quality of medical care at such centers be of the same high caliber as that offered at hospitals.

Surgery must be performed by a physician who is authorized to perform such procedure in an area hospital.

Anesthesia must be administered by a licensed anesthesiologist.

The center must be equipped to perform diagnostic X-ray and laboratory examinations in connection with the surgery.

Professional registered nurses must be on the job.

Emergency equipment must be available to handle any forseeable complications.

I introduced this same bill last year, as did Representative JOHN RHODES in the House of Representatives. At that time Surgicenter already was doing very well, but now it is a proven success.

This could serve as a model for the Nation.

Insurance companies and many individual patients have found it to be the most economical way to have minor surgery performed. It is time that we make it possible for medicare patients to utilize this money-saving service.

Mr. President, I send to the desk for appropriate reference a bill to provide medicare coverage for approved ambulatory surgical centers for specified purposes.

By Mr. PEARSON:

S. 1602. A bill to provide assistance to encourage States to establish consumer claims courts. Referred to the Committee on the Judiciary.

CONSUMER CLAIMS COURT ACT OF 1971

Mr. PEARSON. Mr. President, I introduce today legislation designed to fill a gap in our system of justice by encouraging the establishment of a nationwide system of small claims courts. The objective of this bill is to provide a forum for consumers to pursue their individual claims, to advocate—without attorneys—their own cause, and to obtain their speedy and deserved relief.

As the Senate is aware, the courts of this Nation are hopelessly clogged. The Chief Justice of the Supreme Court, the Attorney General, and many of our most distinguished attorneys have repeatedly stressed the need to streamline our system of administering justice. My bill, accordingly, is intended to remove a great bulk of the litigation which clogs our Nation's courts by establishing a separate forum for the prosecution of small individual claims. It is my hope that such courts—structured so as to better serve the needs of people—will insure a more complete administration of justice and a more permanent respect for our institutions.

Mr. President, over 70 percent of the complaints received by the attorney general of the State of Kansas involve disputes over amounts of less than $200. Very few attorneys are willing to handle such cases. If and when they do, the amount of legal fees often consumes most, if not all, of the amount recovered. Nearly all of these disputes are one-shot affairs which do not involve fraud or deception and, therefore, should not be handled by the attorney general of Kansas or any other State. In short, for the consumer with the claim of less than $200 there exists no practical recourse, no practical forum whereby he may obtain relief. Mr. President, we have permitted our system to operate in such a way that, in effect, tells a man: "We don't care how much or how often you are defrauded so long as the amount is less than $200. This is unacceptable. We must change it.

This legislation would encourage States to establish to system of small claims courts by directing the Attorney General of the United States to make available to the State complying with this act Federal moneys amounting to 50 percent of cost required to establish or maintain such a statewide system.

THE NECESSITY FOR SMALL CLAIMS COURTS

In the early part of this century many jurists became enchanted with the idea that the denial of justice to the poor could be alleviated by the establishment of a special type of small claims court. The court would provide a quick and inexpensive method for the adjudication of small claims, which if pursued in regular courts would be economically unfeasible because of court costs and attorneys fees. On March 15, 1913, my State of Kansas and that of Ohio became the first States to establish such a small claims system.

Although this forum, known in Kansas as the small debtors' court, remains on the statute books, few of these courts actually exist or operate today. Only two counties, Leavenworth and Wyandotte, established them.

In order to assure justice, we have formulated a system of jurisprudence which uses complicated rules of procedure, rules of evidence, methods of discovery, jury trial, and extensive appeal procedures. Both parties to a dispute need trained attorneys to take full advantage of the safeguards provided. While these rules and procedures generally promote fairness, they also necessitate both delay and expense resulting primarily from court costs, general litigation expenses, and attorneys' fees. Thus, the cost of collecting a small claim often consumes the amount claimed. The adjudication of small claims, however meritorious, is thereby discouraged by the procedural technicalities existing in regular courts. In effect, there is a denial of justice to a large number of people who have small claims and cannot afford the remedy offered by the courts.

Persons to whom the courts are foreclosed because of cost may rightfully feel that the American system of justice is inadequate. The resulting disrespect for the law which is engendered by an inadequate judicial system was recognized in 1916 by Charles Evans Hughes when he said:

> Justice in the minor courts—the only courts the millions of our people know—administered without favoritism by men conspicuous for wisdom and probity, is the best assurance of respect for our institutions. . . .

In a time, Mr. President, when the poor and disadvantaged are reaching the limits of their capacity to accept frustration and despair, our legal system must look for ways to provide a more complete administration of justice.

Obviously a small claims court cannot solve the substantive problems which face the disadvantaged poor and the uninformed consumer, since a court merely applies the substantive law which the legislature supplies. But as legislation begins to provide the necessary substantive law changes, the existence of a small claims court could make both the existing substantive law and any changes more widely and fairly applied. Roscoe Pound once concluded that—

> The most real grievance of the mass of the people in respect of American law is not against the substantive law but rather against the enforcing machinery which may make the best of rules nugatory in action. . . ."

INADEQUACY OF THE PRESENT SYSTEM

It is not surprising that the small debtors' courts in Kansas and elsewhere have been unsuccessful. Although the Kansas statutes contain a comprehensive design for the court's establishment, the actual implementation rests entirely upon the individual county or city once it determines that a need actually exists for such a court. The Kansas experience indicates that, left to their own discretion, State and county governments will not move to establish these courts. That is why this legislation, by providing the incentive of Federal funds, is vitally needed.

Another complication in present statutes is that the jurisdictional maximum—$20 in Kansas—is not realistically calculated to include the majority of claims which cannot profitably be brought in other courts. In Kansas, moreover, no plaintiff is allowed to enter a claim unless he establishes that he is a pauper, financially unable to bring his claim in any other court. Although this provision embodies the original idea of the small claims court as one which would aid the poor, it has clearly been

a significant deterrent for those who dislike the idea of professing their poverty. A court with a reputation for serving only the poverty-stricken may be shunned by many people who could be well served. Nathan Cayton argued that small claims courts "should serve not only the poor, but every person who requires the service, regardless of his financial standing. Every citizen is entitled to this service as a matter of right—not of grace."

A court open to all individuals would not only meet the needs of more people but would permit the poor to bring claims without the indignity of having to admit the use of a "poor man's court."

ACTUAL USE OF SMALL CLAIMS COURTS

It is informative to the Senate to know whether small claims courts have fulfilled their purpose of extending justice. Early reports, focusing on the courts' efficiency and volume were laudatory of the new system. In 1927 a small claims court was established in Hartford, Conn. A study which included the first 18 months of its operation revealed that about 300 cases were filed each month. It was feared prior to the establishment of the court that it would be used for the prosecution of doubtful claims. But the Hartford study showed that of the 5,236 cases brought, only 128—approximately 2 percent—resulted in judgment for the defendant. Plaintiff's judgments were given in 2,561 cases and 1,666 cases were settled by the parties prior to litigation. Of the remainder, 780 were dismissed for one cause or another. Although a defendant had the option of transferring to the regular city court docket, only 46 cases were transferred, suggesting that the procedure was acceptable to defendants as well as to the plaintiffs who chose the forum. The promptness of disposition is indicated by the fact that only 1 percent of the cases brought before 1929 were pending on February 1, 1959.

In 1939, 1 year after the Washington, D.C., small claims branch of the municipal court was established, the annual report claimed remarkable success. With a jurisdictional limit of $50 the increase in the number of cases under $50 was 54 percent, constituting 62 percent of all debt actions brought in the municipal court. Although the average claim was only $25.48, the total amount of claims was $531,832. These statistics indicate not only a heavy use of the court but also a great increase in the number of small claims. With a filing fee of $1, $25,782 was collected in 1 year, enough to make the court self-supporting. There were only 10 demands for a jury trial, an option which was available on request by either party for a $10 fee. After 15 years of operation, 325,000 cases had been filed in the District of Columbia court, with approximately nine out of 10 cases decided on the return date. Of the total number of cases, there were only 282 demands for a jury trial.

Austin, Tex., presented a less optimistic report. The Texas system provides that justices of the peace preside as the judges in the small claims courts. In March of 1954, one of three justices interviewed said that of the 365 suits filed in Austin during the 10 months since the passage of the Texas Act creating small claims courts, 46 cases were dismissed because the debtor made full payment, 35 default judgments were entered, and 234 suits were still pending. In one court, 215 suits had been filed but the justice had not conducted a single trial. Over one-half of the claims were filed by three business firms. Perhaps one significant difference between the Hartford, Washington, and Texas experiences was that the Hartford and District of Columbia courts were set up as part of an existing, full-time court with an experienced, full-time judge presiding, while Texas allowed its untrained justices of the peace to administer the small claims court.

But more recent reports have been critical of the use made of the small claims procedures. As the author of a Stanford Law Review article explained:

> It is not enough to look at the surface efficiency of small claims courts and the apparent saving of judicial resources that results without asking how this efficiency and economy is obtained and at whose expense....

In 1950 in the Washington, D.C., small claims court, 25,000 cases were filed, involving about 23,000 individual defendants. Corporations and partnerships were the plaintiffs in most of the cases and most claims were for merchandise sold and services rendered. Most of the judgments were obtained by default, the defendants not appearing to answer or defend. On these grounds, Judge Murphy criticized the District of Columbia court because—

> The Court is not the court of the neighborhood litigant suing over small loans, minor property damage, or working men seeking wages. Quite the contrary, it is primarily the court of the skilled lawyer representing large debt collection companies, credit stores, corporate defendants and insurance companies. Further, these lawyers and their organizations are almost without exception litigating against pro se parties (persons representing themselves) [who are] at a definite disadvantage . . . in court. . . .

Similar criticism can be heard about the California small claims court which is heavily used. Of the 589,378 civil cases filed in municipal and justice courts in 1961–62, over half were small claims cases. Similarly in 1967–68, 55 percent of the business of municipal and justice courts was devoted to dealing with the 360,680 small claims cases filed. In a study of nine California courts in 1952, it was observed that the average trial time was from 5 to 15 minutes and that the courts were used extensively by local firms to collect accounts. For example, in San Jose one department store filed 132 claims in 1952.

The conclusions of the 1952 study were confirmed by a project in 1963 which compiled data on 386 cases in the Oakland-Piedmont-Emeryville district of Alameda County, Calif. Of all actions filed only 34.7 percent were brought by individuals. The remainder were brought either by proprietorships, corporations, or government agencies. In contrast, individuals were defendants in about 85 percent of the cases. Non-payment for goods, accounting for 30 percent of the claims, was the most frequent type of suit brought. Suits for governmental services accounted for 14 percent and property damages accounted for almost 13 percent of the court business. In nearly 65 percent of the cases, the judge took some action, either trying the case, dismissing it, or granting a continuance. In 80 percent of these the judge's action occurred within 40 days after the claim was filed, but only 40 percent of these cases that went to judgment were contested.

Of special significance to my State of Kansas is the 1968 study of four courts in rural California, located in towns with populations ranging from 7,275 to 52,207. A sample of 400 cases taken from the 3,860 cases filed that year revealed that individuals not only came into court most often as defendants, but usually lost as well. Of the plaintiffs, 16 percent were individuals while of the defendants, 93.3 percent were individuals. In contrast, 28 percent of the plantiffs were corporations while only 2.5 percent of the defendants were corporations. Of the claims filed, only about 46 percent resulted in a judgment and 93.5 percent of the judgments were for plaintiffs. Of the judgments entered, 73.5 percent were on default. The individual claimants in small claims court tended to be middle class and well educated, although a lack of publicity as to the court's existence could foster this result.

Various conclusions can be drawn from these reports. The most obvious is that in the jurisdictions studied, the small claims courts are dispensing with many cases very rapidly and there are few requests for jury trials or appeals which would impede prompt disposition. But the corporate and business interests tend to be the major beneficiaries of the procedure, and in some communities businesses use the courts as collection agencies. It is questionable whether taxpayers want to provide a court to act as a collection agency for corporations which generally can afford to collect their acounts by other means. If a State determines that the small claims court should be provided primarily to benefit the individual who is without other means of collecting a claim, it should follow the procedure in New York which allows only individuals and and public benefit corporations to file claims.

Those interested in protecting the individual consumer, however, should recognize that if corporations sue buyers on installment contracts, the court costs which the defendant must often bear will be smaller if the suit is brought in a small claims court. Thus, allowance of suits by corporations in these courts could protect an already overburdened consumer from being saddled with the high court costs of an ordinary court.

SUGGESTED PROCEDURES FOR SMALL CLAIMS COURTS

Mr. President, my bill authorizes the Attorney General to make grants and provide other assistance to States which establish courts "in accordance with" the procedural guidelines listed in section 3. It is my intention to allow both the Attorney General and the several States a measure of flexibility with respect to jurisdictional amounts, filing fees, and other procedural matters. These re-

quirements are, and should be, matters for States to decide. The Attorney General, accordingly, is directed to view varying States' standards with the goal of encouraging the establishment of courts which comply with the spirit and purpose—not necessarily the precise technical identity—of these section 3 guidelines.

LIMITS ON JURISDICTION

Most small claims courts with simplified pleadings and procedures limit the jurisdictional amount from $100 to $500, the average being about $200. The limit was $200 in California in 1963 when the Alameda County study was conducted. It was found that 63 percent of the claims were for $100 or less and about 80 percent were for $150 or less. This indicates that the majority of claims were quite small, rather than large claims reduced to the maximum limit simply to take advantage of the simplified procedure. About 9 percent of the claims were for $200, suggesting that some claims were reduced to the maximum limit simply to take advantage of the simplified procedure. About 9 percent of the claims were for $200, suggesting that some claims were reduced to meet the jurisdictional requirement. Accordingly, this bill sets the limit at $200.

Assignees and collection agencies are barred as plaintiffs in some States in an attempt to prevent the court from becoming an agency to assist in the collection of accounts at public expense. My bill would permit no claims to be brought by a collection agent or agency, person engaged in the business of lending money at interest, or any attorney, assignee, or other person other than the claimant.

Courts in some States have been limited in the types of actions they are permitted to hear. Some States are limited to claims for money damages arising from contract or tort. Libel and slander are sometimes excluded because it is thought a jury can better decide the issues which involve an element of community judgment. It is also felt that where the damages are small, suits of libel or slander should be discouraged by the courts. For these reasons, my bill limits actions to those in tort other than libel and slander.

PROCEDURES

Small claims courts provide for a simple, informal statement of the claim, setting out the basic issues in clear language. Some States do not require an answer, thus speeding the trial date and keeping pleadings to an absolute minimum. It has been argued that an answer should be required because it solidifies the issues, helps the plaintiff to prepare his case, and obviates the need for an appearance by the plaintiff if the defendant defaults. My legislation would require only a concise statement of the claim.

FILING FEES

Filing fees must be minimal, perhaps $1 or $2 and a small sum to cover the cost of service of process. But some fee is necessary to discourage the filing of frivolous claims. For example, when the San Francisco court began operation, the proceedings were free. This resulted in collection agencies dunning their debtors by having their bills mailed by the small claims clerk with postage paid by the county treasury. A $2 fee is now required there. The filing fee, however, must be kept small in order to keep the cost of litigation small.

SERVICE OF PROCESS

The use of registered mail to serve process has been very successful. Of 1,420 notices sent by registered mail from the Boston Small Claims Court in 1932, for example, only two were returned because acceptance was refused and 82 because the defendant could not be located. In Washington, D.C., in 1938, 76 percent of the service made by registered mail was accomplished while only 52 percent of the service made by the marshal was effective. Not only is service by registered mail less expensive, but such service is more likely to be made by the postal department than by an officer of the court who is not diligent. Service of process by registered mail has been upheld as meeting constitutional requirements for proper notice. Accordingly, my bill states that appropriate service in accordance with the law of the State is the applicable standard.

COUNTERCLAIMS

One possible jurisdictional problem occurs when a counterclaim by the defendant exceeds the jurisdictional limit. If a court allowed only a counterclaim within the jurisdictional limit, it might lead to multiple suits on the same claim. However, the entire case could be transferred to another court with a higher jurisdictional limit, or the suit could be dismissed. The Chicago court allows the case to remain in the small claims division unless one of the parties objects. Chicago also allows the judges discretion to retain the case if he has reason to believe the counterclaim is without some merit, brought only to obtain transfer to another court. This matter, in my bill, would be left to State discretion.

VENUE

Usually an action may be brought only in the county of the defendant's residence, which is basically a fair venue provision except for the few cases in which the limitation would work a great hardship on the plaintiff. In such cases the judge of another suitable county should be allowed to hear the case if there is good evidence that adherence to the proper venue would produce greater injustice. In California, where corporations are allowed to bring claims, actions may be brought in the judicial district where the obligation is to be performed as well as in the district of the defendant's residence. Thus, the Alameda study found that 50 percent of the defendants sued by corporations lived outside the county where the action was filed. Large corporations with branch offices often specify that the money is to be paid at the home office, thereby enabling them to file in a single court suits against purchasers who reside in all parts of the State. This practice, which results in defendants being unable to defend themselves in court, could be eliminated by limiting the venue to the defendant's place of residence.

This matter, in my bill, is left to State discretion.

CONCILIATION

The process of conciliation is sometimes used in conjuction with a small claims court. The parties are encouraged or required to meet in the court to work out an agreement by themselves. In Washington, D.C., the judge is required to attempt conciliation before holding a hearing. The success of the attempt depends upon the attitude and personality of the judge as shown by the District of Columbia experience which varied depending on which judge was sitting in the small claims branch each month. In 1940 one judge held 253 conciliation hearings in a three month period; 246 were effective. During the remaining nine months, four other judges held only 43 hearings of which only 40 were effective.

The conciliation process gives the parties an opportunity to come to an agreement satisfactory to both. The agreement is not legally binding, but once made, parties usually abide by its terms. If the parties are unable to conciliate, the case is brought on for hearing before the judge. New York City, which has a very busy docket of small claims, allows a plaintiff two courses of action. He can appear before a judge and thereby preserve the right of appeal. Or he may go before an arbitrator who is a member of the New York bar serving not more than one night a month on a rotating basis. Those who choose the arbitrator can be heard sooner, but they forgo the right of appeal. This is another matter for appropriate State law.

TRIAL BY JURY

It is also essential to the concept of quick adjudication in a small claims court that trial by jury be eliminated. Outright denial of this right may raise some constitutional questions, however. The U.S. Constitution in the seventh amendment requires that—

> In suits at common law where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved. . . .

States need not be overly concerned with the interpretation of this amendment because the Supreme Court has never applied it to the States through the 14th amendment. This is a matter for the decision of the States and the particular court.

RULES OF EVIDENCE

The summary procdure which is the essence of a small claims court necessarily excludes the time consuming and elaborate process of discovery and many of the rules of evidence which are designed primarily to protect the judge or jury from being unduly influenced by evidence which lacks credibility. When a judge is hearing a case, the reasons for disallowing evidence such as hearsay are greatly diminished. My bill requires that rules be, so far as is feasible, free from technicalities. But aside from the general directive, State and court discretion rules.

COUNSEL

In some States attorneys are barred from the small claims court. In a proceeding in which the pleadings are sim-

ple and informal and the rules of evidence and discovery are not followed, the particular talents of a lawyer would be superfluous. Roscoe Pound wrote that—

In petty causes there ought to be no expensive advocacy. One side or the other, unless the game of litigation is played for pure pleasure, cannot afford it. . . .

If one side chooses to employ a lawyer in a State which permits them in small claims courts, the other side will be at a disadvantage if he neglects to do the same. Because businesses and corporations can bear the cost of counsel better than can most individuals, the individual is placed at a distinct disadvantage by a State which allows counsel.

In special cases of language problems or physical and mental deficiency, the judge should have the right to allow an attorney or some other spokesman to assist a party whose deficiency would impair his ability of self-defense.

Although there is no direct constitutional right to counsel in civil cases, the Supreme Court has held that the right to the aid of counsel is of such a fundamental character as to be included in the concept of due process. But it is generally agreed that the plaintiff waives his right to counsel by bringing his claim in the small claims court. If the defendant is given a right of appeal at which time he may appear by counsel on a trial de novo, his constitutional rights are not violated.

Actually, Mr. President, lawyers should favor the establishment of small claims courts because even though they are excluded from advocacy therein, the litigation of small claims, frankly, is unprofitable for most attorneys. Thus even those attorneys with selfish motives should not be upset that the creation of small claims courts will impair their income. On the contrary, when litigation is necessary, instead of telling a client there is nothing he can do to help him, a lawyer might promote some personal good will by directing his client to the small claims court. For these and other reasons, attorneys will not be allowed to participate in the courts established by this legislation.

APPEAL

Although some States do not allow any appeal, other States do permit the defendant at least to appeal to the district court level where trial de novo with counsel and a jury may be requested. The Supreme Court has held that the due process clause does not guarantee a right to trial by jury nor a right to appeal. However, if there is a right to trial by jury under a State constitution, and a right to counsel under the due process clause, some allowance for appeal may be necessary in order to preserve these other rights. However, appeals may be discouraged by requiring the filing of a bond as security for the judgment and by requiring the losing party to pay a small sum as attorneys' fees for the opposing party on appeal. While requirements such as these have been sustained, if the burden is too great, the right of appeal may be destroyed.

If the initial action is shared by a qualified judge, moreover, there is less need for an appeal. As Austin W. Scott argued in 1924—

What is needed in the case of small causes is not a determination by a poorly qualified judge, subject to be reviewed by a properly qualified tribunal, but a determination in the first instance by a properly qualified tribunal proceeding in a more summary method than that employed in larger causes. . . .

Accordingly, my bill limits appeal to those cases involving amounts greater than $50.

CONCLUSION

Mr. President, the United States must recognize the need for small claims courts. We must extend justice to all our people. And we must improve the system by which we seek to administer and extend that justice.

I ask unanimous consent that this bill be printed in the RECORD at the conclusion of my remarks. I invite the attention of the Senate to it.

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

S. 1602

A bill to provide assistance to encourage States to establish consumer claims courts

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 Claims Court Assistance Act".

PROGRAM AUTHORIZED

SEC. 2. The Attorney General is authorized to make grants and to provide other assistance to States in accordance with the provisions of this Act.

ELIGIBILITY AND CRITERIA FOR GRANTS

SEC. 3. (a) A State is eligible for grants under this Act only if the Attorney General determines, on the basis of an application submitted by such State, that such State has in force a law of general applicability establishing or requiring the establishment of a statewide system of consumer claims courts which meet the requirements of subsection (b).

(b) For the purposes of this Act, a consumer claims court shall—

(1) have jurisdiction limited to actions in contract and tort, other than libel and slander, in which the amount in controversy does not exceed $200, exclusive of interests and costs; and

(2) be governed by rules and procedures which are, so far as is feasible, free from technicalities and which provide that—

(A) no claim may be brought by a person who is—

(i) a collection agent or agency;

(ii) engaged in the business of lending money at interest;

(iii) an attorney, assignee, or any person other than the claimant;

(B) a claim may be brought only against a defendant who resides in the jurisdiction of the court at the time such claim is filed;

(C) no formal pleading, other than a concise statement of the claim, signed by the claimant, shall be required, except that the court may order that, in lieu of a personal appearance, a defendant may file a written response to any claim;

(D) no person other than the claimant and defendant shall take any part in the filing, prosecution, or defense of any claim;

(E) appropriate service or notice of pleadings and hearings or other proceedings shall be provided to the parties in accordance with the law of the State;

(F) the court may take testimony in any hearing on any claim from such witnesses as the parties may produce, and any such testimony shall be given under oath, but any hearing shall be otherwise informal;

(G) costs may be assessed against the party against whom a judgment of the court is rendered; and

(H) any judgment rendered upon any claim by such court shall be conclusive, but if the amount in controversy exceeds $50, the defendant may appeal to and have a trial de novo in any court having appropriate jurisdiction.

APPLICATIONS AND AWARDS

SEC. 4. (a) A grant or other assistance under this Act may be obtained upon an application by any State at such time, in such manner, and containing such information as the Attorney General prescribes. Any such application shall include a statement that the applicant's system of consumer claims courts shall operate or is operating in accordance with the provisions of section 3 of this Act.

(b) Upon the approval of any such application by the Attorney General, the Attorney General may make a grant to the State to pay an amount each year not in excess of 50 per centum of the costs of establishing or operating its system of consumer claims courts. Payments under this subsection may be made in advance, in installments, or by way of reimbursement.

(c) If the Attorney General determines that a State to which a grant has been made under subsection (b) is not operating its system of consumer claims courts in accordance with the provisions of section 3, he shall discontinue payments to such State until such time as he is satisfied that such State is operating its system in accordance with such provisions.

OTHER ASSISTANCE

SEC. 5. Upon application by any State, the Attorney General may also provide such other assistance as he deems appropriate in order to assist any State to establish or operate a system of consumer claims courts, or to assist the State in becoming eligible for a grant under this Act.

MISCELLANEOUS PROVISIONS

SEC. 6. (a) The Attorney General is authorized to prescribe such rules and regulations as he deems necessary or appropriate to carry out the provisions of this Act.

(b) For the purposes of this Act, the term "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

By Mr. EAGLETON (for himself, Mr. BIBLE, Mr. INOUYE, Mr. STEVENSON, and Mr. TUNNEY):

S. 1603. A bill to provide an elected Mayor and City Council for the District of Columbia, and for other purposes. Referred to the Committee on the District of Columbia.

HOME RULE FOR THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, on behalf of myself and Senators BIBLE, INOUYE, STEVENSON, and TUNNEY, I introduce for appropriate reference a bill to give home rule to the citizens of the District of Columbia.

Two years ago when the home rule bills upon which this was patterned were introduced, the very distinguished former chairman of the District of Columbia Committee, the senior Senator from Nevada (Mr. BIBLE) remarked that legislation to establish home rule for the District was not new to the Senate. Bills on this subject were introduced in the 81st, 82d, 84th, 85th, 86th, 89th, and 91st Congresses. So far a comprehensive proposal has not passed both Houses of Congress,

although the Senate has in each of these Congresses passed home rule legislation.

As your new chairman of the District Committee, it is my privilege this year to again suggest that home rule for the District of Columbia is long overdue.

The District of Columbia is the home of representative government for the United States, yet it itself has been without such representative government for almost 100 years. There is general agreement that governing the Nation's Capital presents special problems. There are both benefits and detriments which flow from that status. The Federal Government is at the same time both the largest area employer and its most preferred resident since it does not pay taxes to support the costs, both general and special, it creates. Wisely, Congress has decided to give a Federal payment in lieu of the taxes which might otherwise accrue to the District. I should note parenthetically that in 1878 the Federal payment was 50 percent of the District's annual budget. Less wisely, Congress has not as yet seen fit to make this payment automatic and self-appropriating or to turn the governing of the city over to its inhabitants.

In April 1969, President Nixon, in his message on the District of Columbia, stated:

> Good government, in the case of a city, must be local government. The Federal Government has a special responsibility for the District of Columbia. But it also bears toward the District the same responsibility it bears toward all other cities: to help local government work better, and to attempt to supplement local resources for programs that city officials judge most urgent.

The bill I am introducing today has the language, refined in some details, of its predecessors which were introduced by Senators BIBLE, Morse, Tydings, and MATHIAS. In the last two Congresses a general home rule bill has not been brought to the floor of the Senate. Rather, in these 4 years more tentative steps have been taken toward representative government in the Nation's Capital. In the 90th Congress legislation was passed which allowed for an elected school board, the first generally elected officials the city has had in many years. Then last year, in the 91st Congress, H.R. 18725 was passed by both Houses and the post of nonvoting delegate from the District of Columbia was created.

There are those who will argue that these tentative steps detract from true home rule. I cannot agree. While I am today introducing what I believe to be a workable and comprehensive home rule proposal, let no one doubt that I will work toward home rule in any way that a majority of this body and the Congress desire.

As I have indicated before, it is my fondest hope that I will be able to reduce if not eliminate the role that the Congress plays in the affairs of the District. Toward that end I have introduced what I hope will be the last home rule bill—the one that finally passes the Congress of the United States and becomes law.

Mr. President, I ask unanimous consent that the text of the bill, and a section-by-section analysis of its provisions, be printed at this point in the RECORD.

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

S. 1603

A bill to provide an elected Mayor and City Council for the District of Columbia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the retention by Congress of the ultimate legislative authority over the Nation's Capital which is granted by the Constitution, it is the intent of Congress to restore to the inhabitants of the District of Columbia the powers of local self-government which are a basic privilege of all American citizens; to reaffirm through such action the confidence of the American people in the strengthened validity of principles of local self-government by the elective process; to promote among the inhabitants of the District the sense of responsibility for the development and well-being of their community which will result from the enjoyment of such powers of self-government; to provide for the more effective participation in the development of the District and in the solution of its local problems by those persons who are most closely concerned; and to relieve the National Legislature of the burden of legislating upon purely local District matters. It is the further intention of Congress to exercise its retained ultimate legislative authority over the District only insofar as such action shall be necessary or desirable in the interest of the Nation.

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TITLE I—DEFINITIONS

DEFINITIONS

SEC. 101. For the purposes of this Act—

(1) The term "District" means the District of Columbia.

(2) The terms "District Council" and "Council" mean the Council of the District of Columbia provided for by title III.

(3) The term "District of Columbia Council" means the Council of the District of Columbia established under Reorganization Plan Numbered 3 of 1967.

(4) The term "Chairman" means, unless otherwise indicated in this Act, the Chairman of the District Council provided for by title III.

(5) The term "Mayor" means the Mayor provided for by title IV.

(6) The term "qualified voter," except as otherwise specifically provided, shall have the same meaning as that provided for a "qualified elector" under paragraph (2) of section 2 of the District of Columbia Election Act.

(7) The term "act" includes any legislation adopted by the District Council, except where the term "Act" is used to refer to this Act or other Acts of Congress herein specified.

(8) The term "District Election Act of 1955" means the Act of August 12, 1955 (69 Stat. 699), as amended.

(9) The term "person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

(10) The term "capital project", or "project", means (a) any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (b) the acquisition of property of a permanent nature; and (c) the purchase of equipment for any public betterment or improvement when first erected or acquired.

(11) The term "pending", when applied to any capital project, means authorized but not yet completed.

(12) The term "Board of Elections" means the Board of Elections created by section 3 of the District Election Act of 1955.

(13) The term "election", unless the context otherwise indicates, means an election held pursuant to the provisions of this Act.

(14) The term "domicile" means that place where a person has his true, fixed, and permanent home and to which, when he is absent, he has the intention of returning.

(15) The terms "publish" and "publication", unless otherwise specifically provided herein, mean publication in a newspaper of general circulation in the District.

(16) The term "municipal courts of the District of Columbia" means the Superior Court of the District of Columbia, the District of Columbia Court of Appeals, and such other municipal courts as the District Council may hereafter establish by act.

TITLE II—STATUS OF THE DISTRICT

SEC. 201. (a) All of the territory constituting the permanent seat of the Government of the United States shall continue to be designated as the District of Columbia. The District of Columbia shall remain and continue a body corporate, as provided in section 2 of the Revised Statutes relating to said District. Said Corporation shall continue to be charged with all the duties, obligations, responsibilities, and liabilites, and to be vested with all of the powers, rights, privileges, immunities, and assets, respectively, imposed upon and vested in said Corporation, or the Commissioner of the District of Columbia.

(b) No law or regulation which is in force on the effective date of part 2, title III, of this Act shall be deemed amended or repealed by this Act except to the extent that such law or regulation is inconsistent with this Act: *Provided*, That any such law or regulation may be amended or repealed by legislation or regulation as authorized in this Act, or by Act of Congress.

(c) Nothing contained in this section shall affect the boundary line between the District of Columbia and the Commonwealth of Virginia as the same was established or may be subsequently established under the provisions of title I of the Act of October 31, 1945 (59 Stat. 552).

TITLE III—THE DISTRICT COUNCIL

PART 1—CREATION OF THE DISTRICT COUNCIL

CREATION AND MEMBERSHIP

SEC. 301. There is hereby created a Council of the District of Columbia consisting of eleven members, of whom the Chairman and two members shall be elected at large and the other eight members shall be elected one from each of the eight election wards established under the District of Columbia Election Act. The term of office of the Chairman and other members of the Council shall be two years beginning at noon on January 2 of the odd-numbered year following such election. The legislative power granted the District by this Act shall be vested in the Council.

QUALIFICATIONS FOR HOLDING OFFICE

SEC. 302. No person shall hold the office of member of the District Council unless he (1) is a qualified voter, (2) is domiciled in the District and, if he is nominated for election from a particular ward, resides in the ward from which he is nominated, (3) has, during the three years next preceding his election, resided and been domiciled in the District, (4) if he is nominated for election from a particular ward, has, for one year preceding his election, resided and been domiciled in the ward from which he is nominated, (5) holds no other elective public office other than delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States, (6) holds no position as an officer or employee of the municipal government of the District of Columbia or any appointive office, for which compensation is provided out of District funds, and (7) holds no office to which he was appointed by the President of the United States and for which compensation is provided out of Federal or District funds. A member of the Council shall forfeit his office upon failure to maintain the qualifications required by this section.

COMPENSATION

SEC. 303. Each member of the District Council, except the Chairman, shall receive compensation at the rate of $9,000 per annum, payable in periodic installments. The Chairman shall receive compensation at a rate of $15,000 per annum and the Vice Chairman at a rate of $14,000 per annum, payable in periodic installments. All members shall receive such additional allowances for expenses as may be approved by the Council to be paid out of funds duly appropriated therefor.

CHANGES IN MEMBERSHIP AND COMPENSATION OF DISTRICT COUNCIL MEMBERS

SEC. 304. The number of members constituting the District Council, the qualifications for holding office, and the compensation of such members may be changed by act passed by the Council: *Provided*, That no such act shall take effect until after it has been assented to by a majority of the qualified voters of the District voting at an election on the proposition set forth in any such act.

PART 2—PRINCIPAL FUNCTIONS OF THE DISTRICT COUNCIL

ABOLISHMENT OF EXISTING GOVERNMENT AND TRANSFER OF FUNCTIONS

SEC. 321. (a) The District of Columbia Council, the offices of Chairman of the District of Columbia Council, Vice Chairman of the District of Columbia Council, and the seven other members of the District of Columbia Council, and the offices of Commissioner of the District of Columbia and Assistant to the Commissioner of the District of Columbia, as established by the Reorganization Plan Numbered 3 of 1967, are hereby abolished: *Provided*, That this subsection shall not be construed to reinstate any governmental body or office in the District abolished in said plan or otherwise heretofore.

(b) Except as otherwise provided in this Act, all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council or the Commissioner of the District of Columbia, as established by Reorganization Plan Numbered 3 of 1967, are hereby transferred to the District Council established under the provisions of part I of this title, except those powers hereinafter specifically conferred on the Mayor.

CERTAIN DELEGATED FUNCTIONS AND FUNCTIONS OF CERTAIN AGENCIES

SEC. 322. No function of the District of Columbia Council (established under Reorganization Plan Numbered 3 of 1967) or of the Commissioner of the District of Columbia which such District of Columbia Council or Commissioner has delegated to an officer, employee, or agency (including any body of or under such agency) of the District, nor any function now vested pursuant to section 501 of Reorganization Plan Numbered 3 of 1967 in the District Public Service Commission, Zoning Commission, Zoning Advisory Council, Board of Zoning Adjustment, Office of the Recorder of Deeds, or Armory Board, or in any officer, employee, or body of or under such agency, shall be considered as a function transferred to the District Council pursuant to section 321 of this Act. Each such function is hereby transferred to the officer, employee, or agency (including a body of or under such agency), to whom or to which it was delegated, or in whom or in which it has remained vested, until the Mayor or Council established under this title, or both, pursuant to the powers herein granted, shall revoke, modify, or transfer such delegation or vesting.

SEC. 323. (a) The provisions of section 322 of this Act notwithstanding, before any zoning regulation or equivalent legislation for the District is approved by the District Council, Zoning Commission, or other authority—

(1) the Council, Zoning Commission, or authority shall deposit such regulation or legislation in its introduced form with the National Capital Planning Commission. Such Planning Commission shall, within thirty days after the day of such deposit, submit its comments to the Council, Zoning Commission, or authority, including advice as to whether the proposed regulation or legislation is in conformity with the comprehensive plan for the District of Columbia. The Council, Zoning Commission, or authority shall not pass the regulation or legislation unless it has received said comments, or the Planning Commission has failed to comment, within the thirty-day period above specified; and

(2) the Council, Zoning Commission, or authority, or an appropriate committee thereof, shall hold a public hearing on the regulation or legislation. At least thirty

days' notice of the hearing shall be published, as the Council, Zoning Commission, or authority may direct. Such notice shall include the time and place of the hearing and a summary of all changes in existing law which would be made by adoption of the regulation or legislation. The Council, Zoning Commission, or authority (or committee thereof holding a hearing) shall give such additional notice as it finds expedient and practicable. At the hearing interested persons shall be given reasonable opportunity to be heard. The hearing may be adjourned from time to time. The time and place of reconvening shall be publicly announced before adjournment is had.

(b) The Council, Zoning Commission, or authority shall deposit with the Planning Commission each such regulation or item of legislation passed by it.

(c) This section shall not be construed to restrict legislation (or regulation) regarding solely the procedure (apart from this section) or mechanism for regulating zoning in the District and not itself regulating such zoning.

APPOINTMENT OF ARMORY BOARD

SEC. 324. (a) The first sentence of section 2 of the Act of June 4, 1948 (62 Stat. 339), is hereby amended to read as follows: "There is hereby established an Armory Board, to be composed of three members who shall be appointed by the Mayor by and with the advice and consent of the Council and who shall serve at the pleasure of the Mayor."

(b) All functions and authority vested in the President by the Act of June 12, 1934 (48 Stat. 930), as amended, are hereby transferred to and vested in the Mayor.

POWERS OF AND LIMITATIONS UPON DISTRICT COUNCIL AND THE QUALIFIED VOTERS OF THE DISTRICT OF COLUMBIA

SEC. 325. (a)(1) The legislative power granted to the District by this Act shall be vested in the District Council, and in the qualified voters of the District of Columbia (as provided in section 1501 of title XV of this Act).

(2) Except as provided in subsection (b) of this section, the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act, subject, nevertheless, to all the restrictions and limitations imposed upon States by the tenth section of the first article of the Constitution of the United States; but all acts of the Council and the qualified voters of the District of Columbia shall at all times be subject to repeal or modification by the Congress of the United States, and nothing herein shall be construed to deprive Congress of the power of legislation over said District in as ample manner as if this Act had not been enacted: *Provided*, That nothing in this section shall be construed as vesting in the District government any greater authority over the Washington Aqueduct, the Commission on Mental Health, the National Zoological Park, the National Guard of the District of Columbia, or, except as otherwise specifically provided in this Act, over any Federal agency, than was vested in the Commissioner of the District prior to the effective date of part 2, title III, of this Act.

(b) Neither the Council nor the qualified voters of the District of Columbia may pass any act contrary to the provisions of this Act, or—

(1) impose any tax on property of the United States;

(2) lend the public credit for support of any private undertaking;

(3) authorize the issuance of bonds except in compliance with the provisions of title VI;

(4) authorize the use of public money in support of any sectarian, denominational, or private school except as now or hereafter authorized by Congress;

(5) enact any act to amend or repeal any Act of Congress which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District;

(6) pass any act inconsistent with or contrary to the Act of June 6, 1924 (43 Stat. 463), as amended, or the Act of May 29, 1930 (46 Stat. 482), as amended, and the Council shall not pass any act inconsistent with or contrary to any provision of any Act of Congress as it specifically pertains to any duty, authority, and responsibility of the National Capital Planning Commission.

(c) Every act shall include a preamble, or be accompanied by a report, setting forth concisely the purposes of its adoption. Every act shall be published, upon becoming law, as the Council may direct.

(d) An act passed by the Council shall be presented by the Chairman of the Council to the Mayor, who shall, within ten calendar days after the act is presented to him, either approve or disapprove such act. If the Mayor shall approve such act, he shall indicate the same by affixing his signature thereto, and such act shall, subject to the provisions of subsection (e) of this section, become law. If the Mayor shall disapprove such act, he shall, within ten calendar days after it is presented to him, return such act to the Council setting forth his reasons for such disapproval. If any act so passed shall not be returned to the Council by the Mayor within ten calendar days after it shall have been presented to him, the Mayor shall be deemed to have approved it, and such act shall, subject to the provisions of subsection (e) of this section, become law. If, within thirty calendar days after an act has been timely returned by the Mayor to the Council with his disapproval, two-thirds of the members of the Council present and voting vote to repass such act, the act so repassed shall, subject to the provisions of subsection (e) of this section, become law.

(e) The provisions of subsection (d) of this section notwithstanding, acts of the District Council exercising functions not heretofore legally exercisable by the Commissioner of the District of Columbia pursuant to section 401 of Reorganization Plan Numbered 3 of 1967 or by the District of Columbia Council pursuant to section 402 of said plan, shall become law only in accordance with the following:

(1) Within five calendar days following the date upon which such acts of the District Council would have become law apart from this subsection, such acts of the District Council shall be presented to the President by the Mayor or, in the case of such acts repassed by a two-thirds vote of the District Council over the Mayor's disapproval, by the Chairman of the Council.

(2) Acts so presented shall become law unless, within ten calendar days after presentment, the President shall, in accordance with paragraph (3) of this subsection, disapprove the same.

(3) The President may, if he is satisfied that any such act adversely affects a Federal interest, disapprove such act, in which event he shall return the act with his objections to the Mayor or, in the case of an act presented to the President by the Chairman of the Council, to said Chairman of the Council, and, notwithstanding any other provision of this Act, such act shall not become law.

(4) In the event of such disapproval by the President, the officer to whom the act is returned with objections shall forthwith communicate the fact of such return and the full substance of the President's objections to the District Council and, if such officer is not the Mayor, also to the Mayor.

(f) The Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District of Columbia, by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the District Council and the qualified voters of the District of Columbia by this Act, including, without limitation, legislation to amend or repeal any law in force in the District prior to or after enactment of this Act and any act passed by the Council or by the qualified voters of the District of Columbia.

(g) Except as limited by subsection (h) of this section, upon the effective date of this part, jurisdiction over the municipal courts of the District of Columbia shall vest with the District Council in all matters pertaining to the organization and composition of such courts, and to the appointment or selection, qualification, tenure, and compensation of the judges thereof: *Provided*, That the Council shall not transfer or modify any function performed by the United States marshal or the United States attorney for the District on the effective date of this part. Nothing in this Act shall be construed to change the tenure of any persons occupying positions as judges of the municipal courts of the District of Columbia on the effective date of this part, except that their compensation may be increased.

(h) On or after the effective date of this part, any person appointed or elected to serve as judge of one of the municipal courts of the District of Columbia shall not (1) be appointed or elected to serve for a term of less than ten years, (2) serve on the court past the year that the seventieth anniversary of his birth shall occur, or (3) receive as compensation for such service an amount less than the amount payable to an associate judge of the Superior Court of the District of Columbia on the effective date of this part.

(i) Nothing in this section or elsewhere in this Act shall be construed as authorizing the District Council to curtail the jurisdiction, established by enactment of the Congress of the United States, of the United States District Court for the District of Columbia or any other United States court other than the municipal courts of the District.

PART 3—ORGANIZATION AND PROCEDURE OF THE DISTRICT COUNCIL

THE CHAIRMAN

SEC. 331. The Chairman of the District Council shall be the presiding officer of the Council. The District Council shall elect from among its members a Vice Chairman, who shall preside in the absence of the Chairman. When the Mayor is absent or unable to act, or when the office is vacant, the Chairman shall act in his stead.

SECRETARY OF THE DISTRICT COUNCIL; RECORDS AND DOCUMENTS

SEC. 332. (a) The Council shall appoint a secretary as its chief administrative officer and such assistants and clerical personnel as may be necessary. Notwithstanding any other provision of this Act, the compensation and other terms of employment of such secretary, assistants, and clerical personnel shall be prescribed by the Council.

(b) The secretary shall (1) keep a record of the proceedings of the Council, (2) keep a record showing the text of all acts introduced and the ayes and noes of each vote, (3) authenticate by his signature and record in full in a continuing record kept for that purpose all acts passed by the Council and by the qualified voters of the District of Columbia, including the date and time that each such act takes effect, and (4) perform such other duties as the Council may from time to time prescribe.

(c) The records required by subsection (b) shall be available for public inspection during normal business hours and copies of the records shall be made available for purchase under such conditions and upon the payment

of such fees as the Council shall deem appropriate.

MEETINGS

SEC. 333. (a) A majority of the District Council shall constitute a quorum for the lawful convening of any meeting of the Council and for the transaction of business of the Council.

(b) The first meeting of the Council after this part takes effect shall be called by the Chairman of the District Council elected in accordance with this Act. Following each such election, but not later than December 15 of the year of the election, the secretary of the Council shall call the first meeting of the members of the Council elected in such election for a date not later than January 7 of the next year.

(c) The Council shall provide for the time and place of its regular meetings. The Council shall hold at least one regular meeting in each calendar week except that during July and August it shall hold at least two regular meetings in each month. Special meetings may be called, upon the giving of adequate notice, by the Mayor, the Chairman, or any three members of the Council.

(d) Meetings of the Council shall be open to the public and shall be held at reasonable hours and at such places as may be necessary to accommodate a reasonable number of spectators. The Council shall not exclude the public from any of its meetings unless the national security is involved. Any citizen shall have the right to petition and be heard by the Council at any of its meetings, within reasonable limits as set by the Council.

COMMITTEES

SEC. 334. The Council Chairman, with the advice and consent of the Council, shall determine the standing and special committees which may be expedient for the conduct of the Council's business. The Chairman shall appoint members to such committees. All committee meetings shall be open to the public except when ordered closed by the committee chairman, with the prior approval of a majority of the members of the committee.

ACTS AND RESOLUTIONS

SEC. 335. (a) The Council, to discharge the powers and duties imposed herein, shall pass acts and adopt resolutions, upon a vote of a majority of the members of the Council present and voting, unless otherwise provided herein. The Council shall use acts for all legislative purposes. Resolutions shall be used to express simple determinations, decisions, or directions of the Council of a special or temporary character.

(b) (1) The enacting clause of all acts passed by the Council shall be, "Be it enacted by the Council of the District of Columbia:".

(2) The resolving clause of all resolutions passed by the Council shall be, "The Council of the District of Columbia hereby resolves,".

(c) A special election may be called by resolution of the Council to present for referendum vote of the people any proposition upon which the Council desires to take such action.

PASSAGE OF ACTS

SEC. 336. The Council shall not pass any act before the thirteenth day following the day on which it is introduced. Subject to the other limitations of this Act, this requirement may be waived by the unanimous vote of the members present: *Provided*, That the members present constitute a majority of the Council.

INVESTIGATIONS BY DISTRICT COUNCIL

SEC. 337. (a) The Council, or any committee or person authorized by it, shall have power to investigate any matter relating to the affairs of the District; and for that purpose may require the attendance and testimony of witnesses and the production of books, papers, and other evidence. For such purpose any member of the Council (if the Council is conducting the inquiry) or any member of the committee, or the person conducting the inquiry, may issue subpenas and may administer oaths.

(b) In case of contumacy by or refusal to obey a subpena issued to any person, the Council, committee, or person conducting the investigation shall have power to refer the matter to any judge of the United States District Court for the District of Columbia, who may by order require such person to appear and to give or produce testimony or books, papers, or other evidence, bearing upon the matter under investigation; and any failure to obey such order may be punished by such court as a contempt thereof as in the case of failure to obey a subpena issued, or to testify, in a case pending before such court.

PROCEDURE OF ZONING ACTS

SEC. 338. (a) Before any zoning act for the District is passed by the Council—

(1) the Council shall deposit the act in its introduced form, with the National Capital Planning Commission. Such Commission shall, within thirty days after the day of such deposit, submit its comments to the Council, including advice as to whether the proposed act is in conformity with the comprehensive plan for the District of Columbia. The Council may not pass the act unless it has received such comments or the Commission has failed to comment within the thirty-day period above specified; and

(2) the Council (or an appropriate committee thereof) shall hold a public hearing on the Act. At least thirty days' notice of the hearing shall be published as the Council may direct. Such notice shall include the time and place of the hearing and a summary of all changes in existing law which would be made by adoption of the Act. The Council (or committee thereof holding a hearing) shall give such additional notice as it finds expedient and practicable. At the hearing interested persons shall be given reasonable opportunity to be heard. The hearing may be adjourned from time to time. The time and place of the adjourned meeting shall be publicly announced before adjournment is had.

(b) The Council shall deposit with the National Capital Planning Commission each zoning act passed by it.

TITLE IV—MAYOR

ELECTION, QUALIFICATIONS, AND SALARY

SEC. 401. (a) There is hereby created the office of Mayor of the District of Columbia. The Mayor shall be elected as provided in title VIII. The term of office of the Mayor shall be four years, beginning at noon on January 2 of the odd numbered years during which the President of the United States takes office.

(b) No person shall hold the office of Mayor unless he (1) is a qualified voter, (2) is domiciled and resides in the District, (3) has, during the three years next preceding his nomination, been resident in and domiciled in the District, (4) holds no other elective public office, (5) holds no position as an officer or employee of the municipal government of the District of Columbia or any appointive office, for which compensation is provided out of District funds, and (6) holds no office to which he was appointed by the President of the United States and for which compensation is provided out of Federal or District funds. The Mayor shall forfeit his office upon failure to maintain the qualifications required by this section.

(c) The Mayor shall receive an annual salary of $40,000, and an allowance for official reception and representation expenses, which he shall certify in reasonable detail to the District Council, of not more than $2,500 annually. Such salary shall be payable in periodic installments.

(d) Notwithstanding any other provision of this Act, the method of election, the qualifications for office, the compensation and the allowance for official expenses pertaining to the office of Mayor may be changed by acts passed by the Council: *Provided*, That no such act shall take effect until after it has been assented to by a majority of the qualified voters of the District voting at an election on the proposition set forth in any such act.

POWERS AND DUTIES

SEC. 402. The executive power of the District shall be vested in the Mayor who shall be the chief executive officer of the District government. He shall be responsible for the proper administration of the affairs of the District coming under his jurisdiction or control, and to that end shall have the following powers and functions:

(1) He shall designate the officer or officers of the executive department of the District who shall, during periods of disability or absence from the District of the Mayor, the Chairman, and the Vice Chairman of the Council, execute and perform all the powers and duties of the Mayor.

(2) He shall act as the official spokesman for the District and as the head of the District for ceremonial purposes.

(3) He shall administer all laws relating to the appointment, promotion, discipline, separation, and other conditions of employment of personnel in the office of the Mayor, personnel in executive departments of the District, and members of boards, commissions, and other agencies, who, under laws in effect on the effective date of this section, are subject to appointment and removal by the Commissioner of the District of Columbia. All actions affecting such personnel and such members shall, until such time as legislation is enacted by the Council superseding such laws and establishing a permanent District government merit system or systems, pursuant to section 402(4), continue to be subject to the provisions of Acts of Congress relating to the appointment, promotion, discipline, separation, and other conditions of employment applicable to officers and employees of the District government, to section 1001(d) of this Act, and where applicable, to the provisions of the joint agreement between the Commissioners and the Civil Service Commission authorized by Executive Order Numbered 5491 of November 18, 1930, relating to the appointment of District personnel. He shall appoint or assign persons to positions formerly occupied, ex officio, by the Commissioner of the District of Columbia or by the Assistant to the Commissioner and shall have power to remove such persons from such positions. The officers and employees of each agency with respect to which legislative power is delegated by this Act and which, immediately prior to the effective date of this section, was not subject to the administrative control of the Commissioner of the District, shall continue to be appointed and removed in accordance with applicable laws until such time as such laws may be superseded by legislation passed by the Council establishing a permanent District government merit system or systems pursuant to section 402(4).

(4) He shall administer the personnel functions of the District covering employees of all District departments, boards, commissions, offices, and agencies, except as otherwise provided by this Act. Personnel legislation enacted by Congress, prior to or after the effective date of this section, including, without limitation, legislation relating to appointments, promotions, discipline, separations, pay, unemployment compensation, health, disability and death benefits, leave, retirement, insurance, and veterans' preference, applicable to employees of the District

government, as set forth in section 1002(c), shall continue to be applicable until such time as the Council shall, pursuant to this section, provide equal or equivalent coverage under a District government merit system or systems. The District government merit system or systems shall be established by legislation of the Council. The system or systems may provide for continued participation in all or part of the Federal civil service system and shall provide for persons employed by the District government immediately preceding the effective date of such system or systems personnel benefits, including but not limited to pay, tenure, leave, residence, retirement, health and life insurance, and employee disability and death benefits, all at least equal to those provided by legislation enacted by Congress, or regulation adopted pursuant thereto, and applicable to such officers and employees immediately prior to the effective date of the system or systems established pursuant to this Act. The District government merit system or systems shall take effect not earlier than one year nor later than five years after the effective date of this section.

(5) He shall, through the heads of administrative boards, offices, and agencies, supervise and direct the activities of such boards, offices, and agencies.

(6) He shall, at the end of each fiscal year, prepare reports for such year of (a) the finances of the District, and (b) the administrative activities of the executive office of the Mayor and the executive departments of the District. He shall submit such reports to the Council within ninety days after the close of the fiscal year.

(7) He shall keep the Council advised of the financial condition and future needs of the District and make such recommendations to the Council as may seem to him desirable.

(8) He may submit drafts of acts to the Council.

(9) He shall perform such other duties as the Council, consistent with the provisions of this Act, may direct.

(10) He may delegate any of his functions (other than the function of approving or disapproving acts passed by the Council or the function of approving contracts between the District and the Federal Government under section 901) to any officer, employee, or agency of the executive office of the Mayor, or to any director of an executive department who may, with the approval of the Mayor, make a further delegation of all or a part of such functions to subordinates under his jurisdiction.

(11) There shall be a City Administrator, who shall be appointed by the Mayor and who may be removed by the Mayor. The City Administrator shall be the principal managerial aide to the Mayor, and he shall perform such duties as may be assigned to him by the Mayor.

(12) The Mayor or the Council may propose to the executive or legislative branches of the United States Government legislation or other action dealing with any subject not falling within the authority of the District government, as defined in this Act.

(13) As custodian the Mayor shall use and authenticate the corporate seal of the District in accordance with law.

(14) He shall have the right, under the rules to be adopted by the Council, to be heard by the Council or any of its committees.

(15) He is authorized to issue and enforce such administrative orders, not inconsistent with any Act of the Congress or any act of the Council or of the qualified voters of the District of Columbia, as are necessary to carry out his functions and duties.

TITLE V—THE DISTRICT BUDGET

FISCAL YEAR

SEC. 501. The fiscal year of the District of Columbia shall begin on the 1st day of July and shall end on the 30th day of June of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year.

BUDGETARY DETAILS FIXED BY DISTRICT COUNCIL

SEC. 502. (a) The Mayor shall prepare and submit, not later than April 1, to the District Council, in such form as the Council shall approve, the annual budget estimates of the District and the budget message.

(b) The Mayor shall, in consultation with the Council, take whatever action may be necessary to achieve, insofar as is possible, (1) consistency in accounting and budget classifications, (2) synchronization between accounting and budget classifications and organizational structure, and (3) support of the budget justifications by information on performance and program costs as shown by the accounts.

ADOPTION OF BUDGET

SEC. 503. The Council shall by act adopt a budget for each fiscal year not later than May 15, except that the Council may, by resolution, extend the period for its adoption. The effective date of the budget shall be July 1 of the same calendar year.

FIVE-YEAR CAPITAL PROGRAM

SEC. 504. (a) Prior to the adoption of the annual budget, the Council shall adopt a five-year capital program and a capital budget.

(b) The Mayor shall prepare the five-year capital program and shall submit said program and the capital budget message to the Council, not later than February 1.

(c) The capital program shall include:

(1) a clear general summary of its contents;

(2) a list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) cost estimates, methods of financing, and recommended time schedules for each such improvement; and

(4) the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

(d) The capital program shall be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

(e) Actual capital expenditures shall be carried each year as the capital outlay section of the current budget. These expenditures shall be in the form of direct capital outlays from current revenues or debt service payments.

BUDGET ESTABLISHES APPROPRIATIONS

SEC. 505. The adoption of the budget by the Council shall operate to appropriate and to make available for expenditure, for the purposes therein named, the several amounts stated therein as proposed expenditures, subject to the provisions of section 702.

SUPPLEMENTAL APPROPRIATIONS

SEC. 506. The Council may at any time pass an act rescinding previously appropriated funds which are then available for expenditure, or appropriating funds in addition to those theretofore appropriated to the extent unappropriated funds are available; and for such purpose unappropriated funds may include those borrowed in accordance with the provisions of section 621.

TITLE VI—BORROWING

PART 1—BORROWING FOR CAPITAL IMPROVEMENTS

BORROWING POWER; DEBT LIMITATIONS

SEC. 601. The District may incur indebtedness by issuing its bonds in either coupon or registered form to fund or refund indebtedness of the District at any time outstanding and to pay the cost of constructing or acquiring any capital projects requiring an expenditure greater than the amount of taxes or other revenues allowed for such capital projects by the annual budget: *Provided*, That no bonds or other evidences of indebtedness, other than bonds to fund or refund outstanding indebtedness shall be issued in an amount which together with indebtedness of the District to the Treasury of the United States pursuant to existing law, shall cause the aggregate of indebtedness of the District to exceed 12 per centum of the average of the aggregate of the assessed values (as of the 1st day of July of the ten most recent fiscal years for which such assessed values are available) of (1) the taxable real and tangible personal property located in the District, and (2) the real and tangible personal property referred to in paragraphs (A) and (B) of section 741 (a) of this Act, the values of which shall be computed in accordance with the applicable provisions of section 741 of this Act, nor shall such bonds or other evidences of indebtedness issued for purposes other than the construction or acquisition of capital projects connected with mass transit, highway, water, and sanitary sewage works purposes, or any revenue-producing capital projects which are determined by the Council to be self-liquidating exceed 6 per centum of such average assessed value. Bonds or other evidences of indebtedness may be issued by the District pursuant to an act of the Council from time to time in amounts in the aggregate at any time outstanding not exceeding 2 per centum of said assessed value, exclusive of indebtedness owing to the United States on the effective date of this title. All other bonds or evidence of indebtedness, other than bonds to fund or refund outstanding indebtedness, shall be issued only with the assent of a majority of the qualified voters of said District voting at an election on the proposition of issuing such bonds. In determining the amount of indebtedness within all of the aforesaid limitation at any time outstanding there shall be deducted from the aggregate of such indebtedness the amount of the then current tax levy for the payment of the principal of the outstanding bonded indebtedness of the District and any other moneys set aside into any sinking fund and irrevocably dedicated to the payment of such bonded indebtedness. The Council shall make provision for the payment of any bonds issued pursuant to this title, in the manner provided in section 631 hereof.

CONTENTS OF BORROWING LEGISLATION; REFERENDUM ON BOND ISSUE

SEC. 602. (a) The Council may by act authorize the issuance of bonds: *Provided*, That such act shall contain at least the following provisions:

(1) A brief description of each purpose for which indebtedness is proposed to be incurred;

(2) The maximum amount of the principal of the indebtedness which may be incurred for each such purpose;

(3) The maximum rate of interest to be paid on such indebtedness; and

(4) In the event the Council is required by this part, or it is determined by the Council in its discretion, to submit the question of issuing such bonds to a vote of the qualified voters of the District, the manner of holding such election, the manner of voting for or against the incurring of such indebtedness, and the form of ballot to be used at such election. The ballot shall be in such form as to permit the voters to vote separately for or against the incurring of indebtedness for each of the purposes for which indebtedness is proposed to be incurred.

(b) The Council shall cause the proposition of issuing such bonds to be submitted by the Board of Elections to the qualified voters at the first general election to be held in the District not less than forty days after the date of enactment of the act auhorizing such bonds, or upon a vote of at least two-thirds of the members of the Council, the

Council may call a special election for the purpose of voting upon the issuance of said bonds, such election to be held by the Board of Elections at any date set by the Council not less than forty days after the enactment of such act.

(c) The Board of Elections is authorized and directed to prescribe the manner of registration and the polling places and to name the judges and clerks of election and to make such other rules and regulations for the conduct of such elections as are not specifically provided by the Council as may be necessary or appropriate to carry out the provisions of this section, including provisions for the publication of a notice of such election stating briefly the proposition or propositions to be voted on and the designated polling places in the various precincts and wards in the District. The said notice shall be published at least once a week for four consecutive calendar weeks on any day of the week, the first publication, thereof to be not less than thirty nor more than forty days prior to the date fixed by the Council for the election. The Board of Elections shall canvass the votes cast at such election and certify the results thereof to the Council in the manner prescribed for the canvass and certification of the results of general elections. The certification of the result of the election shall be published once by the Board of Elections within three days following the date of the election.

PUBLICATION OF BORROWING LEGISLATION

SEC. 603. The Mayor shall publish any act authorizing the issuance of bonds at least once within five days after the enactment thereof, together with a notice of the enactment thereof in substantially the following form:

"NOTICE

"The following act authorizing the issuance of bonds published herewith has become effective, and the time within which a suit, action, or proceeding questioning the validity of such bonds can be commenced as provided in the District of Columbia Charter Act will expire twenty days from the date of the first publication of this notice (or in the event the proposition of issuing the proposed bonds is to be submitted to the qualified voters, twenty days after the date of publication of the promulgation of the results of the election ordered by said act to be held).

"_____,
"Mayor."

SHORT PERIOD OF LIMITATION

SEC. 604. Upon the expiration of twenty days from and after the date of publication of the notice of the enactment of an act authorizing the issuance of bonds without the submission of the proposition for the issuance thereof to the qualified voters, or upon the expiration of twenty days from the date of publication of the promulgation of the results of an election upon the proposition of issuing bonds, as the case may be, all as provided in section 603—

(1) any recitals or statements of fact contained in such act or in the preambles or the titles thereof or in the results of the election of any proceedings in connection with the calling, holding, or conducting of election upon the issuance of such bonds shall be deemed to be true for the purpose of determining the validity of the bonds thereby authorized, and the District and all others interested shall thereafter be stopped from denying same;

(2) such act and all proceedings in connection with the authorization of the issuance of such bonds shall be conclusively presumed to have been duly and regularly taken, passed, and done by the District and the Board of Elections in full compliance with the provisions of this Act and of all laws applicable thereto;

(3) the validity of such act and said proceedings shall not thereafter be questioned by either a party plaintiff or a party defendant, and no court shall have jurisdiction in any suit, action, or proceeding questioning the validity of same, except in a suit, action, or proceeding commenced prior to the expiration of such twenty days.

ACTS FOR ISSUANCE OF BONDS

SEC. 605. After the expiration of the twenty-day limitation period provided for in section 604 of this part, the Council may by act establish an issue of bonds as authorized pursuant to the provisions of sections 601 to 604, inclusive, hereof. An issue of bonds is hereby defined to be all or any part of an aggregate principal amount of bonds authorized pursuant to said sections, but no indebtedness shall be deemed to have been incurred within the meaning of this Act until the bonds shall have been sold, delivered, and paid for, and then only to the extent of the principal amount of bonds so sold and delivered. The bonds of any authorized issue may be issued all at one time, or from time to time in series and in such amounts as the Council shall deem advisable. The act authorizing the issuance of any series of bonds shall fix the date of the bonds of such series, and the bonds of each such series shall be payable in annual installments beginning not more than three years after the date of the bonds and ending not more than thirty years from such date. The amount of said series to be payable in each year shall be so fixed that when the annual interest is added to the principal amount payable in each year the total amount payable in each year in which part of the principal is payable shall be substantially equal. It shall be an immaterial variance if the difference between the largest and the smallest amounts of principal and interest payable annually during the term of the bonds does not exceed 3 per centum of the total authorized amount of such series. Such act shall also prescribe the form of the bonds to be issued thereunder, and of the interest coupons appertaining thereto, and the manner in which said bonds and coupons shall be executed. The bonds and coupons may be executed by the facsimile signatures of the officer or officers designated by the act authorizing the bonds, to sign the bonds, with the exception that at least one signature shall be manual. Such bonds may be issued in coupon form in the denomination of $1,000, registerable as to principal only or as to both principal and interest, and if registered as to both principal and interest may be issuable in denominations of multiples of $1,000. Such bonds and the interest thereon may be payable at such place or places within or without the District as the Council may determine.

PUBLIC SALE

SEC. 606. All bonds issued under this part shall be sold at public sale upon sealed proposals at such price or prices as shall be approved by the Council after publication of a notice of such sale at least once not less than ten days prior to the date fixed for sale in a daily newspaper carrying municipal bond notices and devoted primarily to financial news or to the subject of State and municipal bonds published in the city of New York, New York, and in a newspaper of general circulation published in the District. Such notice shall state, among other things, that no proposal shall be considered unless there is deposited with the District as a downpayment a certified check or cashier's check for an amount equal to at least 2 per centum of the par amount of bonds bid for, and the Council shall reserve the right to reject any and all bids.

PART 2—SHORT-TERM BORROWING

BORROWING TO MEET SUPPLEMENTAL APPROPRIATIONS

SEC. 621. In the absence of unappropriated available revenues to meet supplemental appropriations made pursuant to section 505, the Council may by act authorize the issuance of negotiable notes, in a total amount not to exceed 5 per centum of the total appropriations for the current fiscal year, each of which shall be designated "supplemental" and may be renewed from time to time, but all such notes and renewals thereof shall be paid not later than the close of the fiscal year following that in which such act becomes effective.

BORROWING IN ANTICIPATION OF REVENUES

SEC. 622. For any fiscal year, in anticipation of the collection or receipt of revenues of that fiscal year, the Council may by act authorize the borrowing of money by the execution of negotiable notes of the District, not to exceed in the aggregate at any time outstanding 20 per centum of the total anticipated revenue, each of which shall be designated "Revenue Note for the Fiscal Year 19 ". Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year for which the original notes have been issued.

NOTES REDEEMABLE PRIOR TO MATURITY

SEC. 623. No notes issued pursuant to this part shall be made payable on demand, but any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note.

SALE OF NOTES

SEC. 624. All notes issued pursuant to this part may be sold at not less than par and accrued interest at private sale without previous advertising.

PART 3—PAYMENT OF BONDS AND NOTES

SEC. 631. (a) The act of the Council authorizing the issuance of bonds pursuant to this title, shall, where necessary, provide for the levy annually of a special tax without limitation as to rate or amount upon all the taxable real and personal tangible property within the District in amounts which together with other revenues of the District available and applicable for said purposes, will be sufficient to pay the principal of and interest on said bonds and the premium, if any, upon the redemption thereof, as the same respectively become due and payable, which tax shall be levied and collected at the same time and in the same manner as other District taxes are levied and collected, and when collected shall be set aside for the purpose of paying such principal, interest, and premium.

(b) The full faith and credit of the District shall be and is hereby pledged for the payment of the principal of and the interest on all bonds and notes of the District hereafter issued pursuant to this title whether or not such pledge be stated in the bonds or notes or in the act authorizing the issuance thereof.

PART 4—TAX EXEMPTION—LEGAL INVESTMENT

TAX EXEMPTION

SEC. 641. Bonds and notes issued by the Council pursuant to this title and the interest thereon shall be exempt from all Federal and District taxation except estate, inheritance, and gift taxes.

LEGAL INVESTMENT

SEC. 642. Notwithstanding any restriction on the investment of funds by fiduciaries contained in any other law, all domestic insurance companies, domestic insurance associations, executors, administrators, guardians, trustees, and other fiduciaries within the District of Columbia may legally invest any sinking funds, moneys, trust funds, or other funds belonging to them or under or within their control in any bonds issued pursuant to this title, it being the purpose of this section to authorize the investment in such bonds or notes of all sinking, insurance, retirement, compensation, pension, and trust funds. National banking associations are authorized to deal in, underwrite,

purchase and sell, for their own accounts or for the accounts of customers, bonds and notes issued by the District Council to the same extent as national banking associations are authorized by paragraph seven of section 5136 of the Revised Statutes (12 U.S.C. 24), to deal in, underwrite, purchase and sell obligations of the United States, States, or political subdivisions thereof. All Federal building and loan associations and Federal savings and loan associations; and banks, trust companies, building and loan associations, and savings and loan associations, domiciled in the District of Columbia, may purchase, sell, underwrite, and deal in, for their own account or for the account of others, all bonds or notes issued pursuant to this title: *Provided*, That nothing contained in this section shall be construed as relieving any person, firm, association, or corporation from any duty of exercising due and reasonable care in selecting securities for purchase or investment.

TITLE VII—FINANCIAL AFFAIRS OF THE DISTRICT

PART 1—FINANCIAL ADMINISTRATION

SURETY BONDS

SEC. 701. Each officer and employee of the District required to do so by the District Council shall provide a bond with such surety and in such amount as the Council may require. The premiums for all such bonds shall be paid out of appropriations for the District.

FINANCIAL DUTIES OF THE MAYOR

SEC. 702. The Mayor, through his duly designated subordinates, shall have charge of the administration of the financial affairs of the District and to that end he shall—

(1) prepare and submit in the form and manner prescribed by the Council under section 502 the annual budget estimates and a budget message;

(2) supervise and be responsible for all financial transactions to insure adequate control of revenues and resources and to insure that appropriations are not exceeded;

(3) maintain systems of accounting and internal control designed to provide—

(A) full disclosure of the financial results of the District government's activities,

(B) adequate financial information needed by the District government for management purposes,

(C) effective control over and accountability for all funds, property, and other assets;

(4) submit to the Council a monthly financial statement, by appropriation and department, and in any further detail the Council may specify;

(5) prepare, as of the end of each fiscal year, a complete financial statement and report;

(6) supervise and be responsible for the assessment of all property subject to assessment within the corporate limits of the District for taxation, make all special assessments for the District government, prepare tax maps, and give such notice of taxes and special assessments as may be required by law;

(7) supervise and be responsible for the assessment and collection of all taxes, special assessments, license fees, and other revenues of the District for the collection of which the District is responsible and receive all money receivable by the District from the Federal Government, or from any court, or from any agency of the District;

(8) have custody of all public funds belonging to or under the control of the District, or any agency of the District government, and deposit all funds coming into his hands, in such depositories as may be designated and under such terms and conditions as may be prescribed by act of the Council;

(9) have custody of all investments and invested funds of the District government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the District and the receipt and delivery of District bonds and notes for transfer, registration, or exchange.

CONTROL OF APPROPRIATIONS

SEC. 703. The Council may provide for (1) the transfer during the budget year of any appropriation balance then available for one item of appropriation to another item of appropriation, and (2) the allocation to new items of funds appropriated for contingent expenditure.

ACCOUNTING SUPERVISION AND CONTROL

SEC. 704. The Mayor, through his duly authorized subordinates, shall—

(1) prescribe the forms of receipts, vouchers, bills, and claims to be used by all the agencies of the District government;

(2) examine and approve all contracts, orders, and other documents by which the District government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;

(3) audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government and with the advice of the legal officials of the District determine the regularity, legality, and correctness of such claims, demands, or charges; and

(4) perform internal audits of central accounting and department and agency records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the respective agencies.

GENERAL FUND

SEC. 705. The general fund of the District shall be composed of the revenues of the District other than the revenues applied by law to special funds. All moneys received by any agency, officer, or employee of the District in its or his official capacity shall belong to the District government and shall be paid promptly to the Mayor, or his duly authorized subordinates, for deposit in the appropriate funds.

CONTRACTS EXTENDING BEYOND ONE YEAR

SEC. 706. No contract involving expenditure out of an appropriation which is available for more than one year shall be made for a period of more than five years; nor shall any such contract be valid unless made pursuant to criteria established by an act of the Council.

PART 2—ANNUAL POST AUDIT BY GENERAL ACCOUNTING OFFICE

INDEPENDENT ANNUAL POST AUDIT

SEC. 721. (a) The financial transactions shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of the auditing procedures to be followed and the extent of the examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principles of auditing, including consideration of the effectiveness of the accounting organizations and systems, internal audit and control, and related administrative practices. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the District and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. The District of Columbia shall reimburse the General Accounting Office for expenses of such audit in such amounts as may be agreed upon by the Mayor and the Comptroller General, and the amounts so reimbursed shall be deposited into the Treasury of the United States as miscellaneous receipts.

(b) (1) The Comptroller General shall submit his audit reports to the Congress, the Mayor, and the Council. The reports shall set forth the scope of the audits and shall include such comments and information as the Comptroller General may deem necessary to keep the Mayor and the Council informed of the operations to which the reports relate, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The reports shall show specifically every program, expenditure, and other financial transaction or undertaking which, in the opinion of the Comptroller General, has been carried on or made without authority of law.

(2) After the Mayor and his duly authorized subordinates have had an opportunity to be heard, the Council shall make such report, together with such other material as it deems pertinent thereto, available for public inspection and shall transmit copies thereof to the Congress.

(3) The Mayor, within ninety days after the report has been made to him and the Council, shall state in writing to the Council, with a copy to the Congress, what has been done to comply with the recommendations made by the Comptroller General in the report.

AMENDMENT OF BUDGET AND ACCOUNTING ACT

SEC. 722. Section 2 of the Budget and Accounting Act, 1921 (31 U.S.C. 2), is hereby amended by striking out "and the municipal government of the District of Columbia".

PART 3—ADJUSTMENT OF FEDERAL AND DISTRICT EXPENSES

SEC. 731. Subject to section 901 and other provisions of law, the Mayor, with the approval of the Council, and the Director of the Office of Management and Budget, are authorized and empowered to enter into an agreement or agreements concerning the manner and method by which amounts owed by the District to the United States, or by the United States to the District, shall be ascertained and paid.

PART 4—ANNUAL FEDERAL PAYMENT TO THE DISTRICT

SEC. 741. (a) In recognition of the unique character of the District of Columbia as the Nation's Capital City, regular annual payments by the Federal Government are hereby authorized to cover the proper share of the expenses of the District government. On or before January 10 of each year, the Mayor shall, with the approval of the Council, submit to the Secretary of the Treasury through the Administrator of General Services a request for a Federal payment to be made during the following fiscal year, and the amount of such payment shall be computed as follows:

(1) An amount (to be paid to the general fund) computed as of January 1 of the fiscal year preceding the fiscal year for which payment is requested based upon the following factors:

(A) The amount of real property taxes lost to the District during the fiscal year immediately preceding the fiscal year for which the annual Federal payment is being requested, based upon the assessed value and rate of tax in effect on January 1 of said preceding year, as a result of the exemption from real property taxation of the following properties:

(i) Real property in the District owned and used by the United States for the purpose of providing Federal governmental services or performing Federal governmental functions, but excluding parklands, mu-

seums, art galleries, memorials, statuary, and shrines, and also excluding to the extent to which it may be so used, property owned by the United States and used to provide a service or perform a function which would otherwise be provided or performed by the District, such as, by way of example and without limitation, public streets and alleys and public water supply facilities.

(ii) Real property in the District exempt from taxation by special Act of Congress or exempt from taxation pursuant to subsection (k) of section 1 of the Act approved December 24, 1942 (56 Stat. 1809), as amended (D.C. Code, sec. 47–801a(k)), and not eligible for exemption from taxation under any other subsection of said section 1 of the Act approved December 24, 1942.

(B) The amount of personal property taxes lost to the District during the fiscal year immediately preceding the fiscal year for which the annual Federal payment is being requested based upon the assessed value and rate of tax in effect on January 1 of said preceding year, as a consequence of the exemption from personal property taxation of tangible personal property located in the District and which is owned by the United States, exclusive of objects of art, museum pieces, statuary, and libraries. Tangible personal property located in the District owned by the United States may be estimated by one or more methods developed by the Mayor and approved by the Administrator of General Services.

(C) The amount obtained by multiplying by a fraction the actual collections, during the second fiscal year preceding the fiscal year for which the annual Federal payment is being requested, of corporation and unincorporated business franchise taxes, and taxes on insurance premiums and on gross earnings of financial institutions and guaranty companies. The numerator of such fraction shall be the total number of Federal Government employees whose places of employment are in the District, as estimated by the United States Civil Service Commission, and the denominator of which shall be the total number of other employees whose places of employment are in the District, as estimated by the United States Employment Service for the District, but excluding employees of the government of the District, employees in nonprofit activities, and domestics in private households, also as estimated by such Service.

(2) The amount of the charges for water services furnished to the Federal Government by the District during the second fiscal year preceding the year for which the annual Federal payment is being requested (to be paid to the water fund).

(3) The charges for sanitary sewer services furnished to the Federal Government by the District during the second fiscal year preceding the year for which the annual Federal payment is being requested (to be paid to the sanitary sewage works fund).

(b) After review by the Administrator of General Services of the request for Federal payment and certification by him on or before April 10 of the fiscal year preceding the fiscal year for which the annual Federal payment is being requested that such request is in conformity with the provisions of this section, the Secretary of the Treasury shall, not later than September 1 of each fiscal year, cause such payment to be made to the District out of any money in the Treasury not otherwise appropriated, and the Secretary of the Treasury is authorized to advance on or after July 1, out of any money in the Treasury not otherwise appropriated, without interest, such amounts (not to exceed in the aggregate the total payment in the previous fiscal year) as may be required by the District pending the payment of the amount authorized by this section.

(c) The Administrator of General Services shall enter into cooperative arrangements with the Mayor whereby disputes, differences, or disagreements involving the Federal payment may be resolved.

(d) For the first fiscal year in which this part is effective, the amount of the annual Federal payment may be computed on the basis of preliminary estimates: *Provided*, That such amount shall be subject to later adjustment in accordance with the provisions of this part.

TITLE VIII—AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT

AMENDMENTS

SEC. 801. The District of Columbia Election Act is amended as follows:

(1) The first section of such Act is amended by inserting immediately after "Board of Education," the following: "the members of the Council of the District of Columbia, the Mayor, the Delegate from the District of Columbia,".

(2) Paragraph (2) of section 2 of such Act is amended to read as follows:

"(2) The term 'qualified elector' means any person (A) who for the purpose of voting in an election under this Act, has resided in the District continuously during the six-month period ending on the day of such election, (B) who is a citizen of the United States, (C) who is, or will be on the day of the next election, at least eighteen years old, (D) who has never been convicted of a felony in the United States, or, if he has been so convicted, has been pardoned or has been for the five years preceding such election, no longer subject to the jurisdiction of any court with respect thereto, (E) who is not mentally incompetent as adjudged by a court of competent jurisdiction, and (F) who certifies that he has not, within six months immediately preceding the day of the election, claimed the right to vote or voted in any election in any State or territory of the United States (other than in the District of Columbia)."

(3) Section 2 of such Act is further amended (1) by striking out in paragraph (4) thereof "a school" and inserting in lieu thereof "an"; and (2) by adding at the end thereof the following new paragraphs:

"(6) The term 'Council' or 'Council of the District of Columbia' means the Council of the District of Columbia established pursuant to the District of Columbia Charter Act.

"(7) The term 'Mayor' means the office of Mayor of the District of Columbia established pursuant to the District of Columbia Charter Act."

(4)(A) Section 3 of such Act is amended to read as follows:

"SEC. 3. There is hereby created a Board of Elections for the District of Columbia, to be composed of three members appointed by the Mayor, by and with the advice and consent of the District Council. The term of each such member shall be three years from the expiration of the term of his predecessor. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of his predecessor. When a member's term of office expires, he may continue to serve until his successor is appointed and has qualified. The Mayor shall from time to time designate the Chairman of the Board."

(B) The members of the Board of Elections in office on the date when the Mayor first elected takes office shall continue in office for the remainder of the terms for which they were appointed.

(5) The first sentence of section 4(b) of such Act is amended to read as follows:

"(b) Each member of the Board shall be paid at the rate of $1,500 per annum in periodic installments; except that the rate of compensation may be changed by act passed by the District Council."

(6) Section 5(a)(4) of such Act is amended by striking "school".

(7) Section 7(d)(1) of such Act is amended by striking out "odd-numbered calendar year and of each presidential election year," and inserting in lieu thereof "calendar year,".

(8) Section 8(h) of such Act is amended to read as follows:

"(h)(1) Except in the case of the three members of the Board of Education, the three members, including the Chairman, of the Council, the Mayor, and the District Delegate elected at large, the other members of the Board of Education and the Council shall be elected by the qualified electors of the respective wards of the District from which the members have been nominated.

"(2) In the case of the three members of the Board of Education, the three members, including the Chairman of the Council, the Mayor, and the District Delegate elected at large, such members, Mayor, and District Delegate shall be elected by the qualified electors of the District."

(9) Section 8(i) of such Act is amended to read as follows:

"(i) Each candidate in a general election for member of the Board of Education, member of the Council, the office of Mayor, or the office of District Delegate shall be nominated for such office by a petition (A) filed with the Board not later than forty-five days before the date of such general election; (B) signed by at least two hundred and fifty persons who are duly registered under section 7 in the ward from which the candidate seeks election, or in the case of a candidate running at large, signed by at least one hundred and twenty-five persons in each ward of the District who are duly registered in such ward; and (C) accompanied by a filing fee of $100. Such fee may be refunded only in the event that the candidate withdraws his nomination in writing and it is received by the Board not later than three days after the date on which nominations are closed. A nominating petitioner for any such candidate in a general election may not be circulated for signatures before the ninety-ninth day preceding the date of such election and may not be filed with the Board before the seventieth day preceding such date. The Board may prescribe rules with respect to the preparation and presentation of nominating petitions and the posting and disposition of filing fees. The Board shall insure that each signature on a petition is that of a registered voter and that no voter shall sign more than one nominating petition for any office. In a general election for candidate for the office of Board of Education or the Council to be elected from wards, the Board shall arrange the ballots in each ward to enable a voter registered in that ward to vote for any one candidate duly nominated to be elected to any such office from such ward, and, in the case of candidates for the office of Board of Education or the Council to be elected at large, the Board shall arrange the ballots in each ward to enable a voter registered in that ward to vote for as many candidates duly nominated for election at large to any such office as there are Board of Education or Council members to be elected at large in such election. In a general election for Mayor or District Delegate, the Board shall arrange the ballots in each ward to enable a voter registered in that ward to vote for any one candidate duly nominated to be elected to any such office."

(10) Section 10(a) of such Act is amended by inserting immediately after paragraph (3) thereof the following new paragraph:

"(3A) The first general election for members of the Council shall be held on the first Tuesday after the first Monday in November of the year this Act shall become law, and thereafter on the Tuesday next after the first Monday in November of each even-numbered calendar year. The first general election for the office of Mayor shall be held on the first Tuesday after the first Monday in November of the year this Act shall become law, and thereafter on the Tuesday next after the first Monday in November of such year as the

President of the United States shall be elected."

(11) Paragraph 4(A) of section 10(a) of such Act is amended to read as follows:

"(4)(A)(1) If in a general election for members of the Board of Education or the Council no candidate for the office of member of such Board or Council from a ward, or no candidate for the office of member of such Board or Council elected at large (where only one at large position is being filled at such election) receives 40 per centum of the votes validly cast for such office, a runoff election shall be held on the twenty-first day next following such election. The candidate receiving the highest number of votes in such runoff election shall be declared elected.

"(2) If in a general election for the office of Mayor or Chairman of the Council or Delegate from the District of Columbia no candidate for any such office receives 40 per centum of the votes validly cast for such office, a runoff election shall be held on the twenty-first day next following such election. The candidate receiving the highest number of votes in such runoff election shall be declared elected.".

(12) Paragraph (5) of section 10(a) of such Act is amended to read as follows:

"(5) In the case of a runoff election for the office of member of the Board of Education or the Council elected at large, the candidates in such runoff election shall be those unsuccessful candidates, in number not more than one more than the number of such offices to be filled, who in the general election next preceding such runoff election received the highest number of votes less than 40 per centum. In the case of a runoff election for the office of member of the Board of Education or the Council from a ward, the runoff election shall be held in such ward, and the two candidates who in the general election next preceding such runoff election received respectively the highest number and the second highest number of votes validly cast in such ward or who tied in receiving the highest number of such votes shall run in such runoff election. In the case of a runoff election for the office of Mayor or Chairman of the Council or Delegate from the District of Columbia, the candidates in such runoff election shall be those two candidates who in the general election next preceding such runoff election received respectively the highest number and the second highest number of votes validly cast in such election for such office, or who tied in receiving the highest number of such votes. If in any case a tie vote must be resolved to determine the candidates to run in any runoff election, the Board may resolve such tie vote by requiring the candidates receiving the tie vote to cast lots at such time and in such manner as the Board may prescribe.".

(13) Paragraph (6) of section 10(a) of such Act is amended by inserting a comma immediately after "Board of Education" and the following: "or the Council, or Mayor or Delegate from the District of Columbia".

(14) Section 10(b) of such Act is amended by inserting immediately after "Board of Education", the following: "or the Council, or Mayor or Delegate from the District of Columbia".

(15) Section 10(c) of such act is amended by inserting immediately after "Board of Education", the following "or Council, or Mayor or Delegate from the District of Columbia."

(16) Section 10(d) of such Act is amended by inserting immediately after "Board of Education", the following: "or the Council, or the Mayor or Delegate from the District of Columbia".

(17) Section 10(e) of such Act is amended to read as follows:

"(e) Whenever a vacancy occurs in the office of member of the Board of Education or Mayor, such vacancy shall be filled at the next general election for members of the Board of Education or the office of Mayor, as the case may be, which occurs more than ninety-nine days after such vacancy occurs. However, in the case of the Board of Education, such Board shall appoint a person to fill such vacancy until the unexpired term of the vacant office ends or until the fourth Monday in January next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. In the case of the office of Mayor, the Council shall appoint a person to fill such vacancy until the unexpired term of the vacant office ends or until January 2 next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. A person elected to fill any such vacancy shall hold office for the duration of the unexpired term of office to which he was elected. Any person appointed under this subsection shall have the same qualifications for holding such office as were required of his immediate predecessor."

(18) The first sentence of section 15 of such Act is amended to read as follows: "No person shall be a candidate for more than one office on the Board of Education or the Council in any election for members of the Board of Education or the Council.".

RECALL

SEC. 802. (a) Any elective officer of the District of Columbia, other than the Delegate from the District of Columbia, shall be subject to recall by the qualified voters of the elective unit, ward, or the District, from which he was elected. Any petition filed demanding such recall shall be signed by not less than 25 per centum of the number of qualified voters of the applicable elective unit voting at the last preceding general election (not a runoff election). Such petition shall set forth the reasons for the demand and shall be filed with the secretary of the District Council. If any such officer with respect to whom such a petition is filed shall offer his resignation, it shall be accepted and take effect on the day it is offered, and the vacancy shall be filled as provided by law for filling a vacancy in that office arising from any other cause. If he shall not resign within five days after the petition is filed, a special election shall be called by the Council to be held within twenty days thereafter to determine whether the qualified voters of the applicable elective unit will recall such officer.

(b) There shall be printed on the ballot at such election, in not more than two nundred words, the reason or reasons for demanding the recall of any such officer, and in not more than two hundred words, the officer's justification or answer to such demands. Any officer with respect to whom a petition demanding his recall has been filed shall continue to perform the duties of his office until the result of such special election is officially declared by the Board of Elections. No petition demanding the recall of any officer filed pursuant to this section shall be circulated against any officer of the District until he has held his office six months.

(c) If a majority of the qualified voters voting on any petition filed pursuant to this section vote to recall any officer, his recall shall be effective on the day on which the Board of Elections certifies the results of the special election, and the vacancy created thereby shall be filled immediately in a manner provided by law for filling a vacancy in that office arising from any other cause.

(d) The Board of Elections shall prescribe such regulations as may be necessary or appropriate (1) with respect to the form, filing, examination, amendment, and certification of a petition for recall filed pursuant to this section, and (2) with respect to the conduct of any special election held pursuant to this section.

INTERFERENCE WITH REGISTRATION OR VOTING

SEC. 803. (a) No one shall interfere with the registration or voting of another person, except as it may be reasonably necessary in the performance of a duty imposed by law. No person performing such a duty shall interfere with the registration or voting of another person because of his race, color, sex, or religious belief, or his lack of property or income.

(b) No registered voter shall be required to perform a military duty on election day which would prevent him from voting except in time of war or public danger, or unless he is away from the District in military service. No registered voter may be arrested while voting or going to vote except for treason, a felony, or for a breach of the peace then committed.

TITLE IX—MISCELLANEOUS

AGREEMENTS WITH UNITED STATES

SEC. 901. (a) For the purpose of preventing duplication of effort or for the purpose of otherwise promoting efficiency and economy, any Federal officer or agency may furnish services to the District government and any District officer or agency may furnish services to the Federal Government. Except where the terms and conditions governing the furnishing of such services are prescribed by other provisions of law, such services shall be furnished pursuant to an agreement (1) negotiated by the Federal and District authorities concerned, and (2) approved by the Director of the Office of Management and Budget and by the Mayor, with the approval of the District Council. Each such agreement shall provide that the cost of furnishing such services shall be borne in the manner provided in subsection (c) by the government to which such services are furnished at rates or charges based on the actual cost of furnishing such services.

(b) For the purpose of carrying out any agreement negotiated and approved pursuant to subsection (a), any District officer or agency may in the agreement delegate any of his or its functions to any Federal officer or agency, and any Federal officer or agency may in the agreement delegate any of his or its functions to any District officer or agency. Any function so delegated may be exercised in accordance with the terms of the delegation.

(c) The cost to each Federal officer and agency in furnishing services to the District pursuant to any such agreement shall be paid in accordance with the terms of the agreement, out of appropriations made by the Council to the District officers and agencies to which such services are furnished. The costs to each District officer and agency in furnishing services to the Federal Government pursuant to any such agreement shall be paid, in accordance with the terms of the agreement, out of appropriations made by the Congress or other funds available to the Federal officers and agencies to which such services are furnished.

PERSONAL INTEREST IN CONTRACTS OR TRANSACTIONS

SEC. 902. Any officer or employee of the District who is convicted of a violation of section 208 of title 18, United States Code, shall forfeit his office or position.

COMPENSATION FROM MORE THAN ONE SOURCE

SEC. 903. (a) Except as provided in this Act, no person shall be ineligible to serve or to receive compensation as a member of the Council, or the Board of Elections because he occupies another office or position or because he receives compensation (including retirement compensation) from another source.

(b) The right to another office or position or to compensation from another source otherwise secured to such a person under the laws of the United States shall not be

abridged by the fact of his service or receipt of compensation as a member of the Council or such Board, if such service does not interfere with the discharge of his duties in such other office or position.

ASSISTANCE OF THE UNITED STATES CIVIL SERVICE COMMISSION IN DEVELOPMENT OF DISTRICT MERIT SYSTEM

SEC. 904. The United States Civil Service Commission is hereby authorized to advise and assist the Mayor and the Council in the further development of the merit system required by section 402(3) and the said Commission is authorized to enter into agreements with the District government to make available its registers of eligibles as a recruiting source to fill District positions as needed. The costs of any specific services furnished by the Civil Service Commission may be compensated for under the provisions of section 901 of this Act.

TITLE X—SUCCESSION IN GOVERNMENT

TRANSFER OF PERSONNEL, PROPERTY, AND FUNDS

SEC. 1001. (a) In each case of the transfer, by any provision of this Act, of functions to the Council, to the Mayor, or to any agency or officer, there are hereby transferred (as of the time of such transfer of functions) to the Council, to the Mayor, to such agency or to the agency of which such officer is the head, for use in the administration of the functions of the Council or such agency or officer, the personnel (except the Commissioner of the District of Columbia, the Assistant to the Commissioner, the Chairman of the District of Columbia Council, the Vice Chairman of the District of Columbia Council, the other members thereof, all of whose offices are abolished by this Act), property, records, and unexpended balances of appropriations and other funds, which relate primarily to the functions so transferred.

(b) If any question arises in connection with the carrying out of subsection (a), such question shall be decided—

(1) in the case of functions transferred from a Federal officer or agency, by the Director of the Office of Management and Budget; and

(2) in the case of other functions (A) by the Council, or in such manner as the Council shall provide, if such functions are transferred to the Council, and (B) by the Mayor if such functions are transferred to him or to any other officer or agency.

(c) Any of the personnel transferred to the Council, the Mayor, or any agency by this section which the Council or the head of such agency shall find to be in excess of the personnel necessary for the administration of its or his functions shall, in accordance with law, be retransferred to other positions in the District or Federal Government or be separated from the service.

(d) No officer or employee shall, by reason of his transfer by this Act or his separation from service under this Act, be deprived of a civil service status held by him prior to such transfer or any right of appeal or review he may have by reason of his separation from service.

EXISTING STATUTES, REGULATIONS, AND OTHER ACTIONS

SEC. 1002. (a) Any statute, regulation, or other action in respect of (and any regulation or other action issued, made, taken, or granted by) any officer or agency from which any function is transferred by this Act shall, except to the extent modified or made inapplicable by or under authority of law, continue in effect as if such transfer had not been made; but after such transfer, references in such statute, regulation, or other action to an officer or agency from which a transfer is made by this Act shall be held and considered to refer to the officer or agency to which the transfer is made.

(b) As used in subsection (a), the term "other action" includes, without limitation, any rule, order, contract, compact, policy, determination, directive, grant, authorization, permit, requirement, or designation.

(c) Unless otherwise specifically provided, nothing contained in this Act shall be construed as affecting the applicability to the District of Columbia government of personnel legislation relating to the District government until such time as the Council may otherwise elect to provide equal or equivalent coverage as provided in section 402(4).

PENDING ACTIONS AND PROCEEDINGS

SEC. 1003. (a) No suit, action, or other judicial proceeding lawfully commenced by or against any officer or agency in his or its official capacity or in relation to the exercise of his or its official functions, shall abate by reason of the taking effect of any provision of this Act; but the court, unless it determines that the survival of such suit, action, or other proceeding is not necessary for purposes of settlement of the questions involved, shall allow the same to be maintained, with such substitutions as to parties as are appropriate.

(b) No administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this Act, but such action or proceeding shall be continued with such substitutions as to parties and officers or agencies as are appropriate.

VACANCIES RESULTING FROM ABOLISHMENT OF OFFICES OF COMMISSIONER AND ASSISTANT TO THE COMMISSIONER

SEC. 1004. Until the 1st day of July next after the first Mayor takes office under this Act, no vacancy occurring in any District agency by reason of section 321, abolishing the offices of Commissioner of the District of Columbia and Assistant to the Commissioner, shall affect the power of the remaining members of such agency to exercise its functions; but such agency may take action only if a majority of the members holding office vote in favor of it.

TITLE XI—SEPARABILITY OF PROVISIONS

SEC. 1101. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE XII—TEMPORARY PROVISIONS

POWERS OF THE PRESIDENT DURING TRANSITION PERIOD

SEC. 1201. The President of the United States is hereby authorized and requested to take such action during the period following the date of the enactment of this Act and ending on the date of the first meeting of the District Council, by Executive order or otherwise, with respect to the administration of the functions of the District of Columbia government, as he deems necessary to enable the Board of Elections properly to perform its functions under this Act.

REIMBURSABLE APPROPRIATIONS FOR THE DISTRICT

SEC. 1202. (a) The Secretary of the Treasury is authorized and directed to advance to the District of Columbia the sum of $750,000, out of any money in the Treasury not otherwise appropriated, for use (1) in paying the expenses of the Board of Elections (including compensation of the members thereof), and (2) in otherwise carrying into effect the provisions of this Act.

(b) The full amount expended out of the money advanced pursuant to this section shall be reimbursed to the United States, without interest, during the second fiscal year which begins after the effective date of title V, from the general fund of the District of Columbia.

TITLE XIII—EFFECTIVE DATES

SEC. 1301. (a) As used in this title and title XIV the term "charter" means titles I to XI, both inclusive, and title XV.

(b) The charter shall take effect only if accepted pursuant to title XIV. If the charter is so accepted, it shall take effect on the day following the date on which it is accepted (as determined pursuant to section 1406) except that—

(1) part 2 of title III, title V, title VII (except part 4), and title XV shall take effect on the day upon which the Council members first elected take office;

(2) section 402 shall take effect on the day upon which the Mayor first elected takes office; and

(3) part 4 of title VII shall take effect with respect to the first fiscal year beginning next after the Mayor first elected takes office and with respect to subsequent fiscal years.

(c) Titles XII, XIII, and XIV shall take effect on the day following the date on which this Act is enacted.

TITLE XIV—SUBMISSION OF CHARTER FOR REFERENDUM

CHARTER REFERENDUM

SEC. 1401. On a date to be fixed by the Board of Elections, not more than four months after the enactment of this Act, a referendum (in this title referred to as the "charter referendum") shall be conducted to determine whether the registered qualified voters of the District of Columbia accept the charter.

BOARD OF ELECTIONS

SEC. 1402. (a) In addition to its other duties, the Board of Elections established under the District Election Act of 1955 shall conduct the charter referendum and certify the results thereof as provided in this title.

(b) Notwithstanding the fact that such section does not otherwise take effect unless the charter is accepted under this title, the applicable provisions of title VIII of this Act shall govern the Board of Elections in the performance of its duties under this Act.

APPLICABILITY OF TITLE VIII

SEC. 1403. Except as otherwise indicated in this title, the provisions of title VIII of this Act shall to the extent applicable govern all aspects (including, but not solely, the registration and qualification of voters, the method of voting, recounts and contests, interference with registration or voting, and election violations) of the referendum election herein, notwithstanding the fact that such title VIII does not otherwise take effect unless the charter is accepted.

CHARTER REFERENDUM BALLOT: NOTICE OF VOTING

SEC. 1404. (a) The charter referendum ballot shall contain the following, with a blank space appropriately filled:

"The District of Columbia Charter Act, enacted , proposes to establish a new charter for the District of Columbia, but provides that the charter shall take effect only if it is accepted by the registered qualified voters of the District in this referendum.

"By marking a cross (X) in one of the squares provided below, show whether you are for or against the charter.

☐ For the charter

☐ Against the charter".

(b) Voting may be by paper ballot or by voting machine. The Board of Elections may make such changes in the second paragraph of the charter referendum ballot as it determines to be necessary to permit the use of voting machines if such machines are used.

(c) Not less than five days before the date of charter referendum, the Board of Elections shall mail to each person registered (1) a sample of the charter referendum ballot, and (2) information showing the polling place of such person and the date and hours of voting.

(d) Not less than one day before the charter referendum, the Board of Elections shall publish, in newspapers of general circulation published in the District of Columbia, a list of the polling places and the date and hours of voting.

ACCEPTANCE OR NONACCEPTANCE OF CHARTER

SEC. 1405. (a) If a majority of the registered qualified voters voting in the charter referendum vote for the charter the charter shall be considered accepted as of the time the Board of Elections certifies the result of the charter referendum to the President of the United States, as provided in subsection (b).

(b) The Board of Elections shall, within a reasonable time, but in no event more than thirty days after the date of the charter referendum, certify the result of the charter referendum to the President of the United States and to the Secretary of the Senate and the Clerk of the House of Representatives.

TITLE XV—INITIATIVE

POWER TO PROPOSE AND ENACT LEGISLATION

SEC. 1501. (a) Subject to the provisions of section 325 of this Act, the qualified voters of the District shall have the power, independent of the Mayor and Council, to propose and enact legislation relating to the District with respect to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this Act.

(b) In exercising the power of initiative conferred upon the qualified voters by subsection (a) of this section, not less than 10 per centum of the number of qualified voters voting in the last preceding general election shall be required to propose any measure by an initiative petition. Every such petition shall include the full text of the measure so proposed and shall be filed with the Secretary of the District Council to be submitted to a vote of the qualified voters. Any such petition which has been filed with the Secretary, and certified by him as sufficient, shall be submitted to the qualified voters of the District at the first general election which occurs not less than thirty days nor more than one year from the date on which the Secretary files his certificate of sufficiency. The Council shall, if no general election is to be held within such period, provide for a special election for the purpose of considering the petition.

(c) Upon receiving the certification of the Board of Elections of the results of any election held with respect to any measure proposed by an initiative petition, the Secretary of the Council, if such measure was approved by a majority of the qualified voters of the District voting thereon, shall, within five calendar days thereafter, present the petition containing such measure so approved, which was filed with him pursuant to subsection (b) of this section, to the President of the United States. Such measure shall become law unless, within ten calendar days after it is so presented to the President, he shall, in accordance with this subsection, disapprove the same. The President may, if he is satisfied that such measure adversely affects a Federal interest, disapprove it, in which event he shall return it, with his objections, to the Secretary and, notwithstanding any other provision of this Act, such measure shall not become law.

(d) If conflicting measures proposed at the same election become law, the measure receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(e) If, within thirty days after the filing of a petition, the Secretary has not specified the particulars in which a petition is defective, the petition shall be deemed certified as sufficient for purposes of this section.

(f) The style of all measures proposed by initiative petition shall be as follows: "Be it enacted by the People of the District of Columbia".

(g) The Board of Elections shall prescribe such regulations as may be necessary or appropriate (1) with respect to the form, filing, examination, amendment, and certification of initiative petitions, and (2) with respect to the conduct of any election during which any such petition is considered.

(h) If any organization or group request it for the purpose of circulating descriptive matter relating to the measures proposed to be voted on, the Board of Elections shall either permit such organization or group to copy the names and addresses of the qualified electors or furnish it with a list thereof, at a charge to be determined by the Board of Elections, not exceeding the actual cost of reproducing such list.

TITLE XVI—TITLE OF ACT

SEC. 1601. This Act, divided into titles and sections according to table of contents, and including the declaration of congressional policy which is a part of such Act, may be cited as the "District of Columbia Charter Act".

SECTION-BY-SECTION ANALYSIS

TITLE I—DEFINITIONS

§ 101—defines terms for the purposes of this Act.

TITLE II—STATUS OF THE DISTRICT

§ 201—retains the present boundary lines and corporate status of the District. It is further provided that the laws and regulations in effect when the first Council takes office: (1) are amended or repealed to the extent of their inconsistency with this Act, and, (2) may be amended or repealed by legislation or regulation authorized in this Act, or by Act of Congress.

TITLE III—THE DISTRICT COUNCIL

Part 1—Creation of the District Council

Creation and Membership

§ 301—vests the legislative power of the District in an 11 member elected Council. The Chairman and 2 members are to be elected at-large with the remaining 8 members to be elected, one each, from the District's 8 election wards.

Qualification for Holding Office

§ 302—requires the following qualifications to be possessed and maintained for Council membership: (1) a qualified voter, (2) domiciled and resident in the District (for the 3 years next preceding his election), and his nominating ward (for 1 year preceding his election), (3) holds no public office—other than that of delegate or alternate delegate to a Presidential and Vice-Presidential nominating convention, (4) is not an officer or employee (appointive or otherwise) in a position for which compensation is provided out of District funds, and, (5) holds no office to which he was appointed by the President and is compensated out of Federal or district funds.

Compensation

§ 303—sets the following annual compensation rates for Council members: (1) Chairman—$15,000; (2) Vice-Chairman—$14,000; (3) Council members—$9,000. Also provides each member with such additional expense allowances as may be approved by the Council.

Changes in Membership and Compensation of District Council Members

§ 304—authorizes the Council to enact—subject to approval by a majority of the District's qualified voters—measures changing the number, qualifications and compensation of Council members.

Part 2—Principal functions of the District Council

Abolishment of Existing Government and Transfer of Functions

§ 321—abolishes the 9 member Council, and the office of Commissioner and Assistant to the Commissioner of the District of Columbia created by Reorganization Plan No. 3 of 1967, and transfers their powers to the Council created by this Act, except those powers hereinafter specifically conferred upon the Mayor.

Certain Delegated Functions and Functions of Certain Agencies

§ 322—provides that until the Mayor or Council deem otherwise, the functions delegated by the previous Council and Commissioner to officers, employees and agencies of the District, and those functions vested under the Reorganization Plan No. 3 of 1967 in the District Public Service Commission, Zoning Commission, Zoning Advisory Council, Board of Zoning Adjustment, Office of the Recorder of Deeds, and the Armory Board, are expected from the transfer provisions of § 321.

§ 323—section 322 notwithstanding, this section establishes the following conditions precedent to the approval and enactment of zoning regulations or equivalent legislation by the Council Zoning Commission, or other authority: (1) it must be submitted to the National Capital Planning Commission who shall, within 30 days of its receipt, submit their comments and advice, if any, to the Council, Zoning Commission, or other authority; and, (2) upon at least 30 days notice, a public hearing must be held on the proposed regulation or legislation, and interested persons must be given an opportunity to be heard.

Finally approved and enacted zoning regulations or legislation must be deposited with the Planning Commission.

Appointment of Armory Board

§ 324—establishes a 3 member Armory Board whose members are to be appointed by the Mayor by and with the advice and consent of the Council. Replaces the present Armory Board which was continued under Reorganization Plan No. 3 of 1967. Also invests the Mayor with the powers set out in the D.C. Alley Dwelling Act, D.C. Code §§ 5-103, 104 (i.e. the power to acquire by purchase, gift, condemnation or otherwise, land, buildings or structures adjacent to or contained in an inhabited alley).

Powers and Limitations Upon District Council and the Qualified Voters of the District of Columbia

§ 325(a)(1)—vests the legislative power in the Council and the qualified voters of the District.

(a)(2)—extends the legislative power to all rightful subjects of legislation within the District consistent with the United States Constitution.

Retains the power of Congress to legislate over the District and to repeal or modify acts of the Council and qualified voters.

Further provides that except as may otherwise be specifically provided herein, this Act does not enlarge the District's present authority over: (1) the Washington Aqueduct; (2) the Commission on Mental Health; (3) the National Zoological Park; (4) the National Guard of the District of Columbia, and (5) any Federal Agency.

(b)—prohibits the Council and qualified voters from passing any Act that:

(1) is contrary to the provisions of this Act,

(2) imposes a tax on United States property,

(3) authorizes a bond issuance contrary to this Act (at Title 6).

(4) authorizes public money for the support of sectarian, denominational or private schools,

(5) amends or repeals Congressional acts concerning the functions or property of the United States,

(6) is inconsistent with Congressional acts relating to the duty, authority and responsibility of the National Capital Planning Commission.

(7) is inconsistent with legislation relating to the George Washington Memorial Parkway and the general purposes of the National Capital Planning Commission Act (D.C. Code § 1-1001).

(c)—requires acts to include a preamble, be accompanied by a report stating its purpose, and to be published when passed.

(d)—requires Acts passed by Council to be submitted to the Mayor who has 10 days to approve it or veto it and return it to the Council who, in turn, have 30 days to override the veto by a two-thirds vote.

(e)—prescribes the following procedure for the approval of acts of the Council in the exercise of functions not heretofore legally exercisable by the District Commissioner under Reorganization Plan No. 3 of 1967:

(1) they shall be presented to the President by the Mayor or by the Council (if it was passed over the Mayor's veto,

(2) they shall become law ten days after presentment unless disapproved by the President and returned with his objections.

(f)—reserves the right of Congress to, at any time, exercise its Constitutional authority to act as a legislature for the District on any subject.

(g)—vests the Council with jurisdiction over the municipal courts of the District in all matters pertaining to their organization, composition, appointment or selection, qualifications, tenure and compensation of judges. Excepts the U.S. Marshal and U.S. Attorney from these provisions.

(h)—specifies a 10-year term for judges, sets their compensation, and establishes a mandatory retirement age of 70.

(i)—provides that the foregoing shall be construed as applying only to the municipal and not the federal courts of the District of Columbia.

Part 3—Organization and precedure of the District Council

The Chairman

§ 331—requires the Council to elect a Vice Chairman from among its members and specifies that the Chairman shall preside over the Council and act as Mayor in his absence.

Secretary of the District Council; Records and Documents

§ 332—authorizes the Council to appoint a Secretary (and such necessary assistants and clerical personnel) as its chief administrative officer, and to fix their compensation. Specifies the records to be kept by the Secretary, and the duties he is to perform. Requires such records to be made available for public inspection.

Meetings

§ 333—provides that a majority of Council shall constitute a quorum for convening a lawful meeting. Requires weekly public meetings to be held, except that in July and August, only 2 meetings per month may be held.

Committees

§ 334—authorizes the Chairman, with the advice and consent of Council, to determine necessary standing and special committee members, and permits closed committee meetings only upon order of its Chairman and the prior approval of a majority of its members.

Acts and Resolutions

§ 335—requires a majority vote of the members present for the passage of acts and resolutions by the Council.

Specifies that Acts shall be used for all legislative purposes and resolutions shall be used to express special or temporary decisions, determinations or directions, and to call a special election for a referendum vote on any proposition upon which Council desires to act.

Passage of Acts

§ 336—unless waived by a unanimous vote of the members present, Council may not pass any act before the 13th day following its introduction.

Investigations by District Council

§ 337—invests Council with general investigatory powers over matters relating to District affairs. Also invests it with power to issue subpoenas in aid of its investigation and refer any contempts of its powers to any judge of the United States District Court for the District of Columbia.

Procedure of Zoning Acts

§ 338—requires the following procedure to be complied with before any zoning act may be passed by the Council:

(1) it must be submitted to the National Capital Planning Commission who shall have 30 days to submit their comment and advice respecting its conformity with the comprehensive plan for the District. The act may not be passed unless such comments are received or there is a failure to comment within the 30-day period, and

(2) upon a 30-day, published notice, a public hearing must be held at which hearing interested persons must be given a reasonable opportunity to be heard.

Acts passed by Council relating to zoning must be deposited with the National Capital Planning Commission.

TITLE IV—MAYOR

Election, qualifications, and salary

§ 401—creates an elective office of Mayor with a 4-year term. Prescribes the following qualifications for the office: (1) must be a qualified voter, (2) presently, and for the next preceding 3 years, he must be a domiciliary resident of the District, (3) he holds no other elective public office, (4) he must hold no appointive office or position as an officer or employee of the District government for which compensation is provided out of District funds, (5) he must hold no office to which he was appointed by the President and for which compensation is provided out of Federal or District funds.

Failure to maintain these qualifications works a forfeiture of office.

Also provides for compensating the Mayor at the rate of $40,000 annually plus not more than $2,500 annually for expenses of official receptions and representation.

Permits the Council and a majority of the qualified voters to change any of the above requirements and specifications.

Powers and duties

§ 402—designates the Mayor as the chief executive officer of the District; charges him with the responsibility to administer its affairs; and, vests him with the following specific powers and functions:

(1) designate the officers who shall act as Mayor in the absence of the Mayor, Chairman and Vice Chairman of the Council,

(2) act as official spokesman for the District and as the head of the District for ceremonial purposes,

(3) administer all laws relating to employment, the conditions of employment and appointment and removal of persons from office in the District government,

(4) administer the personnel functions covering employees of all District departments, boards, commissions, offices and agencies in accordance with applicable laws which continue to apply until Council enacts legislation establishing a merit system (which may provide for continued participation in all or a part of the Federal Civil Service system) offering personnel benefits at least equal to those provided by Acts of Congress or regulations adopted pursuant thereto,

(5) supervise, through their heads, the activities of administrative boards, offices and agencies,

(6) prepare annual reports on the District's fiscal affairs and the administrative activities of the executive office and departments for the Council,

(7) keep Council advised of the District's financial condition and submit recommendations respecting future needs,

(8) submit drafts of Acts to Council,

(9) perform such other consistent duties as Council may direct.

(10) delegate any of his functions except those of approving acts of Council and contracts between the District and the Federal Government,

(11) appoint a City Administrator as his principal managerial aide, and assign his duties,

(12) with the Council or on his own, he may propose legislation to Congress on any subject not falling within the District's authority under this Act,

(13) use and authenticate the District's corporate seal in accordance with law,

(14) to address, under their rules, Council or any of its committees,

(15) to issue and enforce administrative orders that are not inconsistent with this Act or any Act approved by Council and the District's qualified voters.

TITLE V—THE DISTRICT BUDGET

Fiscal year

§ 501—defines the period from July 1 to June 30 as the District's fiscal year.

Budgetary details fixed by District Council

§ 502—requires the Mayor to submit an annual budget to the Council by April 1 of each year and to consult with the Council to achieve synchronization and consistency in budget accounting and classifications and support of budget justifications.

Adoption of budget

§ 503—unless extended by its resolution, the Council must adopt a budget by May 15, the same to be effective on July 1.

Five-year capital program

§ 504(a)—requires Council, prior to adopting the annual budget, to adopt a 5-year capital program and budget.

(b)—requires the Mayor to prepare the 5-year capital program and submit it and the capital budget message to Council by February 1 of each year.

(c)—requires the capital program to include:

(1) a clear general summary of its contents,

(2) a list, with supporting information, of capital improvements to be undertaken during the next 5 years,

(3) cost estimates, financing methods and time schedules,

(4) annual operating and maintenance cost estimates of facilities to be acquired or constructed.

(d)—requires the program to be revised and extended each year with regard to pending improvements construction and acquisitions.

(e)—requires actual capital expenditures to be annually carried as the current budget's capital outlay section, and requires these expenditures to be in the form of direct capital outlays from current revenues or debt service payments.

Budget establishes appropriations

§ 505—subject to § 702, Council's adoption of the budget operates to appropriate and make available for expenditure for the stated purposes the several amounts therein stated.

Supplemental appropriations

§ 506—permits Council to rescind prior appropriations and to enact supplemental appropriations.

TITLE VI—BORROWING

Part 1—Borrowing for capital improvements

Borrowing power: Debt limitations

§ 601—authorizes the issuance of coupon or registered bonds to refund indebtedness and construct or acquire capital projects.

Outstanding bond issues are limited to stated percentages of the aggregate assessed values of: (1) the taxable real and tangible personal property in the District, (2) excepting parklands, art galleries, museums, etc., the real property in the District owned by the United States and used to provide or perform Federal services or functions, (3) real property exempted from taxation by Act of Congress, and, (4) excepting objects of art, statuary, museum pieces and libraries, personal property in the District owned by the United States.

Percentage limitations range from 2 to 12 percent, depending on the purpose of the issuance, and, excepting bonds to refund indebtedness, voter approval of the issuance is required:

Contents of borrowing legislation: Referendum on bond issue

§ 602(a)—sets the minimum provisions to be contained in acts authorizing a bond issue (i.e. rate of interest, purpose, details on voting on the question of their issue, when required, etc.).

(b)—requires voter approval of bond propositions at either the next general election or a special election both of which may not be held less than 40 days after the enactment of the bond act

(c)—sets the duties of the Board of Elections in such elections and the requirement of notice

Publication of Borrowing Legislation

§ 603—requires acts authorizing bond issuances to be published by the Mayor at least once within 5 days after its enactment. Sets out the form of "notice" to be published.

Short Period of Limitation

§ 604—confers that status of regularity and validity upon the statements and proceedings of bond issues and elections upon the expiration of the 20-day period from and after the publication of: (1) notice of an issuing act, and (2) the election results. Thereafter, interested persons are estopped from denying the same in any forum.

Acts for Issuance of Bonds

§ 605—establishes the procedures and details for issuing the bonds after the expiration of the 20-day period. Some of these are: (1) payments on the bonds must begin not more than 3 years after their issue date and end not more than 30 years from such date, (2) they shall be paid in substantially equal annual installments covering the principal and interest, and (3) they may be sold only after an act of Council establishes their issue, and they may be sold all at one time, or from time to time in series and in such amounts as Council may prescribe.

Public Sale

§ 606—requires bonds to be sold at public sale upon sealed proposals and at such price or prices as Council may approve. Establishes notice requirement and minimum procedures for such public sales.

Part 2—Short-term borrowing

Borrowing to Meet Supplemental Appropriations

§ 621—authorizes and empowers the Council to issue, in the absence of available unappropriated funds, 1 year, renewable, negotiable notes, up to 5% of the current appropriations, to obtain funds to meet supplemental appropriations.

Borrowing in Anticipation of Revenues

§ 622—authorizes borrowing by issuance of 1 year, renewable, negotiable notes in an amount not in excess of 20 percent, in the aggregate at any one time, of total anticipated revenues.

Notes Redeemable Prior to Maturity

§ 623—prohibits the issuance of demand notes but permits authorized notes to be redeemed prior to their maturity.

Sale of Notes

§ 624—permits the private sale of negotiable notes at not less than par and accrued interest.

Part 3—Payment of bonds and notes

§ 631(a)—requires bonds to be paid by an annual levy of a special tax that will produce an amount sufficient—with other District revenues available for this purpose—to pay their principal and interest as they become due and payable.

(b)—pledges the full faith and credit of the District in payment of the bonds.

Part 4—Tax exemption—Legal investment tax

Exemption

§ 641—excepting estate, inheritance and gift taxes, interest from bonds and notes is exempt from Federal and District taxation.

Legal Investment

§ 642—declares that without restriction, the District's bonds and notes are legal investments for fiduciaries, insurance companies, etc., and authorizes national banking associations to deal in such bonds for their own or their customer's accounts to the same extent as they are authorized by law to deal in the obligations of the United States, the States, and their political subdivisions.

The same authority respecting dealing is also conferred upon Federal building and loan associations, Federal savings and loan associations, and financial institutions domiciled in the District.

TITLE VII—FINANCIAL AFFAIRS OF THE DISTRICT

Part 1—Financial administration

Surety Bonds

§ 701—authorizes Council to designate District officers and employees who shall be required to post a surety bond, and provides for premium payments out of appropriations.

Financial Duties of the Mayor

§ 702—vests the Mayor with responsibility to administer the District's financial affairs and charges him to: (1) prepare and submit annual budgets and messages, (2) supervise and control financial transactions and revenues to insure against deficits, (3) maintain adequate accounting and internal control systems, (4) submit comprehensive monthly financial statements to Council, (5) prepare annual financial statements and reports, (6) supervise and be responsible for property assessments, (7) supervise and be responsible for the assessment and collection of taxes, license fees, etc., (8) have custody of the District's public funds, and (9) have custody of all investments and investment funds of the District.

Control of Appropriations

§ 703—authorizes Council to transfer, or allocate to new items, funds appropriated for contingent expenditure.

Accounting Supervision and Control

§ 704—requires the Mayor, through his duly authorized subordinates, to:

(1) prescribe forms for vouchers, bills, receipts, and claims,

(2) examine and approve contracts, etc., which create a financial obligation for the District,

(3) before payment, audit and approve bills, payrolls, and other evidences of claim, debt or charges and demand,

(4) perform internal audits.

General Fund

§ 705—defines the District's general fund.

Contracts Extending Beyond One Year

§ 706—authorizes a contract commitment of up to 5 years if the expenditures involved are out of an appropriation which is available for more than one year. Must be executed in strict accord with Council established criteria, however, to be valid.

Part 2—Annual post audit by General Accounting Office

Independent Annual Post Audit

§ 721—requires the General Accounting Office to audit the District's financial transactions in accord with procedures established by the Comptroller General. Costs of the audit are to be borne by the District. Grants unconditional access to the District's books, accounts and financial records for this purpose. Requires the Comptroller General to submit a report of the audit to the Congress, the Mayor and the Council. Grants the Mayor an opportunity to be heard by Council on the report, and the Council shall make its report and, together with such other pertinent material, it shall submit it to Congress. The Mayor, within 90 days after the report is made to him, shall state in writing, to the Council and Congress, what has been done to comply with any recommendations made in the Comptroller General's report.

Amendment of Budget and Accounting Act

§ 722—makes a conforming amendment to 31 U.S.C. 2.

Part 3—Adjustment of Federal and District expenses

§ 731—authorizes the Mayor and the Director of the Office of Management and Budget for the United States to enter into agreements relating to the ascertainment and payments of amounts owned by each to the other.

Part 4—Annual Federal payment to the District

§ 741(a)(1)—authorizes a Federal payment to the District, the same to be computed and based upon the following factors:

(A) the real property taxes lost in the preceding year—based upon the assessed value and rate of tax—as the result of the exemption:

(i) of real property in the District owned by the United States and used to provide or perform Federal services or functions, or services and functions that would otherwise be performed or provided by the District (but excluding shrines, parklands, museums, art galleries, memorials and statuary),

(ii) real property in the District exempted from taxation by Act of Congress.

(B) the amount of personal property taxes (based on the assessed value and applicable tax rate) lost to the District from the exemption of tangible personal property—excepting objects of art, statuary, museum pieces, and libraries—located in the District and owned by the United States.

(C) the amount obtained by multiplying the actual collections of corporation and unincorporated business franchise taxes, and taxes on insurance premiums and gross earnings of financial institutions and guaranty companies, by the following fraction:

Number of Federal Employees whose Place of Employment is in the District and Number of Other Employees whose Place of Employment is in the District:

(2) the amount of the water service charges furnished to the Federal Government by the District,

(3) the amount of the sanitary sewer service charges furnished to the Federal Government by the District.

(b) authorizes the Secretary of Treasury to pay the amount resultant from the above computation by Sept. 1 of each year if the Administrator of General Services certifies that the requested amount is in conformity with this section. Also authorizes interim payments to the District during the period of July 1 to Sept. 1 pending the payment of the amount authorized by this section.

(c) authorizes the Administrator of Gen-

eral Services and the Mayor to enter into arrangements to resolve disputes over the Federal payment.

(d) authorizes the first Federal payment to be computed on the basis of preliminary estimates.

TITLE VIII—AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT

Amendments

§ 801—makes the following amendments to the District of Columbia Election Act:

(1) amends D.C. Code § 1–1101 to add the office of Mayor, members of Council and the Delegate from the District of Columbia to the list of officials to be chosen by the electoral process.

(2) amends D.C. Code § 1–1102(2) definition of the term "qualified voter" in the following respects: (1) it reduces the voting age from 21 to 18 years, (2) reduces the residency requirement from 1 year to 6 months, (3) redefines the terms "ward" to mean "an election ward" rather than "a school election ward," and, (4) adds definitions for the terms "Council" and "Mayor"—both of which are declared to refer to the officer established by this Act.

(3) amends D.C. Code § 1–1103 to continue the present Board of Election members in office until the expiration of their appointed term. Thereafter, the 6-member Board shall be appointed for 3-year terms by the Mayor, by and with the advice and consent of the Council, at an annual stipend of $1,500. Chairman of the Board is to be designated by the member.

(4) amends D.C. Code § 1–1105(a)(4) to require the Board to divide the District into "eight compact and contiguous election wards" rather than eight school election wards.

(5) amends D.C. Code § 1–1107(d)(1) to require the voter's registry to be closed during the 30-day period ending on the first Tuesday following the first Monday in November of each year rather than in each odd-numbered year as is presently required.

(6) amends D.C. Code § 1–1108(h)(1) to include the Council members as the persons required to be elected by the qualified electors of the respective wards of the District from which the members have been nominated. Excepts the 3 Board of Education members elected at large, the Chairman of the Council, the Mayor and the District delegate from this requirement.

(7) adds candidates for the office of Council member, Mayor and District delegate to the provisions of D.C. Code § 1–1108(i) relating to forms and dates for filing nominating petitions; and, requires the Board of Elections to insure that each signature on a petition is that of a registered voter, and that no voter has signed more than one nominating petition for any office.

(8) adds a new paragraph to D.C. Code § 1–1110(3) to set the election date for members of Council (on the Tuesday next after the first Monday in November of each even-numbered year) and the Mayor (on the Tuesday next after the first Monday in November in each Presidential election year).

(9) amends D.C. Code § 1–1110(4)(A) to require a runoff election (on the 21st day after the general election) when candidates for the Board of Education or Council receive less than 40 percent of the at-large votes, or 40 percent of the valid votes cast in the ward from which they have been nominated. The same percentage applies to candidates for the office of Council chairman, Mayor and District delegate. The candidate receiving the highest number of votes in the runoff election shall be declared elected.

Presently, a runoff election is required only when a candidate for the Board of Education fails to receive a majority of the votes cast.

(10) amends D.C. Code § 1–1110(5) to specify who the two or more candidates shall be in the case of any runoff election, and specifies that the Board of Elections shall resolve any tie votes among candidates to determine the runoff candidates.

(11) conforming amendments are made to the remainder of D.C. Code § 1–110, i.e., in most cases, merely inserting the terms "or Council, or Mayor, or Delegate from the District of Columbia" where appropriate.

Recall

§ 802—subjects elected officials to recall upon a petition signed by 25 percent of the number of voters in the preceding general election in the elective unit or ward from which such official was elected. If the official does not resign within 5 days after the petition is filed, a special election shall be held within 20 days thereafter to determine whether the qualified voters of the applicable elective unit will recall such officer.

Specifies that the reasons for recall shall be printed on the ballot in not more than 200 words, and if a majority of the qualified voters vote to recall any officer, his recall shall be effective on the day the Board of Elections certifies the election results.

Requires the Board of Elections to prescribe necessary rules and regulations with respect to the form, filing, examination, amendment and certification of recall petitions, and the conduct of special recall elections.

Interference with registration or voting

§ 803—enjoins any person from interfering with the registration or voting of another person, except as may be reasonably necessary to perform a duty imposed by law. Immunizes voters from arrest while voting or going to vote (except for treason, felony, or breach of peace then committed) and performing military duty on election day (except in time of war or public danger).

TITLE IX—MISCELLANEOUS

Agreements with United States

§ 901—authorizes agreements (except where the conditions and terms are governed by law) between the District and the Federal Government for an interchange of services. Agreements must be approved by the Mayor, the Council and the Director of the Bureau of the Budget. Requires the costs to be paid by the Government receiving the services.

Personal interest in contracts or transactions

§ 902—provides for a forefeiture of office or position upon conviction of a District officer or employee for a violation of 18. U.S.C. § 208.

Compensation from more than one source

§ 903—removes dual-compensation prohibitions for members of Council and the Board of Elections.

Assistance of the United States Civil Service Commission in development of District merit system

§ 904—authorizes the United States Civil Service Commission to assist the Mayor and Council to develop a District merit system and enter into agreements to make registers of eligibles available as a recruiting source for the District.

TITLE X—SUCCESSION IN GOVERNMENT

Transfer of personnel, property and funds

§ 1001—provides for the simultaneous transfer of property, records, appropriations and employees when functions are transferred under this Act. If such transfers result in an excess of employees, they are to be retransferred to other positions in the District or Federal Government with their civil service status and rights intact.

Existing statutes, regulations, and other actions

§ 1002—except as otherwise modified or made inapplicable by law, statutes, regulations, rules, orders, contracts, compacts, policies, grants, permits, etc. in existence with respect to transferred functions continue in effect as if such transfer had not been made.

Pending actions and proceedings

§ 1003—provides that any judicial or administrative action lawfully commenced against or by any officer or agency of the District shall not abate by reason of any provision of this Act upon its taking effect.

Vacancies resulting from abolishment of offices of commissioner and assistant to the commissioner

§ 1004—provides that until July 1 next after the Mayor takes office agency vacancies by reason of abolishing the above offices shall not affect the power of the remaining members of such agency to exercise its functions, but its action may only be taken upon a majority vote of its members.

TITLE XI—SEPARABILITY OF PROVISIONS

§ 1101—preserves the applicability and validity of the remaining provisions of the Act in the event any of its provisions are held inapplicable or invalid.

TITLE XII—TEMPORARY PROVISIONS

Powers of the President during transition period

§ 1201—authorizes the President, during the transition period, to take such action as he deems necessary with respect to administration of the District's functions to enable the Board of Elections to perform its functions under this Act.

Reimbursable appropriations for the district

§ 1202—provides for a Federal advance—subject to reimbursement without interest—of $750,000 to pay the expenses of the Board of Elections, and in otherwise carrying into effect the provisions of this Act.

TITLE XIII—EFFECTIVE DATES

§ 1301—establishes effective dates as follows:

(a) *Charter*—effective the day after it is accepted.

(b) *Title III, part 2, Title VII (except part 4) and Title XV*—on the day the first elected Council members take office.

(c) *Section 402*—on the day the first elected Mayor takes office.

(d) *Title VII, part 4*—with respect to the first fiscal year, beginning next after the first elected Mayor takes office, and with respect to subsequent fiscal years.

(e) *Titles XII, XIV, and XV*—on the day after this Act takes effect.

TITLE XIV—SUBMISSION OF CHARTER FOR REFERENDUM

Charter referendum

§ 1401—requires the Board of Elections to set a Charter Referendum date within 4 months after this Act's enactment.

Board of elections

§ 1402—in accordance with Title VIII hereof, the Board of Elections shall conduct the Charter Referendum and certify its results.

Applicability of title VIII

§ 1403—provides that Title VIII—despite the fact it does not take effect until the charter is accepted, and except as otherwise indicated in this Title—shall govern all aspects of the referendum election.

Charter referendum ballot: Notice of voting

§ 1404—specifies the contents of the charter referendum ballot. Permits voting by paper ballot or voting machine. Sample ballots and information showing the polling place must be mailed to the registered voters 5 days before the referendum, and a list of the polling places and hours of voting must be published in a newspaper of general circulation one day before the referendum.

Acceptance or nonacceptance of charter

§ 1405—requires a majority vote of the qualified electors for charter acceptance and requires certification of election results by the Board of Elections within 30 days of the referendum.

TITLE XV—INITIATIVE

Power to propose and enact legislation

§ 1501—vests the District's qualified voters with power to enact legislation on all subjects through the medium of initiative upon a petition for the same by 10 percent of the number of qualified voters voting in the last preceding general election. Requires the Board of Elections to certify petitions for initiative which shall be voted upon at the first general election not less than 30 days nor more than 1 year from the certification date.

Sets the contents of such petitions, gives the Board of Elections 30 days to certify petitions, and declares that in the case of conflicting petitions in the same election, the one receiving the largest affirmative vote shall prevail to the extent of such conflict.

TITLE XVI—TITLE OF ACT

§ 1601—cites the Act as the "District of Columbia Charter Act."

By Mr. EAGLETON:

S. 1604. A bill to direct the establishment of health standards for employees of food service establishments in the District of Columbia. Referred to the Committee on the District of Columbia.

DISTRICT OF COLUMBIA RESTAURANT HEALTH STANDARDS ACT

Mr. EAGLETON. Mr. President, I introduce for appropriate reference a bill to protect the health of visitors and citizens of the District of Columbia by establishing health standards for employees of food establishments in the District of Columbia. Similar legislation was introduced in the other body by my respected colleague from Missouri, Dr. Durward Hall, and the very distinguished chairman of the District of Columbia Committee, Mr. McMILLAN.

The District code now contains a law stating that no person afflicted with any communicable disease can work "with food." But no law or regulation requires current congressional food-handling employees or such applicants anywhere in the District of Columbia area to take a physical examination of any sort, let alone annually.

In essence, the bill requires that no person can be employed by any food establishment in the District of Columbia, including the Senate and House restaurants, unless he meets such health standards prescribed by the District of Columbia Council, in pursuance to the tests outlined in the bill. The bill calls for annual examinations which include a tuberculin test, X-ray of the chest—uncovered—a serological test, and examination of hands, skin, nose, and throat and body orifices—including a culture where appropriate. These standards would provide sufficient protection against further outbreaks of communicable diseases such as tuberculosis, and other common and rarer diseases ordinarily associated with food-handling and preparation.

These requirements would be administratively and budgetarily feasible. Tuberculin tests are not costly. Up to 1957 the District of Columbia required an annual physical examination and health permit requirement for restaurant workers. The point is, we cannot afford to do without them.

Tuberculosis is a highly contagious bacterial disease usually associated with poverty, stress, overwork, and social problems. The average active case of tuberculosis will be the source for the infection of 15 persons before it is detected. The TB victim can begin infecting others well before his own symptoms force him to seek medical advice. Therefore, people constantly in contact with the public should meet such minimal health requirements as I have outlined above in order to prevent outbreaks similar to that which occurred on Capitol Hill in the early part of 1970.

It may surprise you to know, the District of Columbia ranks fifth in the incidence of active new tuberculosis cases among the more than 50 cities in the Nation with a population of 250,000 or more. New case-rates are nearly three times the national average and the death rate more than triple that of the rest of the Nation, according to H. Michael Cannon, director of District of Columbia's Tuberculosis and Respiratory Disease Association.

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. 1604

A bill to direct the establishment of health standards for employees of food service establishments in the District of Columbia

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 "District of Columbia Restaurant Health Standards Act".

SEC. 2. No person may be employed by any food service establishment in the District of Columbia (including the restaurants of the United States Senate and House of Representatives and any other food service establishment on real property owned or leased by the United States Government) unless he meets such health standard as the District of Columbia Council shall by regulation prescribe. Such regulation shall require that (1) each employee of a food service establishment in the District of Columbia undergo, at least annually, an examination to determine if he meets such standard; and (2) such examination include a tuberculin test, X-ray of the chest (uncovered), a serology, and examination of hands, skin, nose, throat, and body orifices, including a culture (where appropriate).

SEC. 3. Section 2 of the Act entitled "An Act to extend the health regulations of the District of Columbia to Government restaurants within the District of Columbia", approved December 20, 1944 (D.C. Code 6–1101), is repealed.

By Mr. MOSS:

S. 1605. A bill to amend section 3109 of title 5, United States Code, relating to temporary or intermittent employment of exports and consultants, and for other purposes. Referred to the Committee on Post Office and Civil Service.

FEDERAL EMPLOYMENT OF EXPERTS AND CONSULTANTS

Mr. MOSS. Mr. President, at the present time Federal law allows the Government to enter into contracts to procure consulting services only when authorized by specific appropriation or other statutory provision.

Section 3109 of title 5 of the United States Code provides that:

(b) When authorized by an appropriation or other statute, the head of an agency may procure by contract the temporary (not in excess of 1 year) or intermittent services of experts or consultants or any organization thereof, including reporting services.

Because there is no uniformity as to the conditions under which the services of experts and consultants are obtained, and therefore no uniformity as to the amounts of compensation paid by the various departments and agencies, considerable confusion has resulted. Furthermore, I am told the difference in rates offered for export services in different fields and the inadequate rates of compensation offered in some instances, has discouraged many experts from proffering their services to the Federal Government.

I am therefore today offering—at the request of the National Society of Professional Engineers—a bill which amends section 3109 of title 5 to authorize the head of each agency, subject to regulations prescribed by the President, to procure, by contract—not to exceed 1 year—temporary or intermittent services of experts or consultants, at a maximum rate, not to exceed the level of GS 18, or approximately $140 a day. Travel time would be computed in the same way.

The provisions of the bill would not, of course, withdraw from the agency the right to adjust the level of pay to the level of service required, and it gives the President the right to prescribe all regulations to carry out the provisions of the act, including the right to prescribe payments in excess of the maximum for services to the White House, for example, or for other agencies.

I realize that the problem I am attacking is one with which the appropriations committees of the House and the Senate have been wrestling for some time, and have not found a satisfactory solution other than writing specific provisions, often at variance one with the other, in individual appropriation bills.

I offer this bill for consideration and discussion as a possible solution to some of the problems faced by both agencies and professional consultants.

The need for uniformity has been recognized in the past by both the General Accounting Office and the Bureau of the Budget.

By Mr. BROOKE:

S. 1606. A bill to establish an interagency advisory council to study and evaluate the potential domestic application of Department of Defense research projects. Referred to the Committee on Armed Services.

DOMESTIC APPLICATIONS OF DEFENSE RESEARCH

Mr. BROOKE. Mr. President, I introduce today a bill to establish an Interagency Advisory Council on Domestic Applications of Defense Research.

This bill is the second of four pieces of legislation bearing on the state of our

economy and the rate of unemployment, to which I referred in my remarks last Wednesday.

By Mr. BELLMON:

S. 1607. A bill to provide for additional acreage diversion to protect the environment or the local economy of any area from the results of a natural disaster. Referred to the Committee on Agriculture and Forestry.

FARM LEGISLATION

Mr. BELLMON. Mr. President, throughout much of the Middle West farm belt the threat of periodic drought is a menace that hangs over every household. When the rains stop, the dirt blows, wells go dry, crops fail and cattle go hungry.

Under such conditions there is no choice for many farmers but to leave the land and move to the cities where they add to our already crushing urban crisis.

This year, as in far too many previous, portions of our country are suffering from severe drought. There will be no harvest throughout large areas of the Southwest. There will be no cattle to market this fall and there will be no money to pay feed bills, land taxes, interest or even normal living expenses.

We are facing another forced out-migration of skilled, energetic, hardworking farm people who, through no fault of their own, have been dealt a tragic blow.

Mr. President, historically and for good and well-accepted reasons our Government has come to the assistance of people caught in situations such as this. In time of flood and hurricane we stand ready to help a community back on its feet. Such disasters are sudden but the degree of devastation is probably no more severe than the damage from a widespread and prolonged drought.

Tragically, our present laws are woefully inadequate in providing the means for coping with a drought disaster. Back in the 1930's, farmers could tighten their belts, haul in extra hay and grain for the horses and mules and postpone spending money until the rains came.

Now agriculture has become a capital intensive industry.

In these times, it takes a large cash flow to purchase the necessary supplies, feed, seed, fertilizer, and insecticides, and to operate and maintain farm machinery and equipment. It is simply not possible to keep a farming operation going without cash income.

For years, the profit level in agriculture has been so low that few farmers are able to build up any kind of financial reserve to enable them to undergo a prolonged drought.

Under present laws, there are two types of drought disaster designations.

The Secretary of Agriculture, on recommendation of the State Disaster Committee, may authorize the following ASC programs:

Livestock feed program, under which producers can buy CCC grain at reduced prices.

Grazing and haying of land retired under USDA programs. Producers can be authorized to use that land and pay a reasonable price for the privilege of using it, until a cutoff date fixed by the Secretary.

Cost-sharing for measures to control soil erosion and restore damaged grass. The Government can pay up to 80 percent of the cost.

The Secretary also may authorize emergency loans through the Farmers Home Administration.

The other type is a presidential declaration of a major disaster under Public Law 91–606. According to the Office of Emergency Preparedness, under a presidential declaration, disaster unemployment assistance may be possible, and USDA programs for livestock feeding, and for food stamp and surplus commodity distribution may be expanded. A presidential disaster declaration also modifies the Small Business Administration and Farmers Home Administration disaster loan programs by including cancellation of up to $2,500 of the principal of "economic injury" loans made under such a declaration.

Mr. President, to my way of thinking, the best way to describe the existing program is "too little and too late." When a farmer's crops are burning up and his stock are starving, he has got his back up against the wall. It is not enough to let farmers graze their set-aside acres where nothing is growing. It is not enough to let them bring in a few bales of hay when the price still makes the cost of maintaining herds prohibitive. It is not enough to offer farmers limited credit if they can prove their eligibility. It is like trying to fight a forest fire with a water pistol.

Yet, year after year, we hear a loud hue and cry for drought disaster relief. The fact of the matter is, according to the U.S. Department of Agriculture, there is a disaster in American agriculture somewhere every year.

In fiscal year 1969–70, for example, there were 357 counties in 19 States declared disaster areas for the grazing and haying program, and 96 counties in 10 States declared disaster areas under the livestock feed program.

We have become victims of a "drought disaster syndrome" brought about by a growing dependence in times of panic upon a program that amounts largely to a tranquillizing operation. Certain elements of the news media with a taste for sensationalism, along with uninformed, opportunistic politicians have contributed to this syndrome by consistently touting this weak program as a cure-all and by generating pressure to have a drought disaster area declared. Farmers usually find that they have been misled by promises of substantial help and are tragically let down when only token assistance is forthcoming.

In dealing with problems of drought, we have been administering aspirin when a transfusion is actually what is called for.

What farmers really need is a program of "droughtproofing" that is geared to the economic needs of present-day agriculture.

As a major feature of such a program, last year I proposed a national feed bank to encourage livestock and feed producers to grow and store an extra supply of forage during good production years, and have it available when feed production is low. The new farm bill contains a provision for such a program, but it has not been implemented. I call upon the Department of Agriculture to put the feed bank into operation to build substantial future feed reserves in areas where they will be needed.

In addition, other action needs to be taken, for which purpose I am today introducing a bill in the nature of an amendment to the farm bill which was passed last year, to give the Secretary of Agriculture additional discretionary authority.

The purpose of this measure is to prevent an exodus of population from the farms and rural communities, and their subsequent migration to large metropolitan areas.

This legislation also is needed to preserve the food-producing capability of areas during years of normal rainfall, and to control serious soil erosion and duststorms during times of drought.

The legislation also would provide at least a semblance of income security for rural area residents, such as urban workers enjoy from a myriad of Government programs.

Mr. President, the bill is brief, and I ask unanimous consent that it 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. 1607

A bill to provide for additional acreage diversion to protect the environment or the local economy of any area from the results of a natural disaster

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 379b(c)(2) of the Agricultural Adjustment Act of 1938, as amended, and sections 103(e)(4)(B) and 105(c)(2) of the Agricultural Act of 1949, as amended, are each amended by—

(1) inserting in the first sentence after "To assist in adjusting the acreage of commodities to desirable goals" the following: "or protect the environment or the local economy of any area from the results of a natural disaster"; and

(2) inserting after the second sentence thereof the following: "In the case of diversion payments made to protect the environment or the local economy of any area the rate shall be equal to not more than 50 per centum of the estimated basic county loan rate for the commodity on the normal production of the acreage diverted."

By Mr. SPARKMAN (for himself, Mr. ALLEN, Mr. CHURCH, Mr. EASTLAND, Mr. HART, Mr. JACKSON, Mr. METCALF, Mr. BENNETT, Mr. HATFIELD, Mr. TOWER, and Mr. YOUNG).

S. 1608. A bill to designate certain lands on the Bankhead National Forest in Alabama as wilderness. Referred to the Committee on Agriculture and Forestry.

BANKHEAD NATIONAL FOREST IN ALABAMA

Mr. SPARKMAN. Mr. President, I am introducing a bill which will assure permanently to the people of Alabama and of the Nation the use and enjoyment of one of Alabama's splendid natural treasures, the proposed Sipsey Wilderness on the Bankhead National Forest situated in Lawrence and Winston Counties in northwest Alabama. Joining with me in sponsoring the bill are my

colleague from Alabama, Senator ALLEN; and Senators CHURCH, EASTLAND, HART, JACKSON, METCALF, BENNETT, HATFIELD, TOWER, and YOUNG.

For generations, the people living in northern Alabama and, indeed, people from surrounding States, have been going to the headwaters of the Sipsey River to enjoy the wild beauty of this area and to refresh themselves by roaming, camping, fishing, hunting, and learning the ways of nature in this truly extraordinary piece of God's handiwork.

Our bill would place approximately 12,000 acres encompassing the headwaters of the Sipsey River under the National Wilderness Preservation system in accordance with the Wilderness Act of 1964. The protection provided by the Wilderness Act would guarantee by the surest means that the natural treasures within this unique area in the way of wildlife, plants, geology, and rugged stream canyons will continue to flourish and to be available for all people to see and to know, to enjoy and understand.

The natural qualities of the Bankhead National Forest, and in particular the qualities of the proposed Sipsey Wilderness, are remarkable, because it is here that the three major land masses, or types, east of the Rocky Mountains meet and overlap. This makes possible an extraordinary diversity of plants and animals in this area. This immensely varied combination of soils, water, and climate provides a total environment which offers the essential living conditions for a range of plant and animal life far in excess of that found almost anywhere else in the eastern United States. It is an area which truly demands preservation.

Geology has provided a naturally protected ecology in this part of the Bankhead Forest. The canyons are rimmed by massive bluffs of sandstone which form precipitous cliffs, some more than 100 feet high. The canyons themselves are deep, shadowy and cool. Fossils from the late Paleozoic era are abundant. The area is a veritable botanists' paradise. The cool, moist canyons provide suitable habitat for what is essentially Appalachian flora, but with unusual inclusions from the Piedmont to the east and the Ozarkian areas to the west. Cool summer temperatures in the gorges allow many plants to reach their southernmost geographical limit on the Bankhead National Forest. Two very rare and demanding representatives of the fern family are abundant in the area. The lovely large yellow ladyslipper, a native orchid of great beauty, is found amongst a carpet of rare and unusual mountain wildflowers growing unexpectedly far south. Two wild camellias, aristocrats of our native flowering shrubs, three species of deciduous magnolias, and Alabama's largest specimen of the tulip poplar tree are to be seen here. Large, vigorous hemlocks are especially noteworthy, as this is the southernmost range of that species.

Much is to be learned about the distribution and ecology of nongame mammals living in the proposed wilderness. Twenty-five of 53 species and subspecies of southwestern mammals have been definitely recorded in the proposed wilderness tract. It seems probable that careful scientific study, which is already being carried on, will disclose other species. The area has been renowned for its abundance of game animals since Indian times. There are 147 species of birds known to occur in the area. Two species of amphibians, the barking tree frog and the seal salamander, live here far from their previously known ranges. While a great many people have little interest in snakes, it is interesting to note that the red milk snake, which is rather pretty, has been found here, more than 100 miles from its previously known range.

In short, the area is indeed unique, and such a wealth of living natural wonders cries out for the full protection which can only be provided through designating the region as wilderness.

If my bill is enacted, future generations of Alabamians and Americans from all over the Nation will be able to enjoy the refreshing and stimulating wilderness experiences to be gained here.

I am indeed proud that Senators from other sections of the country have joined with Senator ALLEN and me in sponsoring this bill. I earnestly hope that it will be approved.

By Mr. PEARSON:

S. 1611. A bill to amend the Interstate Commerce Act, Section 204. Referred to the Committee on Commerce.

Mr. PEARSON. Mr. President, I introduce today for appropriate reference legislation to amend the Interstate Commerce Act for the purpose of insuring that regulations governing the operation of farm vehicles will be based on commonsense and on an understanding of the normal operation of our Nation's farms.

This legislation is necessary because regulations considered and proposed by the Bureau of Motor Vehicle Safety in the Department of Transportation would prohibit young men under the age of 21 from operating farm vehicles in interstate commerce. The effect of such a regulation, Mr. President, could be devastating to the farming community of Kansas and the entire country. Young men under 21, whether sons of farmers or neighbors or college students, represent a substantial portion of the farm workforce. It is simply vital that they be allowed to operate vehicles necessary for the operation of our Nation's farms.

It is not my intention, Mr. President, to compromise the needs of safety on the streets and highways of the Nation. Rather, it is my objective that Federal regulations be reasonable, capable of enforcement, and responsive to the demonstrated needs of all sections of the country.

Mr. President, information at my disposal indicates that the number of accidents involving commercial vehicles of all types is approximately three times greater than the number of accidents involving farm vehicles, even though farmers operate six times as many vehicles as the regulated trucking industry. Further, I am informed that members of the 21-and-under age group driving farm vehicles have a safety record as good as or better than any other age group, and several times better than the safety record of members of their age group who are not driving farm vehicles.

I wish to advise the Senate, Mr. President, that twice during the last month representatives of farm interests have met with officials from the Bureau of Motor Vehicle Safety. I am advised that an agreement has been reached to extend the present temporary exemption for farm vehicles for a certain as yet undefined length of time. It is my understanding that during this period revised regulations will be proposed, comments will be invited, and a permanent rule promulgated. I wish the record to indicate that the extension of this exemption is welcomed by the farmers of my State. It means that this harvest can be handled as usual. It means that we have had some measure of success in pleading the case of our farmers. But because it is so crucial that young men under 21 be allowed to continue to operate farm vehicles, I am offering this legislation to insure and to make clear and permanent that any Federal regulations—whenever promulgated—will be sensible and responsive to the needs of farmers in Kansas and elsewhere.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD at the conclusion of my remarks. I further ask unanimous consent that a letter from me to Dr. Robert A. Kaye, Director of the Bureau of Motor Vehicle Safety, as well as two letters from constituents of mine which are representative of the mail which I have been receiving on this point, be also printed in the RECORD at the conclusion of my remarks.

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

S. 1611

A bill to amend the Interstate Commerce Act, Section 204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204 of the Interstate Commerce Act is hereby amended by inserting a new subsection (g) reading as follows:

"(g) provisions of this section shall not apply to motor vehicles specified in section 203(b)(4a) or (5) of this Act".

U.S. SENATE COMMITTEE ON COMMERCE,
Washington, D.C., March 25, 1971.

Dr. ROBERT A. KAYE,
Director, Bureau of Motor Vehicle Safety Department of Transportation, Washington, D.C.

DEAR MR. KAYE: Regulations recently proposed by your Bureau to increase the standards applicable to trucks driven in interstate commerce would have a dramatic and damaging impact upon farmers of my State and of the nation.

To provide that no farmer or member of his family or employee can drive a truck in commerce unless the driver: is at least 21 years of age; has passed a road test; has taken an examination in the Federal safety regulations; carries with him a medical certificate not over 24 months old; and, if an employee, has filed with the employer at the time of employment, and annually thereafter, a driving record indicating any traffic or other violation of law is to impose an enormous burden on farmers and farm operations.

The responsibility of your office is to im-

prove the safety of motor vehicle traffic in the United States. Please understand that I wholeheartedly support your determination to carry out that responsibility. However, the net effect of the regulation in question would be to encourage wholesale violation of law and to contribute to more accidents than it is intended to prevent.

Information at my disposal has persuaded me that your proposed regulation is not based on relevant facts. It appears to me that your office has responded to figures which show higher numbers of accidents involving members of the 21 and under age group *driving all types* of vehicles—figures with which I have no argument. But my information shows that members of the 21 and under age group *driving farm vehicles* have a safety record as good as or better than any other age group and several times better than the safety record of members of their age group who are *not driving farm vehicles*. In other words, Dr. Kaye, an eighteen year old driving a farm truck in Kansas is a much safer driver than an eighteen year old driving a new car in Philadelphia.

The number of accidents involving commercial vehicles of all types, moreover, is approximately three times greater than the number of accidents involving farm trucks—even though farmers operate six times as many trucks as the regulated trucking industry.

Grave questions regarding notification and due process of law also have been raised by the failure of your office to make clear, in its announcement of these regulations, that any change was intended in standards governing farm vehicles. It would appear that the Bureau intended to make farmers comply with regulations with which they were completely unfamiliar.

The economic loss which would be suffered by the farming community should this regulation be adopted, I wish to emphasize would be quite substantial. Young men under 21 (whether sons of farmers or neighbors or young men attending college) represents a substantial portion of the work force engaged in transporting farm products. Custom combine operators would be particularly affected.

Accordingly, Dr. Kaye, I strongly urge that consideration be given to exemptions either for small farm trucks, for local hauling or for other functions critical to farm operations. It is not my position that farm operators who drive large trucks for substantial distances should be exempt from the regulations, nor is it my position that farm operations should be exempt from existing stringent safety regulations imposed by the State of Kansas. Rather, it is my position that proposed federal regulations should be based on common sense and on an understanding of the normal operations of our nation's farms.

Finally, because it is my conviction that these proposed regulations are not, as presently drawn, in the national interest, I wish to make clear that I am prepared to resist their adoption to the fullest extent necessary.

Your immediate attention to these matters will be personally appreciated.

With kindest personal regards.

Very truly yours,

JAMES B. PEARSON,
U.S. Senator.

HARPER, KANS.,
April 10, 1971.

Senator JAMES F. PEARSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PEARSON: We are much concerned about the new regulations set forth by the U.S. Department of Transportation relating to truck drivers. As this also applies to farm truck drivers, we are much opposed to the regulation.

I don't think that I need to tell you how much this will hurt agriculture. Not only will it hurt agriculture, but it will be a severe blow to the youth who find employment in situations that involve interstate transportation.

We hope that you can use your influence to amend these regulations.

Sincerely,

NORMAN LATTA.

PHILLIPSBURG, KANS.,
April 17, 1971.

Senator JAMES PEARSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: We are writing regarding the truck driving ruling requiring a driver to be 21. We deliver 90% of our grain to a different state as it is the nearest market. We farm on both sides of the Kansas, Nebraska line and this would be a definite hardship for us. We have two farm experienced boys who are 17 and 20, who are our only help. Farm labor is impossible to find. Our 20 year old son is a third year mechanical engineering student at K State. He has had five years truck driving experience and it would seem foolish to eliminate him now.

Please use your influence to kill this ruling.

Sincerely,

Mr. and Mrs. WESLEY CHRISTENSEN.

By Mr. MILLER (for himself, Mr. BELLMON, Mr. BENNETT, Mr. ROTH, Mr. DOLE, Mr. DOMINICK, Mr. FANNIN, Mr. FONG, Mr. HANSEN, and Mr. BOGGS):

S. 1612. A bill to establish a revenue-sharing program for rural development. Referred to the Committee on Agriculture and Forestry.

Mr. MILLER. Mr. President, on behalf of myself and Senators BELLMON, BENNETT, ROTH, DOLE, DOMINICK, FANNIN, FONG, HANSEN, and BOGGS, I introduce, for appropriate reference, the Rural Community Development Revenue Sharing Act of 1971, a measure that would make funds available in an amount equivalent to $1.1 billion on a full-year basis for Federal revenue sharing to the States.

This is the administration bill recommended to Congress by President Nixon. I ask unanimous consent that the text of the bill, the Secretary of Agriculture's letter of transmittal to the Senate, the Secretary's section-by-section analysis of the bill, the President's message to Congress of March 10, the White House Press Secretary's release, and a fact sheet issued by the White House Press Secretary be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MILLER. Mr. President, the time has come when we must stop taking from rural America and start giving some back. Rural America has suffered too long from an agricultural revolution which has given our consumers the lowest cost, highest quality food and fiber of any country in the world, without a corresponding benefit to the producers themselves.

Today, 59 percent of the Nation's substandard housing is located in nonmetropolitan America, where the median family income is 22 percent below that in the metropolitan areas. These figures, which emphasize the disproportionate share of our national net income going to people in rural America, could be added to many times over.

It is time for this Nation to declare an end to the draining of youth and opportunities and living qualities from its countryside. But not simply for rural America must this action be taken. All of America suffers when rural America loses 240,000 people a year.

While in most rural areas it is difficult to achieve economies of scale in such public services as education, health, and transportation, these services are grinding to a halt, too, in the heavily urban areas because such congested areas can no longer function economically, either.

We need a better policy for national growth. And we need it now—before the next 75 million Americans arrive.

This bill I am introducing today will do much toward bringing about a more balanced growth in America and toward bringing to the people of rural America a better share of this Nation's opportunities and benefits. Developing rural America into the kind of economy and society we need is probably the greatest domestic challenge this Nation is facing in the last part of this century. Such development, of course, must be correlated with relieving urban problems—but all are related to the need for an intelligent distribution of our population and resources in the future.

It is not a question of whether we can accomplish this giant task. It is mandatory, if our society is to survive as a good society. We have no choice but to tackle the problem with all our energies. We must plan well, and execute even better. There is no room for boondoggling, nor partisan political maneuvering in this vast undertaking. We cannot afford anything but our best efforts to achieve a goal that has no alternative.

The real strength of rural development must come from harnessing local energies and desires. Programs must issue from the people who know their own problems better than anyone, their own capabilities, and their own priorities.

It takes many different kinds of activities to create opportunity in rural America: the education and training of individuals, health programs, transportation and the development of community water and sewer facilities to encourage the location of industry with its job opportunities. Not the least of these requirements is to develop, conserve, and protect forest, land, and water resources.

The variety of needs is as broad as America and as diverse as the thousands of communities which make it great.

Essentially, what the bill proposes to do is to unite the funding of a number of programs into one rural community development revenue-sharing program, to add $179 million to that fund and then to turn it over to the States, under fairly-devised formulas, to meet their rural needs and accelerate their rural development.

The bill, it should be noted, would assure the continuation of the programs of agricultural extension work through the land-grant college or colleges.

The administration has guaranteed that funds available to each State under this program would at least equal funds which are presently available to that State under the Federal categorical pro-

grams converted to rural community development revenue sharing.

The bill offers an immediate means for establishing priorities that will fit the needs of each State and local community. It begins a reversal of the resource flow from Washington back to the creators of the resources. It turns initiative back to the people themselves through their legislatures and Governors, and if one has faith in the people holding these positions, one should have no problem with this bill.

Mr. President, I ask unanimous consent that a statement prepared by the distinguished Senator from Kansas (Mr. DOLE) be printed in the RECORD at the conclusion of the previously inserted material.

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

(See exhibit 2.)

EXHIBIT 1

S. 1612

A bill to establish a revenue-sharing program for rural development

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 "Rural Community Development Revenue-Sharing Act of 1971."

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress hereby finds and declares that many rural areas of the Nation, while rich in natural resources and potential, have lagged behind the rest of the Nation in economic growth, and that the people of these rural areas have not shared in the Nation's prosperity. The Congress recognizes the need for increased efforts by Federal, State, and local governments to provide the economic base that is a vital prerequisite for vigorous self-sustaining growth and necessary to bring the rural areas of the Nation to their full potential.

The Congress declares that in order to generate increased employment opportunities and individual incomes in rural areas, to improve the quality and accessibility of rural community facilities and services, to stem out-migration from rural areas, to encourage private investment in industrial, agricultural, and commercial enterprises, to solve farm, home, and community problems. to protect and conserve natural resources, and to establish and improve public works and development facilities, a system by which States may share in national revenues is necessary and desirable; and that in order to implement an effective nationwide rural community development policy and thereby to enhance the national prosperity, it is necessary to terminate and modify certain development programs now undertaken by the Federal Government.

TITLE I—DEFINITIONS

DEFINITIONS

SEC. 101. For the purposes of this Act:

(a) The term "rural area" means any county, parish, or similar political subdivision, including all area within the territorial confines thereof, which either has a population density of less than 100 persons per square mile or is not included within a Standard Metropolitan Statistical Area;

(b) The term "rural population" means the total resident population, as defined and used by the United States Bureau of the Census, of a rural area;

(c)(1) The term "rural development" means rural community development programs or activities of a State which directly benefit the residents of a rural area within such State and are:

(A) undertaken within a rural area;

(B) certified by the local government within a rural area as directly benefiting the residents of such area; or

(C) certified by the Governor as directly benefiting the majority of the residents of rural areas within said State.

(2) The term "rural community development programs and activities" includes, but is not limited to, programs and activities which:

(A) Establish and improve public works, public service, and development facilities;

(B) Encourage private investment in, and promote the establishment and expansion of, industrial, agricultural, and commercial enterprises;

(C) Prevent conditions of excessive unemployment and underemployment, alleviate unemployment caused by loss or curtailment of large industries or Governmental activities, generate increased employment opportunities, and assist in manpower development;

(D) Assist in generating increased personal and corporate income;

(E) Further the economic development and growth potential of underdeveloped areas and help such areas to help themselves achieve lasting improvement;

(F) Improve the quality and accessibility of rural community facilities and services;

(G) Stem outmigration of families, labor, and capital from rural areas and encourage migration to such areas;

(H) Assist in the solution of farm, home and community problems;

(I) Promote the conservation, development, and proper utilization of human and natural resources;

(J) Encourage the solution of problems of wide geographic significance;

(K) Establish and improve educational facilities and encourage the development of improved educational methods;

(L) Establish and improve land, water, and air transportation systems and services for goods and passengers;

(M) Assist in the solution of problems related to law enforcement activities;

(N) Enhance domestic prosperity by the establishment of stable and diversified local economies and improved local conditions;

(O) Assist in the establishment of decent, safe, sanitary, and comfortable housing;

(P) Establish and improve health facilities and services and generally promote improved health and nutrition of residents of rural areas;

(Q) Establish programs and projects of the type authorized under Title I of the Demonstration Cities and Metropolitan Development Act of 1966; and

(R) Provide direct financial incentives to industry to create jobs in rural areas.

(d) The term "rural per capita income" means the average personal income of the rural population of a State;

(e) The term "fiscal year" means the fiscal year of the Government of the United States;

(f) Except where otherwise indicated, the word "Secretary" means the Secretary of Agriculture or his delegate;

(g) The word "State" means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam;

(h) The word "Governor" means the chief executive officer of each State or his delegate;

(i) The term "Attorney General" means the Attorney General of the United States or his delegate;

(j) The term "Standard Metropolitan Statistical Area" means a standard metropolitan statistical area as that term is defined and used by the Office of Management and Budget;

(k) The term "personal income" means personal income as that term is defined and used by the Office of Business Economics of the Department of Commerce.

(l) (1) The term "local government" means a municipality, county, or township as such terms are defined and used by the United States Bureau of the Census.

(2) The term "local government" does not include independent school districts or special districts;

(m) The term "State development plan" means a plan for the expenditure of funds to which a State is entitled under subsections (a) through (c) of section 202. Such plan shall set forth the specific rural community development programs and activities which, subject to section 204, are proposed to be undertaken or continued with such funds and shall take into consideration the varying needs and development and growth potentials of rural areas within the State and the possible integrated use of development resources of such areas; and

(n) The term "State development planning system" includes a State development planning advisory commission whose duty it shall be to advise the Governor with respect to the formulation of the State development plan. The membership of such planning commission shall be composed of one representative from each government planning board, as defined in this section, together with the Governor of such State.

For the purpose of formulating a State development plan, each State shall establish multi-jurisdictional planning districts which together shall encompass the geographic area of the entire State. A planning board for each district shall be composed of elected officials from local governments within such district and shall be designated by such local governments. The duties and authorities of planning boards within the State shall be determined by the Governor of such State.

One representative of each planning board, who shall be a member of such board, shall be selected by members of such board for membership on the State development planning advisory commission.

DATA FOR DEFINITIONS

SEC. 102. Where appropriate, the definitions in section 101 shall be based on the latest published reports of the Department of Commerce, or the Office of Management and Budget, on the date of enactment of this Act, and of each subsequent year. The data used in applying these definitions at any point in time shall be the latest published data referable to the same point or period in time. The Secretary may, by regulation, change or otherwise modify the definitions in section 101 in order to reflect any change or modification thereof made subsequent to such date by the Department of Commerce or the Office of Management and Budget.

TITLE II—RURAL DEVELOPMENT REVENUE SHARING

APPROPRIATION AUTHORIZATION

SEC. 201. There are hereby authorized to be appropriated without fiscal year limitation such sums as may be necessary for the purposes of this title for each fiscal year.

STATE ENTITLEMENT

SEC. 202. (a) Of the amounts provided from appropriations authorized by section 201 for any fiscal year for the purposes of this title, a minimum of eighty percent shall be apportioned by the Secretary among the States in accordance with their entitlement as determined by subsections (b) and (c) of this section.

(b) One percent of the amount required to be apportioned under subsection (a) shall be divided among the States in equal proportion.

(c) Each State shall be entitled to a portion of the remainder of the amount required to be apportioned under subsection (a), which portion shall be determined as follows:

(1) Each State shall be entitled to receive

an amount equal to fifty percent of such remainder multipled by a fraction the numerator of which is the rural population of such State at the most recent point in time for which appropriate statistics are available and the denominator of which is the sum of the rural populations of all States at the same point in time;

(2) Each State shall be entitled to receive an amount equal to twenty-five percent of such remainder multipled by a fraction the numerator of which is the average of per capita incomes of all the States at the most recent point in time for which appropriate statistics are available less the rural per capita income of such State at the same point in time, such difference to be multiplied by the rural population of such State at the same point in time, and the denominator of which is the sum of such positive differences for each State multiplied by that State's rural population: *Provided, however,* That if the rural per capita income of a State is greater than the average of per capita incomes of all the States, the differences stated above shall be considered zero; and

(3) Each State shall be entitled to receive an amount equal to twenty-five percent of such remainder multiplied by a fraction the numerator of which is the percentage change in population of all the States less the percentage change in rural population of such State, such difference to be multiplied by the rural population of such State during the most recent and appropriate time period of which statistics are available, and the denominator of which is the sum of such positive differences for each State multiplied by that State's rural population: *Provided, however,* That if the percentage rate of change of rural population of a State during such period is greater than the percentage rate of change of the populations of all States during the same period, the differences stated above shall be considered zero.

(d) Any amounts appropriated for any fiscal year pursuant to section 201 which are not apportioned pursuant to subsections (a) through (c) of this section and any amounts recovered under section 304 may be available without regard to subsections (a) through (c) of this section for distribution at the discretion of the Secretary.

(e) Notwithstanding any other provisions of this Act, each State shall use a sufficient portion of the moneys to which it is entitled to maintain and carry out a program of agricultural extension work through its Land-Grant college, or colleges, comparable in size and type to the agricultural extension program carried out in the State in fiscal year 1971 under the Smith-Lever Act, as amended (7 U.S.C. §§ 341–349), and section 204(b) and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. §§ 1623 and 1624), and the Cooperative Extension Service shall be permitted to continue 4–H, nutritional aide programs, and other agricultural programs in metropolitan areas.

(f) Until such time as a State is authorized under State law and eligible to receive funds and carry out activities as provided by this Act; or in the event it refuses to accept such funds, the shared revenues to which it would have been entitled under this section shall be available for allocation by the Secretary for the purposes of this title.

(g) All computations and determinations by the Secretary under this section shall be final and conclusive.

STATE DEVELOPMENT PLAN

SEC. 203. Commencing with fiscal year 1973 as a condition precedent to receiving entitlement under subsections (a) through (c) of section 202, the Governor of each State shall publish and submit to the Secretaries of Agriculture and Housing and Urban Development a State development plan formulated through the State development planning system set forth in section 101(n), provided that the Secretaries may, upon request of the Governor, accept an alternate State development planning system which assures consultation and coordination with units of local government within the State. Amendments to the State development plan may be submitted to the Secretaries at any time prior to the termination of the fiscal year to which the plan relates. Such State development plan and amendments shall not be subject to approval by the Secretaries.

AUTHORIZED EXPENDITURES

SEC. 204. Each State is authorized to expend moneys to which it is entitled under section 202(a) through (c) for the purpose of rural development as that term is defined in section 101(c). Each State is authorized to expend moneys to which it is entitled under section 202(d) as the Secretary shall direct.

TITLE III—ADMINISTRATION

PAYMENTS TO STATES

SEC. 301. The amounts appropriated and allocated pursuant to this title shall be paid to States at such intervals and in such installments as the Secretary may determine, taking account of the objective that the time elapsing between the transfer of funds from the United States Treasury and the disbursement thereof by a State or subdivision thereof shall be minimized: *Provided, however,* That the Secretary shall, with the concurrence of the Director of the Office of Management and Budget, prescribe regulations for the purpose of avoiding an inordinate rise in Federal outlays in fiscal years 1972 and 1973 resulting from concurrent disbursements pursuant to (a) obligations incurred prior to December 31, 1971, pursuant to programs and activities abrogated or modified by title IV, and (b) revenue shared under this Act.

RECORDS, AUDITS, AND REPORTS

SEC. 302. (a) All revenues shared with States under this Act shall be properly accounted for as Federal funds in the accounts of such States.

(b) In order to asure that revenues shared under this title are used in accordance with the provisions of this Act, each State shall:

(1) Use such fiscal and accounting procedures as may be necessary to assure (A) proper accounting for payments received by it and (B) proper disbursement of such amounts,

(2) Provide to the Secretary, on reasonable notice, access to, and the right to examine, any books, documents, papers, or records as he may reasonably require, and

(3) Make such reports to the Secretary as he may reasonably require.

NONDISCRIMINATION

SEC. 303. Shared revenues under this Act shall be considered as Federal financial assistance within the meaning of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d).

RECOVERY OF FUNDS

SEC. 304. (a) If the Secretary determines after giving reasonable notice and opportunity for hearing that a State has failed to comply substantially with the provisions of this Act, he shall—

(1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; or

(2) notify the State that if corrective action is not taken within sixty days from the date of such notification, revenues shared with it will be reduced in the same or succeeding fiscal year by an amount equal to the amount of funds which were not expended in accordance with the provisions of this Act; or

(3) take such other action as may be provided by law.

(b) When a matter is referred to the Attorney General pursuant to subsection (a)(1) of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(c)(1) Any State which received notice of reduction of revenues shared, under subsection (a)(2) of this section may, within sixty days after receiving notice of such reduction, file with the United States Court of Appeals for the circuit in which such State is located or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in litigation.

(2) The Secretary shall file in the court the record of the proceeding on which he based his action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the Court unless such objection has been urged before the Secretary.

(3) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify his findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and he shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file his recommendations, if any, for the modification or setting aside of his original action.

(4) Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

ADVANCE PAYMENTS

SEC. 305. Advance payments made to States or political subdivisions thereof prior to and including December 31, 1971, and unearned at the close of business on December 31, 1971, shall be either returned promptly to the Federal agency concerned, or offset against the first shared revenues to which the same State or political subdivision thereof becomes entitled under this Act.

POWERS OF THE SECRETARY

SEC. 306. The Secretary shall prescribe such rules, regulations, and standards as may be necessary to carry out the purposes and conditions of this Act, including standards to assure the compatibility on a nationwide basis of data systems used in carrying out activities under this Act in order to provide the public and the Congress with objective information on which to evaluate activities under this Act, and to conduct research and investigations to determine the effectiveness of this Act in the development of rural communities.

AGREEMENTS BETWEEN STATES

SEC. 307. In the event that cooperation or agreements between States is necessary in order to realize the full benefit of provisions of this Act, the consent of Congress is hereby given to such States to enter into such agreements.

REPORT BY THE SECRETARY

SEC. 308. For each fiscal year beginning with the fiscal year ending June 30, 1972, the Secretary shall make a report to the President and the Congress concerning the pro-

grams conducted under, and the general effectiveness of, this Act.

ADMINISTRATIVE EXPENSES

SEC. 309. There are hereby authorized to be appropriated, without fiscal year limitation, such sums as may be necessary for the purposes of this title for each fiscal year.

LABOR STANDARDS

SEC. 310. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are Federally assisted, which shall include revenues shared, under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276-a-5). The Secretary of Labor shall have, wtih respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276c)

RELOCATION COSTS

SEC. 311. Notwithstanding section 211 of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894) no Federal contribution in addition to shared revenues under this title shall be provided for relocation payments and assistance for those displaced by community development activities assisted under this title.

MATCHING GRANTS

SEC. 312. Rural community development funds may be used by a State or local government as matching shares for Federal grant programs which contribute to rural development.

EFFECTIVE DATE

SEC. 313. The effective date of this Act shall be January 1, 1972.

TITLE IV—TRANSITION

PART A—PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT DEFINITION

SEC. 401. For the purposes of this part, the word "Act" means the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. §§ 3121–3226.

TERMINATION OF CERTAIN AUTHORITIES

SEC. 402. (a) The authority provided by the Act shall not be exercised after December 31, 1971, except that;

(1) The Secretary of Commerce may:

(A) carry out those commitments, contracts, agreements, and other obligations, including all accounts receivable, made or entered into, and for which funds have been obligated, on or before December 31, 1971, pursuant to authority conferred prior to such date under the Act, including title V thereof: *Provided, however,* That this section shall not be interpreted to prohibit the obligation of funds for construction overruns on projects for which financial assistance, in accordance with the criteria of section 101 of the Act, was approved on or before December 31, 1971;

(B) designate, and terminate the designation of, redevelopment areas satisfying the criterion of section 401(a)(3) of the Act;

(C) exercise the authority conferred by sections 101, 201, 202, 301(a), and 301(b) of the Act with regard to projects, programs, and activities within areas designated under section 401(a)(3) of the Act: *Provided,* That section 301(b) of the Act is amended by striking the words "not to exceed 75 per centum" and inserting in lieu thereof "all or part"; and

(D) exercise the authority conferred by section 301(a) for the purpose of providing technical assistance for the preparation of trade adjustment proposals pursuant to, and the accomplishment of feasibility and related studies under, the Trade Expansion Act of 1962, 19 U.S.C. §§ 1902–1913;

(2) All powers and authorities contained in the Act, including the authority conferred by section 709 thereof, may be exercised to the extent necessary to carry out the authorities referred to in this section, and all duties contained in the Act, including the duty specified in section 707 thereof, shall be undertaken to the extent proper in carrying out the authorities referred to in this section.

(b) All planning grants and administrative expense grants, except grants to organizations or individuals within areas designated under section 401(a)(3) of the Act, which are approved or renewed under section 301(b) of the Act on or before December 31, 1971, or which would ordinarily be renewed after December 31, 1971, but on or before June 30, 1972, shall provide for a termination date no later than June 30, 1972.

TERMINATION OF DESIGNATION

SEC. 403. The designation status of all areas designated under section 102 of the Act, all redevelopment areas designated under the Area Redevelopment Act (42 U.S.C. 2501 et seq.), or under section 401 of the Act except subsection (a)(3) thereof, all economic development districts designated under section 403(a)(1) of the Act, and all economic development centers designated under section 403(a)(2) of the Act, shall be deemed terminated at midnight on December 31, 1971.

TRANSFER OF CERTAIN APPROPRIATIONS

SEC. 404. (a) Notwithstanding any provision of the Act:

(1) Fifty percent of the total appropriation made under the Act, except for title V thereof, for the fiscal year ending June 30, 1972, shall not be obligated after December 31, 1971, and shall be transferred to and merged with the funds authorized under the authority of section 201: *Provided, however,* That an amount of such appropriations as would in the ordinary course of business be obligated after December 31, 1971, for those purposes specified in section 402 hereof shall not be so transferred and shall remain available until June 30, for such purposes; and

(2) The full amount of the remaining fifty percent may be obligated on or before December 31, 1971, but all such amounts as are unobligated prior to such date shall be transferred to and merged with the funds authorized under the authority of section 201.

(b) All collections and repayments deposited on or before December 31, 1971, in the Economic Development Revolving Fund established pursuant to section 203 of this Act shall be transferred to and merged with the funds authorized under the authority of section 201 and all collections and repayments received under the Act after December 31, 1971, shall be deposited in and merged with the funds authorized under the authority of section 201: *Provided, however,* That such amounts shall be retained in the Economic Development Revolving Fund as may be required to pay interest to the Treasury, pursuant to section 203 of the Act, on the amount of loans outstanding under the Act.

CERTAIN PROVISIONS REPEALED

SEC. 405. (a) Effective July 1, 1972, title V of the Act shall be deemed repealed.

(b) The Secretary of Commerce shall, no later than June 30, 1972, assume the administration of projects, the functions, powers, duties, and authorities, and the assets, liabilities, authorizations, apportionments, allocations, appropriations, and records which were, pursuant to title V of the Act and on or before June 30, 1972, undertaken by, vested in, or authorized to, the regional commissions established pursuant to title V of the Act.

(c) Each regional commission shall, prior to June 30, 1972, make such assignments to the Secretary of Commerce as may be necessary to enable him to fulfill his functions under subsection (b).

(d) On January 1, 1972, there shall be transferred to and merged with the funds authorized under the authority of section 201, all balances of appropriations made under the authorization of title V of the Act, unobligated as of such date, except such amounts available under such authorization and appropriation for the administrative expenses of the regional commissions to June 30, 1972.

(e) Notwithstanding section 510 of the Act, each regional commission shall, not later than June 30, 1972, make a comprehensive and detailed report to Congress with respect to such commission's activities during the fiscal year ending June 30, 1972.

PART B—APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965

DEFINITION

SEC. 406. For the purposes of this part, the word "Act" means the Appalachian Regional Development Act of 1965, as amended, 40 App. U.S.C. §§ 1–405.

TRANSFER OF APPROPRIATION BALANCES

SEC. 407. On January 1, 1972, there shall be transferred to and merged with the funds authorized under the authority of section 201, all balances of appropriations made under the authorizations in sections 201(g) and 401 of the Act, unobligated as of such date, except such amounts available under such authorization and appropriation:

(a) Which are required for programs and projects under sections 202, 203, 204, 205, 211, 212, 214, and 302(a)(2) of the Act, approved by the Commission on or before December 31, 1971: *Provided, however,* That this section shall not be interpreted to prohibit the obligation of funds for construction overruns on projects for which financial assistance was approved on or before December 31, 1971.

(b) Which have been apportioned by the Commission to the States for the Appalachian development highway system in accordance with section 201 of the Act and sections 106(a) and 118 of title 23, United States Code: *Provided, however,* That notwithstanding such sections, funds authorized under section 201 of the Act for the fiscal year ending June 30, 1973, shall not be so apportioned.

(c) Which are required to reimburse States for the Federal share of projects constructed without Federal funds in accordance with section 201(h) of the Act which were approved by the Commission on or before December 31, 1971, and which are in excess of apportionments referred to in subsection (b);

(d) As may be necessary to provide for the administration and monitoring through completion of programs and projects approved by the Commission on or before December 31, 1971, including those for which funds have been apportioned or approved as provided under subsections (b) or (c) herein;

(e) As may be required for:

(1) continuation of operating grants under section 202 of the Act to maintain and continue any demonstration projects for which prior operating grant was approved on or before December 31, 1971; and

(2) grants for administrative expenses of local development districts under section 302 of the Act to maintain such organizations: *Provided, however,* That such district has been certified under section 301 of the Act and a grant for its administrative expenses had been approved on or before December 31, 1971 until such time as the Governor of the State in which such project

or district is located certifies that such project or district can be continued with State or other funds or that it shall not receive further assistance: *Provided, however,* That no such continuation grant or grant for administrative expenses of a district shall provide funds to maintain such project or district beyond June 30, 1972; and

(f) Which have been deposited in the Appalachian Housing Fund pursuant to section 207(d) of the Act. Nothwithstanding any provisions of this Rural Community Development Revenue Sharing Act of 1971, the Secretary of Housing and Urban Development may continue to make loans and grants as authorized in section 207 of the Act, upon applications approved by the Governor of the State or his designee.

APPALACHIAN REGIONAL COMMISSION

SEC. 408. Notwithstanding any other provision of law the Appalachian Regional Commission established pursuant to section 101 of the Appalachian Act, and the Federal participation in, and support of, such Commission, Federal Cochairman and staffs authorized under sections 101, 105, and 106 of such Act, shall continue after enactment of this Rural Community Development Revenue Sharing Act.

CONTINUATION OF AUTHORITIES

SEC. 409. All duties, responsibilities, authorities, and functions vested in the Secretaries of Transportation; Health, Education, and Welfare; Agriculture; Housing and Urban Development; and Labor; and in any other Federal department, agency, or officer under the Act shall, to the extent necessary to effectuate the purposes of this part and section, continue to be vested in such officials or such other officials as may be provided by law or as the President may direct.

PART C—DEPARTMENT OF AGRICULTURE

RURAL ENVIRONMENTAL ASSISTANCE PROGRAM

SEC. 410. No applications for Federal cost-sharing for soil-building and soil- and water-conserving practices under sections 7 to 15, 16(a) and 17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. §§ 590g–590o, 590p(a), and 590q), shall be approved after December 31, 1971, and all unused contract authority is rescinded after December 31, 1971.

WATER BANK

SEC. 411. No agreements shall be entered into under the Water Bank Act (84 Stat. 1468).

FORESTRY ASSISTANCE

SEC. 412. No funds shall be paid after December 31, 1971, to States or political subdivisions thereof for forestry and tree planting assistance, as authorized by sections 1, 2 and 4 of the Clarke-McNary Act, as amended and supplemented (16 U.S.C. §§ 564, 565, 565a, 566a and b, and 567) the White Pine Blister Rust Protection Act (16 U.S.C. § 594a), the Forest Pest Control Act (16 U.S.C. §§ 594–1 through 594–5), the Cooperative Forest Management Act, as amended (16 U.S.C. §§ 568c and 568d), and section 401 of the Agriculture Act of 1956, as supplemented (16 U.S.C. §§ 568e–568g).

WATER AND WASTE DISPOSAL SYSTEMS

SEC. 413. No grants shall be made after December 31, 1971, for:

(a) activities authorized in section 306 (a)(2) of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. § 1926(a)(2)); or

(b) preparation of official comprehensive plans for the development of water or sewer systems in rural areas as authorized in section 306(a)(6) of said Act (7 U.S.C. § 1926(a)(6)).

GREAT PLAINS CONSERVATION

SEC. 414. No new contracts shall be entered into under the Great Plains Conservation Program authorized by section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. § 590p(b)), after December 31, 1971.

RESOURCE CONSERVATION AND DEVELOPMENT

SEC. 415. Unless such project measure has been approved on or before December 31, 1971, no financial assistance shall be provided to carry out any project measures under the authority of section 32e of title III of the Bankhead–Jones Farm Tenant Act, as amended (7 U.S.C. §§ 1011e), sections 1–6 of the Soil Conservation Domestic Allotment Act (16 U.S.C. §§ 590a-f), in a resource conservation and development plan developed in the program for land stabilization and land conservation authorized under sections 31 and 32 of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. §§ 1010 and 1011).

EXTENSION SERVICE

SEC. 416. (a) No payments to States for extension work as authorized by the Smith-Lever Act, as amended (7 U.S.C. §§ 341–349), and sections 204(b) and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. §§ 1623 and 1624), shall be made after December 31, 1971. No payments shall be made by the Secretary after June 30, 1972, for the cost of the employer's share of Federal retirement and for benefits paid from the Employees' Compensation Fund for State cooperative extension employees.

(b) Equipment and other property in the possession of a Land-Grant University which was purchased in whole or part from funds made available for extension work shall remain the property of the University.

(c) The provisions of 39 U.S.C. §§ 4152(a)(F) relating to penalty mail for extension agents and directors are repealed, effective December 31, 1971.

(d) Any person who, by virtue of his position as a cooperative extension employee, currently has coverage under the Federal employees' injury compensation program authorized by 5 United States Code 81, the unemployment compensation program authorized by 5 United States Code 85, the Civil Service Retirement Act, 5 United States Code 83, the Federal Employees' Group Life Insurance Program authorized by 5 United States Code 87, or the Federal Employees' Health Benefits Program authorized by 5 United States Code 89 may continue such coverage if an extension program is continued by the State: *Provided, however,* That beginning on July 1, 1972, the State shall bear the employer's share of the costs of such programs.

LAND STABILIZATION, CONSERVATION, AND EROSION CONTROL

SEC. 417. No agreements shall be entered into under section 203 of the Appalachian Regional Development Act of 1965, as amended (79 Stat. 12), after December 31, 1971.

OUTSTANDING OBLIGATIONS

SEC. 418. (a) The Secretary of Agriculture is authorized to administer and carry out any commitments, contracts, agreements, and other obligations made or entered into under programs or activities terminated by sections 410 through 417 and for which funds have been obligated, on or before the date specified for such termination: *Provided, however,* That in no event shall payments to States for extension work in fiscal year 1972 exceed fifty percent of the appropriations for such purposes.

(b) There are hereby authorized to be appropriated without fiscal year limitation such sums as may be necessary for the purposes of this part for each fiscal year.

(c) Except for appropriations made pursuant to subsection (b), any funds appropriated for any program or activity terminated by sections 410 through 417 which would be used to finance operations which would be carried out if such program or activity had not been terminated, and which remain unobligated on the date specified for such termination shall be transferred and merged with the funds authorized under the authority of section 201.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 6, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting herewith a draft bill to carry out the President's recommendations for a rural community development special revenue sharing program as set forth in his message to the Congress of March 10, 1971.

The President's proposal is designed to give citizens of States and local communities more effective tools and greater financial resources for dealing with rural development problems than in the past. The needs, problems, conditions, and opportunities for promoting economic and social development of rural areas are matters that are of special concern to, and within the particular competence of, those who live in the communities affected. State and local officials, and citizens in the communities involved, are often better able to match resources to problems than are government employees in Washington.

The President's proposal contemplates that in the first year of operation, special revenue sharing funds for rural development would be available in an amount equivalent to $1,100 million on a full-year basis. As the President stated, in his message of March 10, 1971:

"More money, plus more freedom to spend it, plus better planning in doing so, add up to better living for rural Americans and brighter futures for rural communities. Mutual benefits of the urban-rural partnership would be manifest as cities enjoyed the fruits of a healthy agricultural economy and the relief of more evenly distributed population growth, while rural areas felt the effect of new social and economic advantages. Rural and urban communities would no longer siphon off one another's strengths and resources nor shunt problems and burdens from one to the other. They would progress together in a dynamic balance, as partners in the best sense."

I urge that early and favorable consideration be given by the Congress to enactment of the "Rural Community Development Revenue Sharing Act of 1971."

The Office of Management and Budget advises that enactment of this bill would be in accord with the program of the President.

Sincerely,

CLIFFORD M. HARDIN,
Secretary.

SECTION-BY-SECTION SUMMARY OF RURAL COMMUNITY DEVELOPMENT REVENUE SHARING ACT OF 1971

Section 2—Statement of Findings and Purpose

Section 2 provides that Congress finds and declares that in order to provide more effective assistance to rural areas of the Nation for the purposes of stemming outmigration, stimulating and aiding economic development and the creation of job opportunities, providing more and better public works and community development facilities, and assisting in the solution of farm, home, and other community problems, it is necessary to establish a program by which States may share in national revenues; and that in order to implement an effective nationwide rural community development policy and to reallocate development resources, it is necessary to terminate and modify certain Federal development programs.

TITLE I—DEFINITIONS

Section 101—Definitions

Section 101 provides that the definitions contained in the following subsections are applicable for the purposes of this Act.

Subsection (a) provides that the term "rural area" means any county, parish or similar political subdivision which either has a population density of less than 100 persons per square mile or is not included within a Standard Metropolitan Statistical Area.

Subsection (b) provides that the term "rural population" means the total resident population of a rural area.

Subsection (c) provides that the term "rural development" means any program or activity of a State which directly benefits the residents of a rural area within such State, and that the term "rural community development programs and activities," includes, but is not limited to, the promotion, establishment, assistance, improvement, and encouragement of a great number of programs and activities related to rural development.

Subsection (d) provides that the term "rural per capita income" means the average personal income of the rural population of a State.

Subsection (e) provides that the term "fiscal year" means the fiscal year of the United States.

Subsection (f) provides that the word "Secretary" means the Secretary of Agriculture.

Subsection (g) provides that the word "State" means the several States, Puerto Rico, the Virgin Islands, and Guam.

Subsection (h) provides that the word "Governor" means the chief executive officer of each State.

Subsection (i) provides that the term "Attorney General" means the Attorney General of the United States.

Subsection (j) provides that the term "Standard Metropolitan Statistical Area" means such term as defined by the Office of Management and Budget.

Subsection (k) provides that the term "personal income" means such term as defined by the Office of Business Economics of the Department of Commerce, or, as appropriately modified or changed by the Secretary.

Subsection (l) provides that the term "local government" means a municipality, county, or township as defined and used by the United States Bureau of the Census, but does not include school districts or special districts.

Subsection (m) provides that the term "State development plan" means a plan for the expenditure of funds to which a State is entitled under subsections (a) through (c) of section 202.

Subsection (n) provides that the term "State development planning system" includes a State development planning advisory commission, comprised of the Governor and one representative from each government planning board of each multi-jurisdictional planning district within the State, which shall advise the Governor with respect to the formulation of the State development plan. Such planning boards shall be comprised of elected officials from local governments affected and shall have such duties as the Governor may determine. Such multi-jurisdictional planning districts shall encompass the entire geographic area of the State.

Section 102—Data for definitions

Section 102 provides that, where appropriate, definitions in section 101, or the modification thereof, shall be based on the reports of the Department of Commerce or the Office of Management and Budget. The latest published data is to be used in applying these definitions.

TITLE II—RURAL DEVELOPMENT REVENUE SHARING

Section 201—Appropriation Authorization

Section 201 authorizes the appropriation for title II of sums without fiscal year limitation as may be necessary for each fiscal year.

Section 202—State Entitlement

Subsection (a) of section 202 provides that of the amounts provided from appropriations authorized by section 201 for any fiscal year for title II, a minimum of 80% shall be apportioned by the Secretary among the States in accordance with their entitlement as determined by subsection (b) and (c).

Subsection (b) provides that one percent of the moneys apportioned pursuant to subsection (a) shall be divided among the States in equal proportion.

Subsection (c) provides that each State shall be entitled to a portion of the remainder of the moneys apportioned per subsection (a), which portion shall be determined in accordance with paragraphs (1) through (3) below.

Paragraph (1) provides that 50 percent of the remainder shall be distributed according to rural population.

Paragraph (2) provides that 25 percent of the remainder shall be distributed according to rural per capita income.

Paragraph (3) provides that 25 percent of the remainder shall be distributed according to loss of rural population.

Subsection (d) provides that amounts not apportioned pursuant to subsections (a) through (c) and amounts recovered under section 304 may be available for distribution at the discretion of the Secretary.

Subsection (e) provides that, notwithstanding any other provision of the Act, each State is required to use a sufficient portion of the moneys to which it is entitled to carry out an extension program comparable in size and type to the extension program carried out in the State in fiscal year 1971, and that the Cooperative Extension Service shall be permitted to continue 4–H, nutritional aide programs, and other agricultural programs in metropolitan areas.

Subsection (f) provides that until such time as a State is authorized under State law to receive funds and carry out activities as provided by this Act, or, in the event a State refuses to accept such funds, the funds to which such State would have been entitled shall be available for allocation by the Secretary for the purposes of this title.

Subsection (g) provides that the Secretary's determinations under section 202 shall be final and conclusive.

Section 203—State Development Plan

Section 203 provides that commencing with fiscal year 1973 as a condition precedent to receiving entitlements under subsections (a) through (c) of section 202, the Governor of each State shall publish and submit a State development plan, which shall be formulated through the State development planning system or an alternative planning system which assures consultation and coordination with local government. Amendments to such plan may be submitted prior to the end of the fiscal year to which such plan relates. Development plans and amendments thereto shall not be subject to the Secretary's approval.

Section 204—Authorized Expenditures

Section 204 provides that each State is authorized to expend its section 202 entitlement moneys for rural development as defined in section 101(c).

TITLE III—ADMINISTRATION

Section 301—Payments to States

Section 301 provides that the Secretary shall make payments to each State at such intervals and in such installments as he shall determine; that the Secretary shall, with the concurrence of the Director of the Office of Management and Budget, prescribe regulations to avoid inordinate Federal outlays in fiscal years 1972 and 1973 resulting from concurrent disbursements under this Act and certain Federal programs modified or abrogated by title IV of this Act.

Section 302—Records, Audits, and Reports

Subsection (a) of section 302 provides that revenues shared by the States are to be accounted for as Federal funds.

Subsection (b) provides that each State must utilize proper disbursement and accounting procedures, maintain and provide the Secretary with access to, books, documents, records, etc., and make such reports as the Secretary may require.

Section 303—Nondiscrimination

Section 303 provides that shared revenues shall be considered as Federal financial assistance within the meaning of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

Section 304—Recovery of Funds

Subsection (a) of section 304 provides that if the Secretary determines, after giving reasonable notice and opportunity for hearing, that a State has failed to comply substantially with the provisions of this Act, he shall: (1) refer the matter to the Attorney General for appropriate civil action; or (2) notify such State that if corrective action is not taken within 60 days of such notice that such State's revenue share will be reduced in the same or succeeding fiscal year by an amount equal to the funds which were not expended in accordance with the Act's provisions; or (3) take such other action as may be provided by law.

Subsection (b) authorizes the Attorney General to seek appropriate court relief with respect to a matter referred to him under subsection (a).

Subsection (c) authorizes a State to file a petition in an appropriate U.S. Court of Appeals to review the Secretary's reduction of such State's revenue share pursuant to subsection (a), and provides rules of procedure and for Supreme Court review with respect to such petition.

Section 305—Advance Payments

Section 305 provides that advance payments to States or political subdivisions thereof made through December 31, 1971, and which are unearned by the close of business on December 31, 1971, shall be either returned promptly to the Federal agency concerned, or offset against the first shared revenues to which the same State or political subdivision thereof becomes entitled under this Act.

Section 306—Powers of the Secretary

Section 306 vests the Secretary with general administrative powers to carry out effectively the provisions of this Act.

Section 307—Agreements Between States

Section 307 gives Congressional consent to cooperation and agreements between States.

Section 308—Report by the Secretary

Section 308 requires the Secretary to make an annual report to the President and the Congress regarding the programs conducted under, and general effectiveness of, this Act.

Section 309—Administrative Expenses

Section 309 authorizes, without fiscal year limitation, such sums as may be necessary to administer title III of this Act.

Section 310—Labor Standards

Section 310 provides that the provisions of the Davis-Bacon Act, relating to the payment of prevailing wage rates, shall be applicable to certain projects assisted by shared revenues under this Act.

Section 311—Relocation Costs

Section 311 provides that no Federal relocation contribution in addition to shared

revenues shall be provided to assist those displaced by community development activities under this Act.

Section 312—Matching Grants

Section 312 provides that rural community development funds may be used by States or local government as matching shares for Federal grant programs which contribute to rural development.

Section 313—Effective Date

Section 313 provides that the effective date of this Act shall be January 1, 1972.

TITLE IV—TRANSITION

Part A—Public Works and Economic Development Act of 1965

Section 401—Definition

Section 401 provides that the word "Act" as used in part A means the Public Works and Economic Development Act of 1965, as amended.

Section 402—Termination of Certain Authorities

Subsection (a) of section 402 provides that no authority under the Act shall be exercised after December 31, 1971, except as set forth in paragraphs (1) and (2).

Paragraph (1) provides that the Secretary of Commerce may exercise the authorities set forth in subparagraphs (A) through (D).

Subparagraph (A) provides that he may carry out those agreements and obligations for which funds were obligated on or before December 31, 1971, and may also pay for construction overruns on projects approved prior to such date for which a public works or development facility grant has been provided.

Subparagraph (B) provides that he may designate Indian reservations.

Subparagraph (C) provides that he may provide financial assistance for public works and development facilities, business loans and guarantees, and technical and planning assistance projects located within Indian reservations.

Subparagraph (D) provides that he may provide technical assistance for certain matters related to the Trade Expansion Act.

Paragraph (2) provides that all other authorities under the Act, including the authority to make appropriations where such authority is not otherwise provided, may be exercised to the extent necessary to carry out section 402 and all other duties under the Act, including the duty to make annual reports to Congress, shall be exercised to the extent proper to carry out section 402.

Subsection (b) provides that all planning and administrative expense grants, except those to organizations and individuals on Indian reservations shall provide for a termination date no later than June 30, 1972.

Section 403—Termination of designation

Section 403 provides that the designation of all "Title I" areas, of all redevelopment areas, except Indian reservations, of all economic development districts, and of all economic development centers shall be deemed terminated at midnight on December 31, 1971.

Section 404—Transfer of certain appropriations

Subsection (a) of section 404 provides that fiscal year 1972 appropriations will be treated as described in paragraphs (1) and (2).

Paragraph (1) provides that 50 percent of the total appropriation, except the appropriation for title V, shall not be obligated after December 31, 1971, except to the usual extent for Indian assistance, research, and trade adjustment technical assistance and except to carry out obligations made on or before December 31, 1971, and shall be transferred to and merged with the funds authorized under section 201.

Paragraph (2) provides that the full amount of the remaining 50 percent may be obligated on or before December 31, 1971, but such amount as is unobligated prior to such date shall be transferred to and merged with the funds authorized by section 201.

Subsection (b) provides that all collections and repayments deposited in the Economic Development Revolving Fund on or before December 31, 1971, shall be transferred to and merged with the funds authorized by section 201, except that an amount may be retained in such fund to the extent necessary to pay interest to the Treasury on loans outstanding under the Act.

Section 405—Certain provisions repealed

Subsection (a) of section 405 repeals, as of July 1, 1972, that title of the Act which establishes the regional commissions and sets forth their functions.

Subsection (b) provides that the Secretary of Commerce shall, no later than June 30, 1972, assume the outstanding projects, agreements and other commitments of the commissions, and the authorities which were undertaken by and vested in the Commissions pursuant to the Act.

Subsection (c) provides that the commissions shall make any assignments to the Secretary of Commerce prior to June 30, 1972, as may be necessary to enable him to fulfill the functions described in subsection (b).

Subsection (d) provides that, on January 1, 1972, there shall be transferred to and merged with the funds authorized under section 201, all balances of title V appropriations which are unobligated, except amounts available for administrative expenses of the commissions to June 30, 1972.

Subsection (e) provides that each commission shall make a report to Congress, with regard to fiscal year 1971 activities, not later than June 30, 1972, rather than January 31, 1973, as it provided in the Act.

Part B—Appalachian Regional Development Act of 1965, section 406—definition

Section 406 provides that the word "Act" as used in part B means the Appalachian Regional Development Act of 1965, as amended.

Section 407—transfer of appropriation balances

Section 407 transfers to and merges with the funds authorized under section 201, uncommitted balances of available authorizations and appropriations for the Appalachian Development Highway program and the other Appalachian assistance programs on January 1, 1972, except as provided in the following subsections:

Subsection (a) exempts from the transfer amounts required for grants approved by the Commission before December 31, 1971, under the following sections of the Act: section 202 (demonstration health projects); section 203 (land stabilization and conservation projects); section 204 (timber development); section 205 (mine area reclamation); section 211 (vocational education); section 212 (sewage treatment); section 214 (supplements to other Federal grants); and section 302(a)(2) (research, technical assistance and demonstration projects); and provides, in effect, that funds may be obligated for construction overruns on projects approved before December 31, 1971.

Subsection (b) makes allowance for the fact that under the contract authority provisions applicable to the Appalachian development highway program, authorizations for a fiscal year become available for use in the preceding fiscal year. Since the amounts authorized for the development highway program for fiscal year 1972 have already become available and been apportioned to the States, this subsection provides that such amounts shall not be included in the transfer. Moreover, since the amounts authorized for the highway program for fiscal year 1973 will similarly become available and subject to mandatory apportionment in fiscal 1972, this subsection also provides that the funds authorized for fiscal 1973 shall not be so apportioned.

Subsection (c) makes allowance for the fact that under the Appalachian program, the States are also authorized to pre-finance construction with their own funds and then claim reimbursement from the Federal Government. Thus, this subsection provides that amounts required to meet these commitments on all projects approved before December 31, 1971, under section 201(h) of the Act, shall not be transferred, to the extent such commitments are in excess of the amount apportioned to that State for the highway program.

Subsection (d) provides that amounts necessary to provide for administration and monitoring of projects approved before December 31, 1971, including the highway projects, are excepted from transfer.

Subsection (e) makes allowance for the fact that there is a question whether, under State law, certain types of project applicants will be eligible to receive State funds. Thus, subsection (e) excludes from the transfer, amounts necessary for continuing operating grants under section 202 and for administrative expenses of local development districts under section 302 of the Act. The purpose is to permit funding of these demonstration projects and local development organizations to continue for an additional six months through June 30, 1972, in order to give the State sufficient time to enact enabling legislation or take such other action as may be necessary to make such grantees eligible for State funds.

Subsection (f) exempts from the transfer funds which have been deposited in the Appalachian Housing Fund, and authorizes the Secretary of Housing and Urban Development to continue to make loans and grants under section 207 of the Act.

Section 408—Appalachian Regional Commission

Section 408 provides for the continuation of Federal administrative support for the Appalachian Regional Commission and staffs.

Section 409—Continuation of Authorities

Section 409 provides for the continuation of duties vested in the Secretaries of Transportation Health, Education and Welfare; Agriculture; Housing and Urban and Urban Development; and Labor; and other Departments to the extent necessary to carry out this Act.

Part C—Department of Agriculture

Section 410—Rural Environmental Assistance Program

Section 410 provides that no application for federal cost sharing for soil-building and soil and water conserving practices under sections 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act shall be approved after December 1, 1971, and that unused contract authority is rescinded after December 31, 1971. The annual program under this legislation has normally been carried out over an 18-month period beginning July 1 of the calendar year. The program for 1972, however, would be limited to those persons whose applications were approved no later than December 31, 1971; no applications for program participation could be approved under this provision after that date.

Section 411—Water Bank

Section 411 provides that no agreements shall be entered into under the Water Bank Act.

Section 412—Forestry Assistance

Section 412 provides that after December 31, 1971, no funds shall be paid to States or political subdivisions thereof under existing Federal programs for cooperative forest management, fire protection, production and distribution of forest tree seeds and nursery stock, forest pest control, and tree planting. Except, however, for the payment of such funds to States and political subdivisions

thereof, the Secretary of Agriculture's authority to give forestry assistance under the statutes specified in section 412 is unaffected.

Section 413—Water and Waste Disposal Systems

Section 413 terminates as of the end of the calendar year 1971 the authority of the Secretary of Agriculture under section 306(a)(2) of the Consolidated Farmers Home Administration Act of 1961 to make grants to public and quasi-public bodies and nonprofit associations for the construction of water and waste disposal facilities in rural areas and under section 306(a)(6) of the same Act to make grants for the preparation of official comprehensive plans for the development of water and sewer systems in rural areas.

Section 414—Great Plains Conservation

Section 414 would prohibit the Secretary of Agriculture from entering into any new contracts with producers under the Great Plains Conservation Program after December 31, 1971.

Section 415—Resource Conservation and Development

Section 415 prohibits assistance for those projects that have not been approved on or prior to December 31, 1971, under section 32e of Title III of the Bankhead-Jones Farm Tenant Act or sections 1–6 of the Soil Conservation Domestic Allotment Act, in a resource conservation and development plan developed in the program for land stabilization and land conservation authorized under sections 31 and 32 of Title III of the Bankhead-Jones Farm Tenant Act.

Section 416—Extension Service

Subsection (a) of section 416 provides that no payments to States shall be made for extension work as authorized by the Smith-Lever Act or the Agricultural Marketing Act of 1946 after December 31, 1971. It further provides that no payments shall be made by the Secretary after June 30, 1972 for retirement costs and to the Employees' Compensation Fund for State cooperative extension employees.

Since the District of Columbia is not included in the definition of "State", the effect of section 416(a) would be to continue the statutory authority to finance the Federal share of the District of Columbia extension program.

Subsection (b) provides that equipment in the possession of the Land-Grant Universities which was purchased from funds made available for extension shall remain the property of the University.

Subsection (c) provides that the authority relating to penalty mail provisions for extension employees is repealed, effective December 31, 1971.

Subsection (d) provides for the retention by cooperative extension employees of coverage under the Injury Compensation Program, the Unemployment Compensation Program, the Federal Retirement Program, the Federal Employees' Group Life Insurance Program and the Federal Employees' Health Benefits Program if the State continues an extension program. The State would be required to bear the employer's share of the costs of such programs after July 1, 1972.

Section 417—Land Stabilization, Conservation and Erosion Control

Section 417 provides that no agreements under section 203 of the Appalachian Regional Development Act of 1965 would be entered into after December 31, 1971.

Section 418—Outstanding Obligation

Subsection (a) of section 418 authorizes the Secretary of Agriculture to carry out commitments, contracts, and other obligations entered into under programs or activities terminated by sections 410 through 417 and for which funds have been obligated on or before specified termination dates, and provides that in no event shall payments to States for extension work in fiscal year 1972 exceed 50 percent of the appropriations for such purposes.

Subsection (b) authorizes appropriations without fiscal year limitation necessary to carry out part C.

Subsection (c) provides that except for appropriations made pursuant to subsection (b), any funds appropriated for any program or activity terminated by sections 401–417 which would be used to finance operations which would be carried out if such program or activity had not been terminated and are not obligated on the date specified for such termination, shall be transferred to and merged with the funds authorized under section 201.

MESSAGE FROM THE PRESIDENT

To the Congress of the United States:

I am today proposing a new program of Rural Community Development through revenue sharing—the fourth of my six Special Revenue Sharing proposals. I have spoken of revenue sharing as a new partnership between the Federal Government and the State and local governments within our federal system. The proposal I am advancing today would use that essential government partnership to strengthen an equally essential social and economic partnership between rural America, where the farms that feed us and the great open spaces that renew our spirit are found, and urban America, where the majority of our people and the greater share of our wealth are concentrated. Rural Americans deserve a full share in the nation's prosperity and growth, just as urban Americans deserve cities that are livable and alive. Both objectives are attainable—and rural development revenue sharing, linked to urban development revenue sharing by the comprehensive planning proposal also put forward in this message, could be a giant step toward them.

RURAL AMERICA IN TRANSITION

Rural America begins with farm America. Agriculture was America's first industry, and it remains one of the keystones of our national economy today. It has made Americans the best-fed people in history, and now exports the produce of one-fourth of its acreage to help feed the world. American farmers have led all sectors of the economy in annual increases in productivity for most of the years in this century. This Nation's farms are among our most efficient producers, and they are of central importance to a strong future for rural America.

Yet, there is sharp irony in this success. Ever more fruitful, American agriculture has required fewer people every year to produce food and fibers for our people, and to supply the expanding export market for our commodities abroad.

Hence the departure of people from farms began to swell as farming grew more mechanized, efficient, and large-scale. Americans living on farms numbered more than 30,000,000 in 1940; today that figure is only about 10,000,000. Once the farm people had left their homes—often the homes of generations in their families—the opportunities often did not exist in rural America to keep them close to those roots. While some jobs began to open up in agricultural service, supply, and processing enterprises, usually known as "agri-business," the number of openings was not nearly enough to match the number of people cast adrift by technological progress.

Migration began toward where people thought opportunities existed—the cities. Not only were there more jobs in the cities, but they paid more. For most decades in this century, the gap between median income in the cities and that in non-metropolitan areas has been wide. Even though income gains outside the metropolis have been almost half again as great as those in the cities during the last decade, median family income in non-metropolitan areas is still 22 percent below that in metropolitan areas.

While the people who have been leaving rural America by the millions have often improved their own and their families' situations by leaving, the trend they represent has had several disturbing effects.

First, in rural America itself, the loss in human resources has compounded the problems of diversifying the economy and fostering a vigorous and progressive community life. Those who have chosen to stay have found it harder and harder to pay for and provide services such as good schools, health facilities, transportation systems, and other infrastructure attractive enough to keep people *in* rural America, or to lure jobs and opportunity to rural America. Many of the small towns which dot the countryside have to struggle for existence; they often have difficulty attracting good school-teachers or physicians; many fight stagnation while most of the economy is expanding; they cannot give the older, the disadvantaged, the less educated people needed assistance and care.

THE URBAN STAKE IN RURAL DEVELOPMENT

At the same time the urban effects of migration have been profound. While the explosive growth in the proportion of Americans living in cities has not been fed solely by the influx of people from rural America—immigration from other countries has also been massive—the millions who have moved from the South and the Midwest to the North and the West have been a major factor in making a nation that was 75 percent rural a century ago, 73 percent urban today.

Many of these people pouring into the cities in search of opportunity have experienced difficulties in adapting to urban life and have required supportive services. Some made the transition successfully—but others have remained tax users rather than taxpayers.

Furthermore, the very size and density of many of our largest cities has produced new problems; whereas in the most rural areas it is hard to achieve economies of scale in public activities, the most heavily urban areas have grown far past the size range in which a community can function most economically. It often costs far more per capita to provide essential services, such as police protection, sanitation collection, and public transportation in our dense urban areas than in less congested smaller and medium-sized cities. Many of our cities have, in short, become inefficient and less and less governable. At times, this has led to near-paralysis of public services in our largest cities. Current trends indicate that unless there is a marked shift in public and private attitudes, the increase of population in and around our great metropolitan centers will continue, and the problems of urban management will be further aggravated.

In addition, by even conservative estimates, there will be some 75 million additional Americans by the end of the twentieth century. Whether this growth is beneficial or burdensome depends on our foresight in planning and preparing for it—a process that must begin now and must take a broader view than merely feeding the expansion of the megalopolis.

As never before, the Nation is beginning to see that urban America has a vital stake in the well-being and progress of rural America. This is one Nation, and for the good of all Americans we need one national policy of balanced growth.

FEDERAL RESOURCES FOR RURAL DEVELOPMENT

For the sake of balanced growth, therefore, but even more for the sake of the farmer and all his neighbors in rural America—first-class citizens who deserve to live in first-class communities—I am proposing that the Federal Government *re-think* America's rural development needs and *rededicate* itself to pro-

viding the resources and the creative leadership those needs demand.

It takes many different kinds of activities to create rural development—to create opportunity. One must start with the individual—his education, his skill training, and his health. Next the individual needs to be linked to resources and markets through transportation. Public sector infrastructure such as water and sewers is needed to encourage industry to locate in new areas. The environment is also becoming an increasingly important factor in industrial locations.

Essentially what I am proposing is to unite the funding for a number of programs operating directly in rural areas and smaller cities into a Rural Community Development Revenue Sharing Program, to add $179 million to that fund, and then to bolster this effort with new initiatives in critically related areas, such as health and welfare reform.

The following chart shows the programs which I propose to combine into the Rural Development Revenue Sharing Program:

PROGRAMS COMBINED UNDER RURAL DEVELOPMENT REVENUE SHARING

General

New Money $179 Million
Title V Regional Commissions
Appalachian Regional Commission
Economic Development Administration
Resource Conservation and Development Program

Education

Cooperative Agricultural Extension Service

Water and sewer

Rural Water and Waste Disposal Grants

Environment

Rural Environmental Assistance Program
Forestry Assistance Grants
Great Plains Agricultural Conservation Program
Water Bank Program

Altogether, the eleven programs listed above are spending $921 million in Fiscal 1971.

But much more is needed to extend to rural Americans the full share of national prosperity and the full participation in the rich benefits of our society, which they rightly deserve. Much more would be done if the Congress acts to set in motion the broad strategy for accelerated rural development which I have placed before it in recent weeks.

Rural communities throughout the nation would share in the $5 billion of General Revenue Sharing which I have proposed. Rural communities would receive direct assistance in building their human resources, their social services, and their economic base through my Special Revenue Sharing proposals for manpower, education, transportation and law enforcement. My proposals for improving our system of health care include Area Health Education Centers to be located in rural areas and financial incentives for doctors and providing medical care in scarcity areas. My welfare reform proposals would have immediate and dramatic effects on rural poverty: in the first year nearly $1 billion in new cash benefits would go into rural areas to add to the income of the millions of rural Americans who are poor or underemployed.

To unify and consolidate the rural development effort in each State—I am today proposing that the Federal Government establish a $1.1 billion fund to be shared among all the States for fully discretionary spending to meet their rural needs and accelerate their rural development. This would be accomplished by combining programs which I listed above into a new program of Special Revenue Sharing for Rural Community Development, and by increasing their present annual funding of $921 million by $179 million during the first year.

HOW REVENUE SHARING WORKS

Beginning January 1, 1972, these funds would be paid out to the States and to Puerto Rico, the Virgin Islands, and Guam, in regular installments on a formula basis, according to an index of need based on three factors: the States rural population, the State's rural per capita income compared to the national average of per capita incomes, and the State's change in rural population compared to the change in population of all States. All 53 recipients would share equally in 1 percent of the funds. Every State would receive at least as much from Special Revenue Sharing for Rural Community Developument, as it now receives from the eleven existing rural assistance programs combined.

This proposal recognizes that patterns of development potential vary widely within the different States and seldom conform neatly to intra-State governmental jurisdictions. It therefore imposes no Federally dictated distribution of shared revenues within the States. Neither would it require matching or maintenance of effort spending by a State in return for the shared rural development funds. Indeed the shared funds could if necessary be used to match other Federal grants-in-aid for rural assistance. But there would be a firm requirement that all rural community development funds be spent for the direct benefit of *rural people.* The funds could be spent for any of the purposes now authorized under the existing aid programs, including the option of direct grant assistance to private firms which locate in rural communities.

Rural areas would be defined in this Act as counties with a population density less than 100 people per square mile, and all other counties, regardless of population density, which are not included in one of the 247 Standard Metropolitan Statistical Areas (SMSAs) which the U.S. Census Bureau defines around cities of 50,000 or more.

I will also propose $100 million in additional non-formula funds for the Urban Community Development Special Revenue Sharing program, to assist those smaller cities of population between 20,000 and 50,000 which have been receiving grant assistance from the Department of Housing and Urban Development but which would not now be eligible for a formula share of Urban Community Development Revenue Sharing. The Secretary of Housing and Urban Development would administer this fund on a discretionary basis. Such communities would thus be eligible for funds from both the urban and rural revenue sharing programs—as they should be, since many communities of this size have not only urban problems and needs but also strong rural development potential as economic and social opportunity centers for nearby rural counties. The same overlap would be true as well of some of the smaller and less densely populated Standard Metropolitan Statistical Areas which have less than 100 people per square mile, and thus qualify for both formula grants under Urban Community Development Special Revenue Sharing, and use of funds from the Rural Community Development Special Revenue Sharing.

The Act would apply the requirements of Title VI of the Civil Rights Act of 1964 to prohibit discriminatory use of the Federal money.

BUILDING ON SUCCESS

Conversion of the existing categorical aid programs for agriculture and development into Special Revenue Sharing for Rural Community Development is a logical evolution in line with the history of these efforts and consistent with their basic purposes.

Over a number of years the Department of Agriculture has been moving to make its assistance to farmers and rural residents more effective and flexible by a steady process of decentralization. Placing these programs fully in the hands of the States is just one more step in sharpening their ability to deliver the services they were designed to provide. Whether the transfer will be beneficial and the transition smooth is a question to which the example of the Cooperative Extension Service may provide a partial answer. The States are ready to take charge of the Extension Service, which they already largely administer and which all States now fund above the present Federal contribution.

In the case of EDA, the Appalachian Regional Commission and the Title V Commissions, revenue sharing in superseding them would actually incorporate the coordinated development approach that has made them successful, at the same time it removed some of the Federal "fences" that may have restricted their activities unduly in the past. The grass roots planning process which has proved itself under the Appalachian Regional Commission is carried over into the statewide development plan I am now proposing for *all* States under rural and urban development revenue sharing. Close account would be taken of the human factor and of the continuity of on-going development efforts as the program transition is effected. Counties that have launched projects under the Appalachian Regional Commission, for example, would continue to receive adequate funding to make good on the money already obligated for such projects.

With revenue sharing, therefore, as with all change, there would be adjustments to make but great benefits to be gained. Every single activity now carried on under the Commissions and categorical programs could be continued in any State whose own people decide it is worth continuing. The farm, forest, and conservation programs that have succeeded in the past could go right on doing so—and freed of Federal restrictions, they could probably reach out further and keep better pace with changing needs and technologies. In each instance the people of the State would make the decision.

STREAMLINING THE RURAL ASSISTANCE EFFORT

What Special Revenue Sharing for Rural Community Development *would* do is to remove many of the negative and inhibiting side effects which now plague rural assistance as a result of categorical narrowness, lack of coordination, and excessive Federal involvement. *By combining these programs we could produce a new whole significantly greater than the sum of the present parts.* It is worthwhile here to discuss some of the problems that would be eliminated—principally inflexibility, priority distortion and flawed accountability.

Inflexibility: As well-intentioned as past rural development efforts have been, strict Federal eligibility rules have often stood in the way of fair sharing of all the Federal resources for rural development, or have made it difficult for States and localities to do what they must to attract industry and services. For instance, many parts of the Midwest, which experienced some of the heaviest rural outmigration in the Nation during the 1960's, still do not qualify for Economic Development Administration grants.

In other cases Federal standards have acted to bar aid from those communities in a region where it could do the most good. Experts in rural development feel that the most leverage is achieved by reinforcing healthy development trends, rather than fighting them—that is, by concentrating aid in these smaller and medium sized cities of a rural area which have shown strength and effort in attracting industry. Every area of rural America has such centers of potential growth. Using government assistance to strengthen their development trends could make the difference in attracting new job-producing industry and expanding employ-

ment opportunities for rural people living in the surrounding counties. It could also help these communities attract doctors, teachers and others whose services are so needed in or near rural areas. Yet current Federal program restrictions, by and large, do not permit aid to be used this way, because of a "worst-first" criterion which often puts funds into areas that lack the development potential to help either themselves or others near them—rather than using funds to open up new opportunities regionally so that benefits flow out to low-potential areas nearby.

Distortion of State Budgets: Narrow Federal project definitions can force States and localties to spend scarce revenues on "matching shares," urgent community priorities aside, or risk the loss of Federal funds. Once begun, a Federal project may demand additional local spending, beyond the matching money, for support facilities to tie the project into community usefulness.

Flawed Accountability: The quasi-governmental agencies which often exercise a determining influence on the conduct of these programs tend to obscure and fragment responsibility for decisions made and therefore to subvert the democratic accountability of elected officials. Regional commissions, comprised of a Federal Co-chairman and Governors from member States, take part in many program and planning decisions which really affect only one Governor's State. Too often the Federal officials responsible for rural assistance are geographically distant, and the local, State or multi-State institutions that have a say are politically insulated or remote.

THE STATEWIDE DEVELOPMENT PLAN

Special Revenue Sharing for Rural Community Development would be administered initially by the Secretary of Agriculture; eventually both this program and the urban community development program would come under the direction of the Department of Community Development whose formation I have proposed. In addition to paying out each year's rural development funds to the States and territories, the Secretary of Agriculture would stay abreast of rural development aspects of the statewide development plans which each Governor would file with him annually.

The statewide planning process which would help States and localities coordinate activities carried on under both urban and rural community development revenue sharing will be established in legislation that I will submit shortly. It would require annual preparation of a comprehensive statewide development plan outlining spending intentions for programs in metropolitan, suburban, smaller city, and rural areas alike. The $100 million Planning and Management Assistance program which I proposed in my message to the Congress on Urban Community Development Revenue Sharing would provide funds which States and local jurisdictions could use in this planning process.

The Governor of each State would be given the responsibility for drawing up the statewide development plan. Formation of the plan would be based on a consultative process which considers plans submitted by State-established, multi-jurisdictional planning districts covering all areas of the State. Planning bodies of these districts would be composed of local elected officials. One member from each of the district planning bodies would sit on a panel which would assist the Governor in the planning process. The Secretaries of Housing and Urban Development and Agriculture could accept an alternative consultative process proposed by the State.

The completed plan would be filed with the Secretaries of Agriculture and of Housing and Urban Development—not for their approval, but as a declaration of intend; a Governor could amend his plan by letter during the course of a year.

The process of developing the statewide plan would focus official concern and public attention upon the inter-relationship of urban and rural community development within the State. The plan could identify potential growth areas, potential new community development sites, and environmentally imoprtant areas. It should seek to integrate all important community development factors, including land use.

All the money a State receives under Special Revenue Sharing for Rural Community Development would have to be spent for the benefit of persons in rural areas as outlined in the statewide plan. A State could of course also supplement its own rural development activities with money received under General Revenue Sharing and under other Special Revenue Sharing programs within program definitions. The Secretary of Agriculture would conduct an annual post-audit of State rural development activities, with payment of the next year's rural revenue sharing funds conditional upon State compliance with rural development spending plans for the year past.

THE LOGIC OF RURAL DEVELOPMENT REVENUE SHARING

To review briefly:

The major challenge facing rural America is to diversify its economy and to provide full opportunity for its people to enjoy the benefits of American life. Meeting this challenge will enhance the quality of life for those who remain to operate the nation's family farms and for all their neighbors in the small towns and countryside of America. As a secondary effect—like upstream watershed management for downstream flood control—meeting the rural challenge will also help to relieve the overburdened urban structure by stemming rural outmigration and attracting a share of future growth to rural communities.

The key to a rural development strategy is my proposal for $1.1 billion in Special Revenue Sharing for Rural Community Development—money which all States and territories would share and which they could spend in their rural areas as they deem wisest. Other proposed Federal assistance for rural America includes part of the $5 billion General Revenue Sharing program and part of five Special Revenue Sharing programs, as well as the benefits of a reformed welfare system and an improved health care system.

At the core of rural development revenue sharing would be eight agricultural grant programs and three broad development assistance programs now in being. Consolidating them, the revenue sharing approach would build on decentralizing trends in the agricultural programs and on the multi-State, State, and multi-county development planning experience accumulated under EDA and the regional commissions. It would do away with narrow aid categories, spending restrictions, duplication, and red tape now surrounding these programs. It would make the money now devoted to them go further and would provide more money.

Existing programs and development projects could continue or not at the discretion of each State, and the right of choice would rest close to the rural people at whom the aid is directed. A statewide planning requirement with a broadly representative input would promote coordinated development of a sort not now approached and would insure that all areas of the State have a voice in the planning process; but in no case could rural development revenue sharing money be diverted from rural needs.

URBAN-RURAL PARTNERSHIP

More money, plus more freedom to spend it, plus better planning in doing so, add up to better living for rural Americans and brighter futures for rural communities. Mutual benefits of the urban-rural partnership would be manifest as cities enjoyed the fruits of a healthy agricultural economy and the relief of more evenly distributed population growth, while rural areas felt the effect of new social and economic advantages. Rural and urban communities would no longer siphon off one another's strengths and resources nor shunt problems and burdens from one to the other. They would progress together in a dynamic balance, as partners in the best sense.

RICHARD NIXON.

THE WHITE HOUSE, *March 10, 1971.*

RURAL COMMUNITY DEVELOPMENT REVENUE SHARING

HOLD HARMLESS BASE LINE

Definition

Each State's historical average share was calculated by adding together the obligations of the programs converted to Rural Community Development Special Revenue Sharing for that State during the period of 1967–70 inclusive and dividing by the sum of obligations for these programs of the States during the same period.

Each State's "Hold Harmless" base line was calculated by multiplying the State's historical average times the obligations expected to be allocated to all of the States in 1971—$908,311,000. This procedure was used because in some programs the obligations to States are for specific projects rather than for support of services, and therefore, in some years certain States received large amounts of funds and in other years their funding is small. To pick any one year as a base line would penalize some States and give other States undue advantage. The averaging effect of the four-year period ameliorates any inequities.

Sources of data

U.S. Department of Agriculture, Division of Budget and Finance.

U.S. Department of Commerce, Division of Budget and Finance.

Appalachian Regional Commission, Division of Budget and Finance.

RURAL COMMUNITY REVENUE SHARING ALLOCATION

Formula used

Of the amounts appropriated for any fiscal year a minimum of eighty percent shall be apportioned by the Secretary of Agriculture among the States.

One percent of the amount to be apportioned shall be divided among the States in equal proportion.

Each State shall be entitled to a portion of the remainder of the amount required to be apportioned, and that portion shall be determined as follows:

Each State shall receive an amount equal to fifty percent of the remainder multiplied by a fraction the numerator of which is the rural population of the State at the most recent point in time for which appropriate statistics are available and the denominator of which is the sum of the rural populations of all States at the same point in time;

Each State shall receive an amount equal to twenty-five percent of the remainder multiplied by a fraction the numerator of which is the average of per capita incomes of all the States at the most recent point in time for which appropriate statistics are available less the rural per capita income of the State at the same point in time, such difference to be multiplied by the rural population of the State at the same point in time, and the denominator of which is the sum of the positive differences for each State multiplied by that State's rural population: Provided, however, that if the rural per capita income of a State is greater than the average of per capita incomes of all the States, the differences stated above shall be considered zero; and

Each State shall receive an amount equal to twenty-five percent of the remainder multiplied by a fraction the numerator of

which is the percentage change in population of all the States less the percentage change in rural population of the State, such difference to be multiplied by the rural population of the State during the most recent and appropriate time period for which statistics are available, and the denominator of which is the sum of the positive differences for each State multiplied by that State's rural population: Provided, however, that if the percentage rate of change of rural population of a State during such period is greater than the percentage rate of change of the populations of all States during the same period, the differences stated above shall be considered zero.

Discretionary allocations

An amount up to 20 percent of the fund may be allocated at the discretion of the Secretary of Agriculture.

NOTES

All computations and determinations by the Secretary of Agriculture are final and conclusive.

RURAL COMMUNITY DEVELOPMENT REVENUE SHARING

[In thousands of dollars]

State	Hold harmless baseline	RCDRS allocation
Alabama	30,717	31,622
Alaska	6,005	6,005
Arizona	4,643	8,051
Arkansas	20,033	23,654
California	27,846	28,582
Colorado	10,157	10,157
Connecticut	3,007	3,633
Delaware	936	1,425
Florida	9,103	21,625
Georgia	37,549	37,549
Hawaii	927	1,876
Idaho	4,688	8,091
Illinois	22,786	29,853
Indiana	11,366	21,834
Iowa	14,554	28,626
Kansas	12,401	20,204
Kentucky	65,577	65,577
Louisiana	12,419	22,720
Maine	6,987	10,682
Maryland	12,701	12,701
Massachusetts	6,278	6,278
Michigan	16,808	21,082
Minnesota	16,153	29,529
Mississippi	33,624	34,608
Missouri	18,788	28,560
Montana	8,767	8,985
Nebraska	10,557	13,300
Nevada	1,590	3,306
New Hampshire	2,389	4,574
New Jersey	8,340	13,424
New Mexico	7,404	11,275
New York	43,364	43,364
North Carolina	36,450	47,309
North Dakota	9,667	10,289
Ohio	35,659	35,659
Oklahoma	22,141	22,675
Oregon	8,395	9,981
Pennsylvania	46,643	46,643
Rhode Island	1,726	1,726
South Carolina	21,314	26,286
South Dakota	7,550	9,947
Tennessee	42,555	42,555
Texas	45,499	51,113
Utah	5,351	5,351
Vermont	3,044	3,700
Virginia	24,730	26,976
Washington	11,756	11,756
West Virginia	65,177	65,177
Wisconsin	13,455	22,637
Wyoming	3,670	5,699
Guam	9	1,314
Puerto Rico	15,000	25,872
Virgin Islands	55	1,051
Total allocated	908,311	1,086,467
Unallocated discretionary amounts		13,533
Total	908,311	1,100,000

Note: Totals may not be exact due to rounding.

FACT SHEET—RURAL COMMUNITY DEVELOPMENT REVENUE SHARING ACT OF 1971

The purpose of the proposed Rural Community Development Special Revenue Sharing is to provide more effective assistance for rural community development, by making available funds to the States in a flexible manner.

Rural development sharing payments.—The bill authorizes the Secretary of Agriculture to make payments to States from appropriations made for rural development revenue sharing. The amount of payment which each State is entitled to receive is determined by a formula based upon the rural population, rural per capita income, and change in rural population of the State. The payments are made to the States by the Secretary at such intervals and in such installments as he may determine.

Funds available to each State under this program will at least equal funds which have been available to that State under the Federal programs converted to Rural Community Development special revenue sharing.

Authorized expenditures.—Each State plus Puerto Rico, Virgin Islands, and Guam is entitled to expend its payments for any program or activity which directly benefits the residents of one or more rural areas within the State. Rural areas are defined as counties or similar political subdivisions which either have a population density of less than 100 persons per square mile or are not included within a Standard Metropolitan Statistical Area. Counties eligible for rural special revenue sharing expenditures exceed 2800.

Activities which may be supported with revenue sharing funds include all those conducted under the Federal programs converted to revenue sharing, plus such other activities as the State may designate—including direct financial incentives to private enterprise, agricultural, commercial, and industrial. The limiting factors are that the activities must benefit the State's *rural* residents as defined in the legislation and be spent according to the State Plan.

SOURCE OF FUNDS

General:	*In millions*
New money	$179
Title V regional commissions	38
Appalachian Regional Commission	278
Economic Development Administration	227
Resource conservation and development program	44
Education:	
Cooperative agricultural extension service	149
Water and sewer:	
Rural water and waste disposal facilities grants	42
Environment:	
Rural environmental assistance program	140
Forest Service grants	21
Great Plains conservation program	11
Water bank program	10
Tree planting assistance	1
Total (billion)	1.1

ADMINISTRATION

Initially, the Secretary of Agriculture will administer Rural Community Development Special Revenue Sharing, but it is contemplated that with the creation of the proposed Department of Community Development, that Department would administer both Rural and Urban Community Development Special Revenue Sharing.

PLANNING REQUIREMENTS

As a condition of receiving funds under the program, each State would be required to prepare and file with the Secretaries of Agriculture and HUD a statewide development plan outlining spending intentions for programs in metropolitan, suburban, smaller city and rural areas alike. The plans would not require Federal approval. The principal purpose is to focus state attention on the inter-relationship of urban and rural community development and encouraging a coordinated planning process within the State. The plans would be developed by the governor in consultation with multi-jurisdictional planning districts throughout the State, composed of elected officials, and an advisory panel consisting of an elected official from each planning district. An alternative consultation process can be suggested by the States.

No matching requirements.—There are no matching requirements for rural revenue sharing payments. Payments received by a State may be used to pay up to 100 percent of the cost of rural development programs and activities. Moreover, the payments may be used to meet matching share requirements of remaining Federal categorical grant programs which contribute to rural development.

No maintenance of effort requirement.—The legislation does not include a maintenance of effort requirement. The States are not therefore compelled to use rural revenue sharing payments for programs for which Federal funds incorporated in rural revenue sharing were previously used.

Fiscal control and audit.—The legislation requires the States to use such accounting procedures and make such reports as the Secretary may require. The legislation also requires the Secretary to audit annually each State that receives funds under the Act and authorizes him to make recommendations concerning future rural development special revenue sharing legislation and programs.

Civil rights.—The requirements of title VI of the Civil Rights Act of 1964 which prohibit discrimination in Federally-assisted programs would be made specifically applicable to rural revenue sharing payments.

EXHIBIT 2

RURAL REVENUE SHARING

(Statement of Senator DOLE)

Mr. President, I am pleased to join with my colleagues in cosponsoring the President's rural revenue-sharing proposal. When President Nixon sent his message on rural revenue sharing to Congress, he said, "The major challenge facing rural America is to diversify its economy and to provide full opportunity for its people to enjoy the benefits of American life. He continued saying that "meeting this challenge will enhance the quality of life for those who remain to operate the nation's family farms and for all their neighbors in the small towns and countryside of America."

The thrust of all the President's innovative revenue sharing proposals is to give the state and local governments more responsibility for planning, developing and implementing programs that directly affect them rather than continuing to build on the existing over-burdened, uncoordinated and unstructured maze of programs administered by the federal government. At its best, the present system is very cumbersome and difficult for local officials to understand and as a result, many Americans have lost faith in the ability of our government to respond to their needs.

Mr. President, as a member of both the subcommittee on rural development of the Senate Agriculture and Forestry Committee and the Subcommittee on Economic Development of the Senate Committee on Public Works, I am in the unique position of being able to see the problems of rural America from my responsibilities on two committees. The subcommittee for economic development has been holding hearings throughout the country to explore new approaches to community development. During these hearings, we found bi-partisan support for President Nixon's revenue-sharing proposals. Governors, county commissions, mayors and city councilmen repeatedly endorsed the idea of allowing state and local officials to determine their own priorities. In addition, the rural development subcommittee has scheduled hearings in Washington and throughout the nation to review the present rural development pro-

grams to determine the need for additional legislation.

Mr. President, the bill Senator Miller introduced today contains the President's proposal to share Federal funds with the State and local governments for rural development. With this legislation, decisions can be left to State and local officials. State governments will administer programs of real value to its own State and not be clouded by the diverse needs of the 50 States. State governments will be charged with submitting a plan describing how these rural revenue funds would be spent in rural areas. The only requirements for the States contained in this legislation are that the funds be spent according to the plan developed by the State for rural areas and that the extension service program be maintained at least at the 1971 level. The Congress may want to establish criteria for these State plans and a system for Federal approval to insure compliance. This approach would surely be more responsive to the needs of the people than the present system.

Planning for water districts and waste disposal systems would no longer be delayed by Washington red tape. Conservation projects through the great plains conservation program, forestry assistance and tree plantings could all be adapted to cover the local needs for these projects. Close coordination of resources, conservation and development projects could be effected and bring about more prompt implementation of their objectives. The rural environmental adjustment program (REAP also could more efficiently satisfy the particular demand for conservation practices that will assure abatement of pollution from agricultural sources. In addition, REAP could more readily be consolidated with other programs especially designed to cover the needs of farmers of that State.

Statements have been made that State and local governments are not capable of administering these revenues, that abuse and misappropriation will become common place when the Federal money is distributed through this program. But as President Nixon pointed out, control could be more rapidly effected over State or local government officials through the democratic process than is presently the case with the Federal bureaucracy.

When fully considered, it is evident that this legislation will provide a great assistance to rural development hopes and plans for this Nation.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 34

At the request of Mr. KENNEDY, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 34, the Conquest of Cancer Act.

S. 295 AND 296

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Utah (Mr. Moss), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 295, the National Transportation Trust Fund bill; and the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 296, the Fishery Products Protection Act of 1971.

S. 571

At the request of Mr. PEARSON, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Nevada (Mr. BIBLE) were added as cosponsors of S. 571, a bill to amend the Federal Meat Inspection Act relating to the importation of meat and meat products into the United States.

S. 856

Mr. ROTH. Mr. President, I am pleased to cosponsor with the senior Senator from Florida (Mr. GURNEY) a bill, S. 856, that would establish "Motor Vehicle Disposal Assistance" in each of the 50 States, Puerto Rico, Guam, American Somoa, the Virgin Islands, and the Canal Zone.

We have a bonus in the stockpiles of unusable vehicles throughout the country—a volume of hulks which would literally bury my State of Delaware. We have many other items that undoubtedly will find a way into the scrap processing plants. We have an increasing number of vehicles being manufactured each year.

The bill (S. 856) is fully in harmony with the national goals toward resource recovery enacted last year by the Congress. It is patterned after our most successful national programs. Each State would be encouraged to design a plan to fit its geographical, industrial and economical strengths. In solving the problem of waste the "Motor Vehicle Assistance Act" would allow each State to work out the best mechanism for auto recycling. The mechanism will be ready when municipalities are ready to add metal scrap to the heap. Many studies show that we now have adequate recycling technology. A recent conference between the Bureau of Mines and the National Association Secondary Materials Industries, Inc. revealed the advanced state of the art in handling the motor vehicle as a source of steel, copper, aluminum, lead, and zinc. A basic goal of the legislation is to develop procedures for opening markets for secondary materials other than automobiles.

Mr. President, this is significant legislation which I heartily support.

S. 934 AND S. 935

At the request of Mr. KENNEDY, the Senator from Idaho (Mr. CHURCH), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. McGOVERN), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. Moss), the Senator from Wisconsin, Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH) and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 934, a bill to amend title VII of the Public Health Service Act to expand and improve our Nation's resources for the training of physicians, dentists, optometrist, pharmacists, podiatrists, veterinarians, and professional public health personnel, and for other purposes; and the Senator from South Carolina, (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. McGOVERN), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. Moss), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 935, a bill to amend the Public Health Service Act to increase and expand the national resources for the education of doctors of medicine and osteopathy; and to promote the role of academic medical centers in improving the delivery of health services and medical care.

S. 967

At the request of Mr. PEARSON, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 967, a bill to promote economic opportunity in communities and industries which suffer a reduction in defense-related production and employment caused by shifting patterns of Federal procurement, and for other purposes, known as the Adapt bill.

S. 1163

At the request of Mr. KENNEDY, the Senator from South Dakota (Mr. McGOVERN) and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of S. 1163, the Nutrition Program for the Elderly Act.

S. 1172

At the request of Mr. CANNON, the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. MUSKIE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Mexico (Mr. MONTOYA), the Senator from New Hampshire (Mr. COTTON), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. BEALL), and the Senator from North Carolina (Mr. JORDAN) were added as cosponsors of S. 1172, a bill to exempt citizens of the United States who are 65 years of age or over from paying entrance or admission fees for certain recreational areas.

S. 1207

At the request of Mr. SPARKMAN, the Senator from Michigan (Mr. GRIFFIN) and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of S. 1207, a bill to authorize insurance in connection with loans for the preservation of residential historic properties.

S. 1331

At the request of Mr. WILLIAMS, the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. Moss), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Sena-

tor from Alaska (Mr. STEVENS), the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 1331, a bill to amend the Public Health Service Act to continue and broaden eligibility of schools of nursing for financial assistance, to improve the quality of such schools, and other purposes.

S. 1353

At the request of Mr. PEARSON, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1353, a bill to assist in alleviating the shortage of health-care personnel in rural areas, and for other purposes.

S. 1435

At the request of Mr. STEVENSON, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 1435, a bill to amend the Communications Act of 1934 to ban sports from closed-circuit television.

S. 1437

At the request of Mr. CANNON, the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 1437, a bill to amend the Airport and Airway Development and Revenue Acts of 1970.

S. 1592

At the request of Mr. MCGEE, the Senator from Iowa (Mr. HUGHES) was added as a cosponsor of S. 1592, a bill to establish a Commission to investigate and study the practice of clearcutting of timber resources of the United States on Federal lands.

SENATE JOINT RESOLUTION 52

At the request of Mr. SPARKMAN, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of Senate Joint Resolution 52, a joint resolution increasing the authorization for comprehensive planning grants and open-space land grants.

SENATE JOINT RESOLUTION 88

At the request of Mr. TAFT, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of Senate Joint Resolution 88, authorizing additional appropriations for the purpose of providing intercity rail passenger service and research and development in the field of high-speed ground transportation, and for other purposes.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 73

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, at the next printing, the names of the following Senators be added as cosponsors of Senate Resolution 73, to amend Rule XVI of the Standing Rules of the Senate: Mr. PASTORE, Mr. BENTSEN, Mr. CANNON, and Mr. TALMADGE.

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

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 21

At the request of Mr. CASE, the Senator from Idaho (Mr. CHURCH), and the Senator from Iowa (Mr. HUGHES) were added as cosponsors of Senate Concurrent Resolution 21, a concurrent resolution calling for suspension of military assistance to Pakistan.

COMMUNICATIONS SATELLITE ACT—AMENDMENT

AMENDMENT NO. 50

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (S. 702) a bill to amend the Communications Satellite Act of 1962, and for other purposes, which was received, ordered to be printed and appropriately referred.

The amendment (No. 50) was referred to the Committee on Commerce.

EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 51 AND 52

Mr. ERVIN submitted two amendments intended to be proposed by him to the bill (S. 1557) to provide financial assistance to local educational agencies in order to establish equal educational opportunities for all children, and for other purposes, which were received, ordered to be printed, and to lie on the table.

AMENDMENT NO. 53

Mr. STENNIS submitted an amendment intended to be proposed by him to the same bill (S. 1557), which was received, ordered to be printed, and to lie on the table.

SENATE RESOLUTION 18—A NEW CHINA POLICY—AMENDMENT

AMENDMENT NO. 54

Mr. GRAVEL. Mr. President, who could have predicted just a few weeks ago that the Premier of the People's Republic of China, Chou En-lai, along with thousands of ordinary Chinese people, would have personally welcomed to China American newsmen and ping-pong players?

Last fall, when I welcomed the establishment of diplomatic relations between Canada and the Peoples Republic of China, this winter, when I introduced my resolution on relations with China, and more recently, when I called for trade with China, I hardly anticipated such rapid developments.

Responding to the obvious pleasure taken by Americans in this resumption of contacts between the Chinese and American people, President Nixon acted quickly and, in my view, wisely by liberalizing U.S. restrictions on Chinese visitors and on trade with China. I hope, and believe, that Mr. AGNEW's unfortunate remarks of the last few days will not inhibit further American responses to China's friendly gesture. I am sure my colleagues here are anxious to reciprocate China's hospitality.

Before the above events, a large number of America's Asia specialists gathered in Washington for meetings of the Association of Asian Studies. I met with various groups of these specialists to discuss both the problems of Asian studies and of American policy toward Asia. Among them were members of two organizations which are urging on our Government a new policy toward China—Citizens to Change China Policy and the Committee for New China Policy.

The chairman of both groups—which include, incidentally, professional men, representatives of a number of church groups, and businessmen as well as academics—have informed me that their groups have decided to endorse my resolution. I thank them for their support.

My discussions with the specialists on such matters have further convinced me that my resolution could profit from a slight change in wording; namely, the substitution of the word "seated" for the phrase "be admitted to membership" in the second part of the resolution. In the interest of clarity, I would like the entire resolution in its amended form to be printed in the RECORD.

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

SENATE RESOLUTION 18 AS AMENDED RELATIVE TO A NEW U.S./CHINA POLICY

RESOLUTION

Whereas the People's Republic of China has, for more than twenty years, demonstrated its effective control of the seven hundred and fifty million people on mainland China, representing one-fourth of the entire population of the world, and gives every indication of maintaining such control within the foreseeable future; and

Whereas the People's Republic of China is even now among the most powerful nations on earth not only in terms of demographic and economic strength but also, as one of the five thermonuclear states and one on the threshold of possessing an independently developed intercontinental delivery system, in terms of military capability; and

Whereas the People's Republic of China has by its conduct demonstrated increasing willingness to join in both the concerns and activities of the world community of nations; and

Whereas it is in the interest of the United States in support of world peace to encourage this evolution; and

Whereas each year more states of all political persuasions, including some of our firmest free world allies, acknowledge this situation by extending diplomatic recognition to the People's Republic of China or by supporting the admission of the People's Republic of China to the United Nations, or both; and

Whereas the People's Republic of China will be admitted to membership in the United Nations within several years even as the sole representative of China and despite efforts of the United States to bar membership; and

Whereas the United States should exercise its influence in the United Nations through progressive leadership and should not subject itself, through inertia or attachment to the status quo of a vastly different and earlier era, to the role of follower, through a course of diplomatic humiliation; therefore, be it

Resolved, That the United States inform both the People's Republic of China and the Republic of China that it is not committed to the indefinite separation of Taiwan from mainland China, and that it shares the expressed interest of both Governments in eventual reunification, and that it proposes that those Governments attempt by and between themselves to reach a settlement of disputes dividing them and to seek means for accomplishing the eventual peaceful unification of the Chinese people; and be it further

Resolved, That the United States introduce in the twenty-sixth United Nations General Assembly a draft resolution proposing that the People's Republic of China be seated in the United Nations and all organizations related to it and that the United States should not seek to oppose, as a permanent member of the Security Council, a determination by the United Nations membership and the United Nations Secretariat with respect to the occupancy of the permanent Chinese seat in the Security Council.

Mr. GRAVEL. Mr. President, I would like to repeat now my conviction that my resolution speaks most directly to the fundamental problem of American policy in Asia: the United States has for years tried paternalistically to pick and choose among Asian governments, and when dissatisfied with one, to replace it with another. When will we learn to stand back and let Asians—in this case the Chinese—settle their own affairs? Can we pretend any longer that our intervention brings peace when it has so often only brought or perpetuated war?

I am pleased to inform the Senate that Senator McGOVERN has told me of his desire to cosponsor my China resolution: Senate Resolution 18, as amended.

The PRESIDING OFFICER (Mr. TAFT). The amendment will be received and printed, and appropriately referred.

The amendment (No. 54) was referred to the Committee on Foreign Relations.

NOTICE OF HEARING ON NOMINATIONS

Mr. WILLIAMS. Mr. President, I wish to announce that on Tuesday, April 27, the Committee on Labor and Public Welfare will hold a public hearing on the following nominations:

Mrs. Ethel Bent Walsh, of the District of Columbia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1975.

Mr. Phillip Victor Sanchez, of California, to be an Assistant Director of the Office of Economic Opportunity.

The hearing will be held in room 4232, New Senate Office Building, and will begin at 3:30 p.m.

NOTICE OF HEARINGS ON DISTRICT OF COLUMBIA COURT OF APPEALS NOMINATIONS

Mr. EAGLETON. Mr. President, as chairman of the Committee on the District of Columbia, I wish to announce that on May 11, 1971, at 10 a.m. in the hearing room of the District of Columbia Committee, room 6226, New Senate Office Building, the committee will hold public hearings on the nominations of Hubert B. Pair and J. Walter Yeagley to be Associate Judges of the District of Columbia Court of Appeals.

NOTICE OF HEARINGS ON BRAZIL

Mr. CHURCH. Mr. President, as chairman of the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Relations Committee, I wish to announce that a series of executive hearings on U.S. policies and programs in Brazil will begin on May 4.

The purpose of the hearings is to review the activities of the U.S. Government in Brazil, the policies on which those activities are based, and the degree to which they serve or fail to serve the national interest. The record of the hearings will be published after the deletion of national security information.

Witnesses will include U.S. Ambassador William M. Rountree and members of his staff and country team. It is anticipated that the hearings will continue on May 5 and 11.

Besides myself, other members of the subcommittee are: the Senator from Alabama (Mr. SPARKMAN), the Senator from Montana (Mr. MANSFIELD), the Senator from Maine (Mr. MUSKIE), the Senator from Virginia (Mr. SPONG), the Senator from Vermont (Mr. AIKEN), the Senator from New Jersey (Mr. CASE), the Senator from New York (Mr. JAVITS), and the Senator from Arkansas (Mr. FULBRIGHT), ex officio as chairman of the full committee.

ADDITIONAL STATEMENTS

CHANGES IN FEDERAL RECREATION FEES

Mr. MOSS. Mr. President, I have before me the recommendations of the Department of the Interior on changes in the fee program in our national parks and recreation areas. It is proposed that the annual fee of $10 per car be terminated, and be replaced by a $4 per person fee for everyone over 16. More supplemental fees for things like campgrounds, overnight parking, and even guided tours, are contemplated. In my opinion, the proposals run completely contrary to our objectives for outdoor recreation in America.

The Golden Eagle passport system was conceived 6 years ago as a way to get Americans to visit their national parks and enjoy their national heritage. In this respect it has been a resounding success. More Americans than ever before have been able to visit our parks in the past few years. Without a doubt the increased visitation in our parks has meant increased recreational opportunities, exciting outdoor experiences, and a deepened appreciation of the beauty of our land for millions of our citizens. This appreciation is finding an outlet in the current concern for our environment and in the proposals for expanding our national park system. In my opinion this is a development that we should encourage.

Apparently the Interior Department feels that this program is too popular. It has meant overcrowding in some of our park areas. It has led to overuse of parks facilities by some individuals. The parks could easily produce more revenue for us, the Department says.

Over the long run, the Interior Department anticipates that these changes will result in a five or sixfold increase in the $10 million collected each year.

There are many important considerations in the setting of a fee policy for our national parks. Surely not the least important is to expand recreational opportunities and facilities, to make such available to more people, and to encourage Americans to come and see what are, after all, national areas owned by them. We do not serve these central purposes by unduly increasing the cost of recreation for the average American family, or by erecting economic barriers to park use to those with limited incomes.

Neither do we serve these purposes with the complex, unenforceable, and inconvenient mechanisms that the new fee program will entail. I quote from the Interior Department report:

> There may be occasions where the (administration of the individual permit) would unduly delay the entrance of vehicles into the parks. These administrative difficulties would arise from trying to verify the ages of each vehicle's passengers; whether they have an individual permit, and if not, whether they wish to buy such a permit, or in lieu thereof, purchase a daily permit.

The Department envisions that such a system could cause a backup of 75–100 cars in the heavily visited parks.

How does the Department mean to remedy this problem? By suspending collection at entrance stations and conducting spot checks within the parks. Well, this only trades one administrative headache for another, probably a worse one. The present system is impossible to evade. The new one invites evasion. Visitors would have to carry their cards on them at all times in order to be able to produce them for spot check. The park police would have to be beefed up so that widespread evasion doesn't occur. Park Service personnel would have to spend more time checking for compliance and less on essential duties such as maintaining the campgrounds and providing services for the safety and comfort of visitors. Again I quote from the Department's report:

> Checking compliance with individual permits will involve large amounts of time, money, and personnel.

A large percentage of the increased receipts will be eaten up by the increased costs of enforcement.

As an adjunct to this new system we will be asked to legislate stricter penalties for noncompliance. A visitor caught without a permit would be arrested and hauled up in front of a specially appointed Federal magistrate. New and tougher penalties are advocated as necessary to make this system work. But is this any way to run our national parks?

Of course we must work to decrease overcrowding in some of our most heavily used parks. Increasing fees is not the answer. It seems to me that the proper way to go about this is to encourage visitors to come to our lesser known national parks.

We must expand our park system and more fully develop some of our existing parks in order to accommodate the increasing number of people who want to visit them.

We should be moving toward more recreational opportunities and facilities, at lower cost, for more of our citizens. The proposals put forward by the Interior Department are steps in the wrong direction.

NEGOTIATION OF CAMPAIGN DEBTS

Mr. SCOTT. Mr. President, several days ago I asked the General Accounting Office to look into reports that Federal candidates were either defaulting or negotiating their campaign debts to some Government-regulated industries. In the preparation of my campaign reform bill, S. 956, these reports came to the surface and I felt that an independent inquiry was needed before Congress made any final determinations. That is the principal purpose of my request to the GAO. However, in the event that the GAO has not completed its study by the time either the Senate or the House considers campaign reform legislation, I will be prepared to offer an interim amendment to, at the very least, set some guidelines in this area.

Mr. President, I ask unanimous consent that my letter to the General Accounting Office be printed in the RECORD.

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

APRIL 19, 1971.

HON. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: You may know that I have sponsored legislation this year to reform our archaic campaign spending laws. If this effort succeeds, the public is entitled, at the very least, to accurate and timely information pertaining to Federal candidates and to those who aid them.

In the interest of full reporting and disclosure of all forms of campaign assistance, direct or indirect, I am concerned that some of the industries regulated by independent agencies of the United States Government, by their billing procedures or other practices, may inadvertently be contributing to the election campaigns of Federal candidates. Specifically, I am referring to the air carriers regulated by the Civil Aeronautics Board, the wire (and perhaps electronic) communications regulated by the Federal Communications Commission, and the surface carriers regulated by the Interstate Commerce Commission. I recall several instances in which candidates who incurred debt with one or more of these Federally-regulated industries negotiated their debt downward to a substantially reduced figure after the elections. To say the least, such dubious practices on the part of these industries reflect a rather dull sense of business acumen, not to mention a questionable code of ethics. Furthermore, there is also the distinct possibility of setting bad precedent and encouraging corruption. Be that as it may, there remains the very delicate question as to whether or not this type of activity is in the public interest since it may constitute an unlawful corporate contribution. Equally important to the public is the fact that special treatment for political candidates, in this case an indirect Federal subsidy, has never been authorized by the Congress and the President.

Suggested remedies might include either actual or estimated pre-payment of bills, special authority for limited periods of either free or reduced-rate services, provisions for allowing candidates to liquidate debts over extended periods with low interest payments, or perhaps the depositing of funds in special escrow accounts. However, in order to consider these or other suggestions, we will need a great deal more information than is now readily available on the subject of candidates' debts.

In its deliberations on campaign reform, I am hopeful that Congress will address itself to this particular problem. As such, I respectfully request you to provide me with a complete accounting of all outstanding debts and negotiated settlements associated with these or other industries under Government regulation in the course of Federal political campaigns from 1962 to the present. The year 1962 is no arbitrary choice. It will yield at least a nine year history, whether or not a significant pattern emerges. It will also include the last two Presidential campaigns and elections, each of which dealt acknowledged serious blows to our major political parties—the Republicans in 1964, and the Democrats in 1968. In other words, I seek to examine this problem in the clearest light and the fullest scope.

In my view, any industry which is Federally-regulated and/or Federally-subsidized ought to account fully to the public for all its undertakings, especially when political campaigns are involved. It is absolutely imperative that the public interest prevail in such matters.

I do not believe that Federally-governed industries willingly or intentionally aim to lose money on political candidates. Nor do I believe that there is any collusion or conspiracy on the part of political candidates to defraud Federally-governed industries. And as much as I realize that substantially more than 50 per cent of all political candidates are unsuccessful in their bids for public office, I do recognize that there is usually no conscious or deliberate intent to lose an election.

Some may interpret my intentions here as either morbidly punitive or unabashedly partisan. In anticipation of such charges, I want to make it clear that I seek only to air the problem, which plagues virtually every candidate, and to assist in bringing about some solutions. I seek not to penalize past practices; rather, I see this as an opportunity to conduct an independent, nonpartisan inquiry which may serve to halt a potentially habitual and dangerous trend for the future. We must prevent the recurrence of any such activity. The integrity of political candidates rises far above party labels.

The few instances to which I referred in this letter are serious enough to warrant full Congressional study with a view toward either corrective legislation or supplementary administrative regulation. Your assistance and recommendations in this effort will be most appreciated.

With good wishes,
Sincerely,

HUGH SCOTT,
U.S. Senator.

ESTABLISHMENT OF MODEL CHILD DAY-CARE CENTER

Mr. CRANSTON. Mr. President, the Washington Evening Star of April 15 noted the establishment, within the U.S. Office of Education, of a model child day-care center financed by OE with grant assistance from the Ford Foundation. I commend the article to the attention of the Senate for two reasons. First, the center will not only serve children of OE employees, but will also be a national demonstration project in early childhood development. As such, it can serve a growing need for study and research in this vital area, accessible to educators and interested citizens from throughout the country. Secondly, the center is highly complimentary to the measure I have cosponsored with the Senator from Minnesota (Mr. MONDALE) and other Senators the Early Childhood Development Act of 1971. I am pleased to see that Federal education authorities have recognized a need, pursued it, and produced a remarkably innovative facility and program at a most appropriate time.

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:

DAY-CARE CENTER SLATED FOR OFFICE OF EDUCATION

(By John Mathews)

For the first time in its 104-year history, the U.S. Office of Education actually will have real, live children in its office building on a permanent basis.

Beginning about June, 50 children of OE employees will be enrolled in a model day-care center located in a converted executive dining room, previously shared with top officials of the National Aeronautics and Space Administration.

OE and NASA executives now will eat in the adjoining cafeteria, with lower grade officials, where they will be able to look through large glass windows at the children cavorting in an unusual playground, built in a sunken plaza just off Independence Avenue.

AIDES MUST HELP

The children's parents, who earn anywhere from $5,000 to $20,000 annually, and Office of Education specialists in the early childhood section, will be required to spend at least one day a month as adult aides in the day-care facility. Their work with the children will be paid as a working day—a precedent which may be transferable to other government agencies establishing day-care centers.

But OE will not operate the center itself. The office is holding a national competition for a contractor—possibly a university or school system-connected organization—to run it. The contractor will be subject to direction from OE officials and an advisory board of parents of children in the center.

OE's day-care center has a history dating from the early 1940s, when a proposal was first made—and rejected—for such a facility. About a year ago, the Office of Education's Advisory Board, a representative body of employees, recommended establishment of a day-care center.

Two young OE employees, Michael L. Brannon, a research bureau staffer and Charles Lovett, who works for the Bureau of Educational Personnel Development, ran the bureaucratic tightrope to obtain the center.

Brannon said yesterday in an interview that without the help of HEW Secretary Elliot L. Richardson and U.S. Commissioner of Education Sidney P. Marland Jr. "we would have ended up with a five-foot-square center with one token child probably made of foam rubber."

As it is Brannon, Lovett and Dr. Martin Engel, the project officer for the facility, obtained a $6,000 grant from the Ford Foundation to design the indoor and outdoor space, and from OE funds some $100,000 for renovation and about $85,000 for operation. Parents will pay on a sliding scale according to their income.

The former executive dining room will have an unusual combined play and learning area designed by Ron Haase, an award-winning architect, with modifications suggested by Lovett. The design calls for elevated platforms, a climbing and sliding tube, a small stage area and many small nooks and crannies for children. A kitchen is being built that will be suitable for student cooking and other projects.

Outside the NASA–OE building, located between 4th and 6th Sts. SW, on Maryland Avenue set back from Independence, the playground in the sunken plaza will include

bridges, ramps, a four-foot-high sliding hill and a 10-foot-high crows nest. Two feet of soil will cover the rough paving and a fountain which has not worked for three years.

STILL ANOTHER TRIBUTE TO DR. JOHN G. NEIHARDT, FOR 50 YEARS THE POET LAUREATE OF NEBRASKA

Mr. CURTIS. Mr. President, for the past several generations, Nebraska's high school students have read with pleasure the poetry of their State's poet laureate, John Gneisenau Neihardt. Nebraska's boys and girls—and their parents—have been fortunate to have the history of their State come alive for them through the poetic skill and vivid imagery of one of America's foremost poets.

The value of Dr. Neihardt's contributions were early recognized by the people of Nebraska. The Nebraska Legislature conferred on him the honor of poet laureate on April 21, 1921, 50 years ago today. This was the first time such an honor had been granted by any governing body in the history of the United States. The joint resolution which the legislature issued recited that body's belief that civilization's growth is furthered by the development of literature. The legislators cited John G. Neihardt as a Nebraskan who had written "a national epic, wherein he had developed the mood of courage with which our pioneers explored and subdued our plains, and thus had inspired in Americans that love of the land and its heroes whereby great national traditions are built and perpetuated."

One of the reasons why Dr. Neihardt has been able to re-create vividly the mood of that pioneering thrust toward the Pacific is that the roots of his own life are so deeply imbedded in the land about which he has written. Scholars of our literature have long believed that true literary creativity stems from an author's roots, and that even when a writer's theme is universal he must draw from the knowledge of his own place and understanding of his own people. To attempt to create fiction without the knowledge of its setting is to rob the story of its impact and power.

John Neihardt has sought the truth of man's journey on this globe by looking at the immediate history of his own area of America. As a Midwesterner, he has sought to understand and communicate the message of the common bond of all men through the story of the land he has known best.

Dr. Neihardt's knowledge of the Midwest has rarely been equaled, but it is knowledge gained in the school of experience. He was born in an unplastered one-room house on a rented farm near Sharpsburg, Ill., on January 8, 1881. Shortly thereafter, he moved with his family to Springfield, Ill., where the Neihardt's lived until the fall of 1886. At the age of five, they migrated to Rooks County, Kans. There the family lived with John's maternal grandparents in a sod-house for about a year. During the next 5 years, the family made its home in Kansas City, Mo. In 1892, the Neihardt's were again on the move to the small town of Wayne, Nebr.

In Wayne, young John Neihardt began his literary endeavors, writing his first verse at the age of 12. He enrolled at the Normal College where he finished the teachers' course in 1896 and the science curriculum a year later. Today the school's name has been changed to Nebraska State Teachers College, and one of its buildings has been named Neihardt Hall.

While attending classes at Normal College, John Neihardt became especially interested in Latin, spending as much as 5 hours a day on that subject. He also began a systematic and intensive reading program in the classics, studying Greek so that he might familiarize himself with the masterpieces of its literature in the language of their composition.

After graduating from Normal College, John Neihardt spent the school year of 1897–98 as a teacher in a small country school. He was young and restless, and irresistably the open road beckoned to him. The next summer he tramped through Kansas and Missouri, getting, as he called it, "experience." By the time John Neihardt reached 20, he had tried his hand at many a job, including that of farmhand, hod carrier, clerk, office boy, marble polisher, and stenographer. He had even spent 2 months as a city hall reporter on the Omaha Daily News.

While their son was busy occupying himself with exploring the countryside near and about him, the elder Neihardts had again moved, bag and baggage, westward. This time they settled in Bancroft, Nebr., where their son joined them in 1901. Their choice of a new home was a fortunate one for their son. The town of Bancroft was near the edge of the Omaha Indian Reservation. For the next 6 years, John Neihardt mostly lived among the Indians. For a while, he assisted in the office of an Indian trader in Bancroft, handling Indian leases, collecting rents and bills owed, and doing various odd jobs. Neihardt also took time out to try his hand at journalism. Organizing a stock company, he purchased for the company the town's weekly called the Bancroft Blade. Neihardt apparently did not find the job of running a newspaper very interesting, and, consequently, he abandoned the enterprise after a year. Even the writing of editorials was not enough to deter him from spending as much time as possible with the Indians of the neighboring reservation. He has maintained to this day a deep regard and respect for Indian culture.

The years at Bancroft placed an indelible stamp on Neihardt's later creative endeavors. Some authorities have suggested that in those years he was actually laying the groundwork for his masterpiece. They cite as evidence Neihardt's expressed desire to "write an epic concerning the westward advance in America to the Pacific" and his actions to "familiarize himself with the territory which would form the background of the epic." Whether or not young John Neihardt had set out consciously to research the setting of his epic is really of little significance. It is a matter of record that he made many trips throughout the region. He traveled to Fort Benton, Mont., the headwaters of the Missouri, so that he might descend that river in an open boat. His thorough research into the history of the region brought forth almost forgotten exploits by the trappers and traders who explored the region from the Canadian to the Mexican border and from the Missouri River to the Pacific Ocean. The many hours the young writer spent around campfires getting acquainted with the Indians, their history, and their customs as well as the hundreds of miles traveled tracing the trails of pioneers gave him a source for writing, unobtainable anywhere else. His own view of the experiences was expressed when he said:

> Literature in itself is nothing. It's life that counts.

His writing ability, however, was recognized quickly, and he was soon selling his stories to the leading periodicals of the day. A collection of these early stories was published in 1907 under the title "The Lonesome Trail." Although he was very successful at short-story writing, Neihardt felt that his best work was in the form of poetry. Consequently, he began work on his epic poems in 1912. The first of the group of five epic poems, titled "The Song of Hugh Glass," was published in 1915. The last of the series, "The Song of Jed Smith," was published in 1941, and the group of long narrative poems was published in 1949 as "A Cycle of the West." This work established Dr. Neihardt as one of the outstanding literary men of our time.

The list of honors accorded Dr. Neihardt have been many. Recognition in the way of honorary degrees has been conferred by the University of Nebraska, University of Missouri, and Creighton University of Omaha. He was chancellor of the Academy of American Poets from 1952 until 1967. He was awarded the gold scroll medal of honor as the foremost poet of the Nation in 1936 by the National Poetry Center. In 1968, he was named the Prairie Poet Laureate of America, and in the same year, the Governor of Nebraska proclaimed Neihardt Day as a State celebration. These honors are only a few of the many that have been bestowed on Dr. Neihardt.

One of the reasons that he has been so honored is his timeliness. The address which he delivered upon being named Poet Laureate of Nebraska in 1921 is as relevant to today's situation as if it had been written yesterday. He warns about the dangers of drifting formlessness and he admonishes us to tend to the responsibilities of democracy. In some of his early works, there is a prophetic note of things to come. Yet, for all his youthful radical cries, John Neihardt kept his faith in the American system. A few years ago he wrote for a preface of a new collected edition of his works:

> We idealistic youngsters who were "radicals" then could not foresee the tremendous peaceful social revolution that has taken place in our country since those days and is still in progress in the good American fashion.

My State of Nebraska and the Nation are, indeed, fortunate in having been privileged to have shared the thoughts and labors of John G. Neihardt. Let us hope that more of our children will learn the faith of our Land by reading his works.

UNITED STATES-CHINA POLICY

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered by the distinguished senior Senator from New Jersey (Mr. CASE) at a luncheon session of the 25th Annual World Affairs Institute on Saturday, April 3, 1971, at the Netherland Hilton Hotel, Cincinnati, Ohio.

Senator CASE's speech represents a very informed and lucid analysis of the key issues of United States-China policy. I believe it can be read with great benefit by all Members of the Senate. I wish to draw particular attention to examination of the historical background so skillfully explored in Senator CASE's speech.

I have worked closely with Senator CASE as a colleague on the Foreign Relations Committee. His views are listened to with great care—and rightly so. Recent developments have made a reexamination of our relations with China particularly timely. Senator CASE has made an important contribution to that process.

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

UNITED STATES-CHINA POLICY

Our first President gave us a great deal of good advice in his farewell address, perhaps none of it wiser or more appropriate to the subject of our relations with China than these words:

"The nation which indulges toward another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest."

For twenty-two years we have been a slave to animosity in our relations with China. That was not the case earlier, for attitudes of Americans towards China have varied widely since the founding of the Republic. One American scholar has divided these periods into various ages, beginning with the age of respect and proceeding through the age of contempt, the age of benevolence, the age of admiration and the age of disenchantment to the age of hostility, beginning in 1949 and continuing to the present.[1]

In the 18th century, and the first third of the 19th century, Americans respected China, regarding this far away land, then visited only by clipper ships and a few missionaries, with "a blend of romance, excitement, obscurity, beauty, distance, oddity, quaintness and danger. . . ."[2] In the mid-19th century, attitudes shifted. The age of contempt began, due in part to the wave of immigration from China composed principally of Chinese laborers coming to the United States to work on railroads in the west. Between 1854 and 1882, when the Chinese Exclusion Act was passed, some 300,000 Chinese entered this country. At the same time, foreign powers began imposing their will on China. As a result of the Opium Wars of 1839–42 and 1856–60, the Chinese were forced, by what came to be known as the unequal treaties, to open certain ports to foreigners, to permit foreigners to try their own citizens under their own laws and before their own courts, to let foreigners travel anywhere in China and to allow foreigners to continue trading in opium. Barbara Tuchman reminds us, in her latest book, that the United States profited from these developments. "Throughout the process of the opening of China," she observes, "the United States followed through portals cut by the British, avoiding the aggression and inheriting the advantages."[3]

In the early 20th century, American attitudes changed again. The age of benevolence began as missionary activity reached its height with some 12,000 American missionaries in China. Again, I turn to Barbara Tuchman for a description:

"China's vastness excited the missionary impulse; it appeared as the land of the future whose masses, when converted, offered promise of Christian and even English-speaking dominion of the world. Disregarding the social and ethical structure which the Chinese found suitable, the missionaries wanted them to change to one in which the individual was sacred and the democratic principle dominant, whether or not these concepts were relevant to China's way of life. Inevitably the missionary, witnessing China's agonies in the 19th century, took these as evidence that China could not rule herself and that her problems could only be solved by foreign help."[4]

In 1937, with the incident at the Marco Polo Bridge, the Japanese began their war against China. In the United States, public opinion rallied to the side of China, and the age of admiration began. It was, however, short-lived. Toward the end of the war we became disenchanted with the corruption, ineptitude and impotence of the nationalist government as well as with its inability to rally popular support. The age of disenchantment lasted until the victory of the communists and the flight to Formosa of Chiang Kai-shek and the Kuomintang. Since 1949, when those events occurred, our relations with the government on the mainland, and their relations with us as well, have been of almost unremitting hostility.

Our hostility was due to the coming of power of a communist regime on the mainland. We saw this event as part of the relentless march of monolithic communism following the steps which the Soviet Union had taken in the Baltic states during the war, immediately thereafter in Germany, Poland, Yugoslavia, Hungary, Rumania, Bulgaria, Albania, and North Korea and subsequently in Czechoslovakia and Berlin. And if these events, and the installation of a communist government in China, were not sufficient, there soon followed the North Korean attack on South Korea in June 1950 and the intervention of Chinese forces in October of that year. A distinguished American foreign correspondent described the effect of the Korean war on American attitudes in the following way:

"Peking's intervention in the Korean war did more to 'set' American attitudes against the Chinese Communists than anything that had happened up to that time. It now dawned on us that the Chinese were capable of challenging us militarily as well as politically. . . . Now Chinese Communists were killing Americans. . . . The blow to our pride, the humiliation, could hardly have been more complete. Overnight, our view of the Chinese Communists was changed from patronizing superiority to one of deep anger and apprehension. In all our history we had never felt quite like this about the Chinese. . . . It was the rebirth of the 'Yellow Peril' specter. . . ."[5]

That specter still haunts our relations with the world's most populous country, although it no longer inspires the same degree of fear. Americans seem prepared, if not anxious, to look at China as we look at other countries, in a more pragmatic, and less ideological and emotional, way. We seem ready, in short, to see the age of hostility end and an age of adjustment begin.

There are, of course, serious obstacles to overcome before this transition can take place. But some of the political underbrush has already been cleared away.

First of all, we and the Chinese have started talking to one another, privately and discreetly but still officially, at the Warsaw Talks. These talks are not, of course, isolated from world events. The Chinese cancelled the last meeting scheduled in May 1970 because of the allied incursions into Cambodia. They have, however, indicated that they regard the cancellation as a postponement and not a final rupture of the talks. Thus, the framework remains available and can be used again.

Second, we have, for our part, removed certain obstacles to travel and trade, the necessary minimal intercourse between nations. To its credit, the present Administration has permitted American travelers to buy goods from the mainland for personal use, has allowed American subsidiaries abroad to trade with China, has authorized the licensing of some goods for exports, has removed some of the restrictions on American oil companies operating abroad so that most foreign ships will be able to use American-owned bunkering facilities on voyages to and from Chinese ports and has, most recently, dropped the requirement, in effect for the past twenty years, that American passports be specially validated for travel to China.

Third, we have begun to move from the rhetoric of hostility to more neutral language in the way we talk about China. In his latest report on foreign policy to the Congress, for example, President Nixon called the People's Republic of China and Peking by their rightful names, instead of referring only to Communist China and Peiping as was the previous custom. At the same time, at the United Nations the United States has begun to place greater emphasis on retaining a seat for the Republic of China or Taiwan than on excluding the People's Republic of China.[6]

All of these developments reflect the passing of time and the fact that the question of relations with China has been desensitized as a domestic political issue to such an extent that the New York Times could report last year that "organized pressure on behalf of Nationalist China, which once exerted a powerful influence on American politics in the direction of United States policy, appears moribund, a victim of old age and lack of interest."[7]

There is more that can be done in the field of trade. We should, in my view, treat trade with mainland China exactly as we treat trade with the Soviet Union, permitting American companies to trade in all non-strategic items with China as they do with the Soviet Union.

Trade is, of course, a relatively simple matter. Far more difficult is the thorny question of representation in the United Nations. As you undoubtedly know, the subject is current because of the trend of voting in the United Nations which makes it possible this year, if not probable next year, that the People's Republic will be seated and the Republic of China expelled from that organization.

This question is often presented to the American people—even by the Gallup poll, I might note—as whether to *admit* Communist China into the United Nations. But China has been a member of the United Nations since that organization was founded. The question is not one of *admission* but one of *representation*.

The question of Chinese representation first arose in the fall of 1949. The Prime Minister of the People's Republic sent a telegram to the UN Secretary General demanding that the UN transfer the Chinese seat to his government, but there was little feeling in the General Assembly that immediate action was called for there. Soon thereafter, in December 1949, the Soviet government raised the question in the Security Council. It did not press for immediate action, but on January 8, 1950, the Chinese Prime Min-

Footnotes at end of article.

ister sent a further telegram protesting the Council's failure to expel the representatives of Nationalist China. Shortly afterward, the Soviet government formally proposed that the credentials of the Nationalist representatives be rejected. When this proposal was voted down, the Soviet delegate walked out of the Council and did not return until after the Korean war had begun.

From 1951 until 1960 the General Assembly regularly considered a Soviet proposal for including the matter of Chinese representation on the Assembly's agenda. This proposal was always rejected and instead a resolution, usually proposed by the United States, was adopted by the Assembly providing that the question of Chinese representation should not be considered. In 1961, in light of the increasingly close vote in the General Assembly, a different procedure was adopted by the United States. The Soviet proposal, calling for a change in Chinese representation, was included on the agenda for discussion but at the same time the United States introduced a procedural resolution to the effect that the issue was an "important question" and that therefore under Article Eighteen of the Charter a two-thirds majority was required. This procedure has continued to the present, although since 1963, when the breach between China and the Soviet Union made it impossible for the Soviet government to continue to act as the principal advocate for China, the proposal calling for a change in representation has been contained in a resolution co-sponsored by a number of countries but generally called the Albanian resolution. At last year's session of the General Assembly, for the first time, a plurality of the members of the United Nations—that is, a majority of those voting—voted for the Albanian resolution. It is possible this year, and likely next year, that the procedural resolution will not pass and that therefore only a simple majority vote on the Albanian resolution would be necessary to effect a change in representation. At least that seems to be the prospect if the members of the General Assembly are not given another choice.

I believe, however, that they should be given another choice, and that is to see the People's Republic of China represented and the Republic of China not expelled.

Let me say quite clearly that I do not believe that the United States should continue to oppose the seating of the People's Republic in the United Nations General Assembly and Security Council. The advantages to having the People's Republic in the organization seem to me to outweigh the disadvantages.

Let me say, too, that I would like to see the United States recognize the People's Republic as the legitimate government of the mainland and that I would also like to see full diplomatic relations established with the People's Republic.

But I am not in favor of seeing the People's Republic represented in the General Assembly and on the Security Council on condition that the Republic of China on Taiwan is expelled from the General Assembly. The general lines of the position which I favor are expressed, I should note, in Senate Resolution 37, introduced on February 2 by Senator Javits, which I have co-sponsored. That resolution is now pending before the Foreign Relations Committee. It will, I hope, lead to serious Senate consideration of our relations with the People's Republic.

I realize that the position I have just described is bound to be criticized by the People's Republic and the Republic of China, and by some China experts and UN experts, on the ground that it amounts to a "two-China" policy. But I neither advocate nor oppose a "two-China" policy. I firmly believe that the United States should not declare itself for or against either the eventual reunification of Taiwan with the mainland or the eventual evolution of two separate states. We should, it seems to me, be prepared to accept whatever results in the long run from the natural play or political forces, provided that the wishes of the people of Taiwan are respected. It seems to me that this points the way to the only practical direction we can take in the period which lies immediately ahead.

And this position is not without its supporters among the experts. Professor Edwin O. Reischauer of Harvard supports it. He points out, and I quote:

"Taiwan and continental China have not been a single country and have not been so for more than half a century. A good bit longer than that, in fact.

". . . I don't think we should be trying to force Taiwan out of existence, when it does exist and is the result in large part today of the will of the people who live there."

What will result in the long run? I do not believe that anyone can say. A. Doak Barnett, a widely respected authority on U.S. policy toward China, has recently written:

"Any real solution of the Taiwan problem will obviously require the passage of time—a considerable period of time—and it is difficult to predict what effect future events will have on the forces affecting it. The deaths of Chiang Kai-shek and Mao, generational as well as social, economic and political changes in both mainland China and Taiwan, pressures by Taiwanese for greater self-rule, growing links between Japan and Taiwan and other factors will have complicated and in some respects conflicting effects, the results of which are impossible now to foresee." [8]

We can thus only speculate about the future. But we can talk common sense about the situation that exists today. As a matter of fact, there are now two governments calling themselves the government of China. One is the People's Republic of China on the mainland. The other is the Republic of China on Taiwan. We have had a defense treaty with the government on Taiwan since 1954, committing us, in case of armed attack on Taiwan or the Pescadores Islands, to act to meet the common danger in accordance with our constitutional processes. I do not think that we can turn our back on that commitment.

The island of Taiwan has a population of 14 million. Twelve million are native Taiwanese. Two million are transplanted mainlanders who fled to the island as refugees when the communists came to power. These two million run the national government, continuing to pretend that they represent the mainland, through a central government of five branches elected on the mainland in 1947. Although most important provincial and local government posts are held by Taiwanese, these appointments must be approved by the central government. Since 1945, all governors of Taiwan have been mainlanders. Thus, the 12 million Taiwanese are ruled, in most respects, by the two million mainland refugees.

I believe that the time has come for us to stop pretending that the Government of the Republic of China on Taiwan represents the 650 million Chinese on the mainland. It does not and it will not. I also believe that the time has come for the Government of the Republic of China to stop pretending that it represents all of the 14 million of Taiwan. It does not, but it should.

I have already referred to the fact that both the People's Republic and the Republic of China have expressed their unwillingness to accept a dual representation solution. Both claim to be the government of China. Both say there is only one China and that Taiwan is part of that China. As I have said, however, as a matter of fact there is one government on the mainland of China and another government on the island of Taiwan. I see no reason why this fact should not provide the basis for our policy. After all, international politics, like domestic politics, is often a matter of compromise. I believe that it is important that the People's Republic be represented in the United Nations but I do not believe that this means that the international community must simply accept the terms set down by that government. After all, the Republic of China was one of the founding members of the UN and surely the 14 million people on Taiwan should continue to be represented there. If the United Nations were to adopt some kind of dual representation formula, over time the government of the People's Republic might reconsider its position and perhaps ultimately abandon its present adamant opposition to the idea.

I have no illusions about the difficulty of devising a formula, acceptable to a majority of the members of the United Nations, that will assure UN representation both to China and to Taiwan and also will resolve the question of the Security Council seat. I am sure, too, Peking will create many difficulties and contentions in the United Nations when she takes her place there.

But, with American leaders from John Foster Dulles to, and including, President Nixon (in his recent State of the World message), I believe that world peace will be better served by having China inside rather than outside the family of nations.

And, difficult as it will be to attain the necessary support in the United Nations for this position, I cannot believe that it is beyond the scope of American leadership and ingenuity. The President will need all the help we can give him, however, and I urge that, as a practical evidence of our support of the position which I have been urging, the Javits resolution be considered and overwhelmingly approved by the Senate of the United States without delay.

FOOTNOTES

[1] *Scratches on Our Mind,* Harold R. Isaacs, John Day Company, (1958), p. 71.

[2] *Ibid,* p. 67.

[3] *Stillwell and the American Experience in China, 1911–1945,* Barbara Tuchman, McMillan, p. 29.

[4] *Ibid.,* p. 31.

[5] *The American People in China,* A. T. Steele, McGraw-Hill, p. 37.

[6] Statement by Ambassador Christopher H. Phillips to the General Assembly, November 12, 1970.

[7] " 'China Lobby', Once Powerful Factor in U.S. Politics, Appears Victim of Lack of Interest," *New York Times,* April 26, 1970.

[8] *Our China Policy, The Need for Change,* A. Doak Barnett, Headline Series No. 204, Foreign Policy Association, February 1971, p. 54.

TRUTH-IN-ADVERTISING

Mr. MOSS. Mr. President, Advertising Age, the national weekly neswpaper of the marketing industry, recently published an editorial supporting the Truth-in-Advertising Act, S. 1461, introduced by the Senator from South Dakota (Mr. McGovern) and myself earlier this month.

I am pleased to have this endorsement from this well respected publication. As we indicated in our introductory remarks, the concept of truth is held in high esteem by the American people. But business firms, not only those usually considered unscrupulous, have upon occasion used advertising to deceive the

American people. I can think of no better way to restore confidence in the business community than the faithful application of the principles espoused by the Truth-in-Advertising Act.

In order to make a wise and intelligent choice in the marketplace, the consumer must be well informed. And what better way is there to inform the public than through advertising—advertising of valid claims which will withstand scrutiny and evaluation.

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

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

[From The Advertising Age, Apr. 12, 1971]

SOFT UNDERBELLY OF ADVERTISING

The idea that an advertiser should be prepared to substantiate his advertising claims for any consumer who wants the information strikes us as eminently fair and reasonable, and AA supports legislation to that effect introduced by Sen. George McGovern (D., S. D.) and Sen. Frank Moss (D., Utah).

The bill would require advertisers to make copies of documentation of their ad claims available on request; and the measure even specifies that the advertisers are entitled to be repaid for the cost of printing and sending out copies of survey details or other proof.

As a matter of fact, the latter provision might turn into quite a good way to zero in on potential customers. Some smart advertister will start offering a copy of his survey results free to anyone who writes in. Not only will consumers get the copy of the survey—written in non-technical, easy-to-understand language—but they'll also receive a coupon toward their next purchase of the product, or maybe even a free sample.

This would seem to be a great way to get consumers who are really interested in the product to give it a try.

AA has always operated under the general premise that what is good for the consumer is good for business, and it was with this philosophy in mind that we have decided to occasionally request substantiation from marketers who make what we consider to be unsupported claims in their print or tv ads.

Among the first such claims to catch our attention was one made by American Home Products' Whitehall Laboratories. A tv commercial currently being aired says that "769 doctors in a national survey preferred the Dristan capsule formula two-to-one over the other cold capsule formula."

We asked Dr. J. M. Shaul, Whitehall's medical director, for the survey details, but Dr. Shaul turned down our request "for competitive reasons." He added that such material is normally made available to the Federal Trade Commission and the Food & Drug Administration.

But that's of little help to the average consumer (and our publication is written by people who consider themselves to be average consumers). We all have a right to know the basis for an advertiser's claims so we can make a wise and intelligent choice of products based on criteria other than just the price of the item.

AA has repeatedly emphasized the need for advertisers to keep their ads as factual, straightforward and honest as possible, because we are convinced that the Federal Trade Commission and others in Washington would love to see advertising reduced to a compendium of price sheets.

FTC has the distinct notion that it can break up industry "concentration," where three of four companies have dominant shares of market, in a roundabout way by attacking advertising claims. Advertising, these FTC people feel, is instrumental in building "product differentiation," which they see as "the distinguishing of similar products from each other by persuasive [non-informative] advertising and other forms of sales promotion."

At the time of FTC's move against Wonder bread and other ITT-Continental Baking products, Robert Pitofsky, chief of FTC's bureau of consumer protection, called the case of "first step" in developing restrictions on the use of "uniqueness" claims for products which are identical.

But some people close to the case view the FTC action against Wonder bread as not so much a move against Continental's ad claims as a wedge to diffuse the company's hold on the bread market by reducing its market share. "They were swimming around in a closed tank," one top agency exec told AA. "The Wonder bread ad claims gave them their opening."

This theory is at least partially supported by an FTC memorandum prepared for congressional hearings on the commission's fiscal 1971 budget. The memorandum, signed by several commissioners no longer at FTC, by some who are still there, and by former chairman Paul Rand Dixon, called for FTC to develop non-traditional ways of getting at concentrated industries with high degrees of product similarity.

The FTC memorandum said, "There seems to be no particular reason for believing that a larger number of cases of the traditional type, or even a larger number of cases against larger firms and larger industries, would make a great deal of difference in the size and cost of this country's monopoly-oligopoly problem. What is needed is not more of the same, but something different in kind."

There is an uneasy feeling among some corporate attorneys that the commission will go after "uniqueness" claims as a convenient point of entry to break up what FTC people feel are overly concentrated industries.

We don't believe that the commission's theory on uniqueness will hold water, and we think they know it. But FTC will no doubt try to carry forward its anti-trust crusade by again probing for advertising's weakest spots.

Right now, unsupported ad claims represent the soft underbelly of the advertising business.

PRESENTATION OF PRESIDENT'S TROPHY TO HANDICAPPED AMERICANS OF THE YEAR

Mr. CURTIS. Mr. President, on April 15, 1971, President Nixon presented the President's Trophy to Handicapped Americans of the Year to Richard and Robert Santin, of Fullerton, Nebr. This is the first time in the 24 years of this program that this award has gone to a Nebraskan. It is the first time that it has gone to more than one person. Richard and Robert Santin are twin brothers. They are victims of muscular dystrophy. This is the first time the trophy has gone to someone handicapped by this disease.

In spite of their very severe handicap, Richard and Robert Santin are successful and respected businessmen in their hometown of Fullerton.

Mr. President, I ask unanimous consent to have printed in the RECORD a speech entitled "A Tribute To Courage," which was delivered by Howard K. Smith in connection with these ceremonies.

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

A TRIBUTE TO COURAGE

[A Tribute to Courage, delivered by Howard K. Smith, television commentator, ABC News, before presentation of the President's Trophy to Handicapped Americans of the Year, Richard and Robert Santin, at the Annual Meeting of the President's Committee on Employment of the Handicapped, Washington Hilton Hotel, Washington, D.C., April 15, 1971.]

The complaint is often made that news reporters recount nothing but bad news—wars, crimes, tragedies, man's failures. I plead guilty. I am not sure of the reason. It may be habit or the difficulty of getting attention, or just a negative tradition. But sometimes I think the daily diet of debacle we feed the people would justify mass suicide.

To my intense relief, I have been asked to tell you a story of good news today.

It is the story behind a sign you would see on a flat country road in Fullerton, Nebraska, which is just about mid-way between the East and West coasts of the United States. The sign reads: "Santin Two-Way Communications—Sales and Service." That is not the stuff of which headlines are made. But it happens to be the stuff of which heroes are. It points to the shop of Richard and Robert Santin, whom we honor today as Handicapped Americans of the Year.

The Santins were born thirty-two years ago and brought home to a farm close to where the sign now stands. As the first offspring and twins to boot, they brought great joy to their mother and father, Helen and Robert Santin. Seemingly healthy, big and alert, they were fitting sons of a family that had tilled the Nebraska soil for at least three generations.

Until they were a year old, the babies developed normally, but when they showed no signs of walking at fourteen months, their parents sought medical advice. They were told that many children big for their age were late walkers. Relieved, but still apprehensive, the Santins watched the twins carefully and made special efforts to develop their leg muscles.

As time passed, it became apparent that something was wrong. Richard and Robert were examined by a bone specialist. He offered no diagnosis. Finally, at an orthopedic hospital in the State capitol, doctors told the parents: "Your sons have muscular dystrophy."

The parents were crushed. But they were determined not to give up hope. For a special purpose they moved briefly to California in 1943. Mr. Santin worked in an aircraft factory while the twins were fitted with leg braces that could be made nowhere else in the country. In three months, the fittings were completed and the family moved back home. In their braces, the boys struggled to walk but made little progress.

A year later, at the Mayo Clinic in Rochester, Minnesota, Dr. Mayo advised the parents: "Take your children home. If there are any developments in the treatment of muscular dystrophy, we will let you know immediately." He added that if the boys reached the age of 21, they had a good chance of living a normal life span.

Helen and Robert Santin's hope for their sons' normal growth was now dead. It was replaced by a determination to keep them intellectually stimulated and to make them do as much for themselves as they could.

Since the boys were unable to attend school, Mrs. Santin began to teach them at home. The county superintendent of schools, Miss Jessie Kreidler, arranged for a teacher to visit the home once a week, to advise Mrs. Santin and to help her develop a curriculum.

The twins were quick to learn. They absorbed knowledge like sponges, not only from school books but from books on many other subjects that their parents provided. Richard showed a keen interest in science and technical subjects. Robert leaned toward history, poetry and adventure stories.

Meanwhile, a healthy daughter, Marilyn, was born to the Santins. Then, another son,

Douglas. He, too, had muscular dystrophy.

When Richard and Robert were ready for the sixth grade, Miss Kreidler decided they had outgrown home tutoring, and she went to the Nebraska Society for Crippled Children for help. The Society provided a communications system that enabled the children to participate in classes at the nearby one-room schoolhouse: Everything that went on in class was relayed to a speaker in the Santin home where the boys sat in their wheelchairs at a work table. The teacher could call on them to recite and, by pressing a button, they were able to volunteer answers. For a while, Douglas, too, took part in the lessons. Miss Kreidler remembers: "None of the boys had a report card below B-plus."

Although their world had grown, Richard and Robert were isolated from people outside of their own immediate family and a small circle of friends. They learned early in life that society has a way of forgetting the severely handicapped.

In an attempt to broaden their horizons, their parents bought one of the first television sets in Fullerton. The twins remember as their initial viewing experience the organization of the United Nations in San Francisco.

They were encouraged to use their hands to make things. Today, bird houses they built still hang from trees around the farmhouse, and inside is a desk put together with Marilyn's help.

Like other seniors in the class, Richard and Robert took tests and graduated from grade school. Then, through the Division of Correspondence of the University of Nebraska, they got the equivalent of a high school education. Throughout, their marks were high and their papers showed no signs of the difficulty they had in writing.

Although the joy of achievement was marred by the death of their brother, Douglas, in 1959, their youth and thirst for learning helped them over the tragedy. The twins were becoming intrigued by articles they read on amateur radio and electronics. They studied, got amateur radio licenses and their own transceiver. Marilyn, too, earned a license and Mr. Santin, a novice license.

Now, the world really opened up. Daily, Richard and Robert communicated with other "hams" in this country and overseas. Some of these people visited the Santins and became fast friends. Each year, amateur radio operators throughout the world observe International Field Day. Often, those within a 200-mile radius of Fullerton gathered at the Santin farm, in a clearing on the banks of the Loup River, to celebrate the event.

Eventually, an engrossing hobby became a serious study. Richard read more than a hundred books and manuals on mathematics, basic electricity, AF and AM radio, electronics and related subjects. He took Navy correspondence courses in radar and navigation. Robert, too, studied electronics and took correspondence courses in bookkeeping and accounting offered by the University of Nebraska.

Then, once again, tragedy struck. Mrs. Santin died in 1963. Marilyn was away at school, fulfilling her parents' dream that she get a college degree. With whatever help he could muster in a scarcely populated area, Mr. Santin took care of his sons, his home and his farm, as he does today.

In 1964, Richard earned an FCC 1st class radio-telephone operator's license. Gradually, friends and those who heard by word of mouth of their knowledge of electronics, began to bring the twins radios and other equipment to repair.

It could hardly be called a business. The remoteness of the farm and Richard's and Robert's lack of mobility kept it at the level of a hobby that brought in some pay. But as their experience grew—along with rejections by potential employers they approached—so grew their determination to open a business that would make them financially independent.

When they made their decision, almost two years ago, the twins said: "Most people figure we're too handicapped to do anything. We've waited 30 years for our ship to come in. We're tired of waiting, so now we're paddling out to meet it."

There was much to be done. A van was purchased and the interior modified to hold Richard and Robert in their wheelchairs, plus test equipment and components of the communications systems they got a franchise to sell. The E. F. Johnson Company, of Waseca, Minnesota, granted the franchise, more impressed by the twins' know-how than by their disability.

An able-bodied young man in Fullerton, with some training in electronics, joined Richard and Robert. The sign, "Santin Two-Way Communications—Sales and Service," in red letters on white, was erected on the country road.

Like any venture, it took time to get started. Many people thought it would be impossible for the two severely disabled men, with just one assistant, to make a go of it. But little by little, they found customers: A veterinarian who treated livestock on area farms and would save time and travel by having a two-way radio system; the manager of an aerial spraying business; the St. Paul police and fire departments; an ambulance service, a school system and others.

The twins' reputation as professionals grew. A businessman who hired them, not knowing they were handicapped, summed it up this way: "They know what they're doing and do it so well, it's unbelievable."

To date, the van in which Richard and Robert travel the state of Nebraska has logged more than 50,000 miles, in summer and winter, in good weather and bad.

With this behind them, what are the twins' dreams for the future?

They would like to open an office and shop in town, where they would be closer to customers. They would like to enlarge the scope of their business, and service aircraft in addition to the other vehicles on which they now work. They would like to hire a staff that included handicapped, qualified workers like themselves. They would like to achieve as much independence as possible and prove to others that disabled individuals can make a contribution to society.

This last hope they have, very obviously, already realized. Their achievements in the face of incredible adversity have astounded, touched and inspired countless other human beings. For this, today, we honor Richard and Robert Santin as Handicapped Americans of the Year.

If we have not, before now, used the word "courage" in our tribute, it is because, in the face of the evidence, the word is inadequate.

PROPOSED MORTGAGE FORMS WILL AFFECT MILLIONS OF HOMEBUYERS

Mr. PROXMIRE. Mr. President, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are proposing to issue standard mortgage forms which will affect the legal rights of millions of American homebuyers. These two agencies were created by Congress to help the American homebuyer obtain mortgage credit on terms which are fair and reasonable. The Emergency Home Finance Act of 1970 gave these two agencies the right to establish a secondary market for buying and selling conventional mortgages.

In preparing to implement this authority, the two agencies drafted standard mortgage forms which they would require to be used on conventional mortgages which they purchased from mortgage lenders. The first draft of the form was circulated to about 8,000 lenders but to only a tiny handful of consumer groups. Moreover, the letter transmitting the proposed forms for comment admitted that the forms represented "the thinking of a broad spectrum of the residential lending community." It is no wonder, then, that the proposed forms are heavily weighted on the side of the lender.

I wrote the two housing agencies on January 26, urging that the forms be published in the Federal Register and that public hearings be scheduled so that consumer groups could have an opportunity to comment.

I am delighted to report that the two housing agencies agreed to my request. Public hearings on the proposed forms were held on April 5 and 6. I testified on these forms and pointed out that if they are approved in their present form, they will severely cripple the legal rights of the American homebuyer. They constitute a form of "legal overkill" under which the lender is given every conceivable form of protection at the expense of the homebuyer.

Mr. President, I hope that the public hearings scheduled by FNMA and the Federal Home Loan Mortgage Corporation are successful in developing forms which are more evenly balanced between the lender and the borrower. I ask unanimous consent that my testimony before these two agencies be printed in the RECORD.

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

STATEMENT OF SENATOR WILLIAM PROXMIRE ON PROPOSED STANDARD MORTGAGE FORMS, BEFORE THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION, APRIL 5, 1971

I want to congratulate the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation for holding hearings on their proposed standard mortgage forms. These standards forms will be required by the two housing agencies when they buy conventional mortgages and will therefore affect the legal rights of millions of American homebuyers in the years to come. They undoubtedly will become the standard mortgage form used by all mortgage lenders throughout the country. The decisions reached on these forms will have an important and far-reaching effect upon the American consumer. Thus, it is altogether fitting and proper that public hearings be held on so important a matter.

In my letter to the Mortgage Corporation and FNMA of January 26, I argued that the first draft of the proposed mortgage forms seemed to be unduly weighted on the side of the lender. I urged that the proposed forms be printed in the Federal Register and that public hearings be held so that consumer spokesman could make their views felt. I am delighted that you have decided to follow these suggestions.

At the outset, I want to make it clear that I am testifying as an individual U.S. Senator and my views do not necessarily reflect those of my colleagues on the Senate Banking Committee which has legislative jurisdiction over the two housing agencies. Our Committee has, however, taken a strong interest in consumer protection legislation

and I am sure its members will be watching your deliberations with considerable interest. To my knowledge, no member has yet requested Congressional hearings on the subject and I am hopeful that your hearings today will prove successful in redressing some of the inequities in the proposed forms, thus precluding the need for any additional Congressional involvement.

My concern over the original forms proposed by FNMA was with the procedure by which they were being developed as well as with the provisions of the forms themselves. On the procedural question, I understand the proposed forms were circulated to 8,000 mortgage lenders but only to a tiny handful of consumer groups or independent experts. Indeed, the letter transmitting the first draft of the proposed forms frankly admitted that the forms "represent the thinking of a broad spectrum of the residential lending community." It is no wonder, therefore, that the forms are heavily biased on the side of the lender. As one Harvard law professor aptly observed, "They read as if they had been drafted entirely by a committee of bank lawyers."

In this era of consumer protection, I find it somewhat disappointing that our Federal housing agencies have been so insensitive to the rights of the homebuyer. One can well imagine the loud crys of anguish if a governmental agency attempted to promulgate far-reaching regulations affecting the business community without adequate notice, without publication in the Federal Register, and without provisions for a public hearing. And yet this is exactly what FNMA and the Mortgage Corporation were proposing to do with respect to their standard mortgage forms.

Congress did not create FNMA and the Mortgage Corporation to serve the lender. The whole purpose in having these two agencies is to serve the homebuyer and to make it possible for him to obtain a mortgage loan on terms which are fair and reasonable. Unfortunately, there seems to be a tendency for some housing agency officials to think of themselves as servants of the lender. I hope that today's hearings will mark the first step towards reorienting the views and attitudes of these officials.

The argument is sometimes made that the mortgage forms must provide adequate protection for the lender in order to induce investors to put their money into mortgages. The lender does, of course, need to have his investment protected. But the proposed mortgage forms to be required by our two Federal housing agencies go well beyond the legitimate need for investment security. They constitute a form of "legal overkill" under which the lender is given every conceivable form of protection at the expense of the homebuyer.

I have reviewed the second draft of the proposed mortgage forms circulated by the two Federal housing agencies on February 5, 1971. This second draft eliminates some of the more glaring legal atrocities contained in the first draft dated November 18, 1970. For example, under the second draft, the lender will no longer acquire a security interest in all household appliances purchased by the homeowner as he did under the first draft. Believe it or not, the first draft of the proposed mortgage forms even gave the lender an interest in any flowers or rosebushes planted by the homeowner. The gardeners of America can breath a sigh of relief that this iniquitous provision has been dropped in the second draft.

While the second draft contains some improvements, it does not go nearly far enough in protecting the legal rights of the homeowner. The revised forms are still heavily slanted in favor of the lender. If they are approved as written, they will severely cripple the legal rights of the American homebuyer. I am sure that as a result of the information gathered in these hearings, the two Federal housing agencies can develop mortgage forms which are more evenly balanced between the lender and borrower.

I have also reviewed the excellent alternative forms prepared by Mr. Spanogle of the Public Interest Research Group. These alternative forms appear to strike a fair and reasonable balance between the lender and borrower and I would hope you will give them serious consideration. No doubt some lenders will argue that these alternative forms are unworkable and will cause investors to put their money elsewhere. Before accepting any of these arguments, I would hope you would demand specific proof. It has been my experience that lenders view almost any change as catastrophic. It therefore seems wiser to err on the side of the homebuyer by adopting the consumer oriented forms. If, in practice, some of the provisions actually do have a depressing effect upon the level of mortgage investment, the forms can always be modified.

While I do not wish to comment in detail on all of the provisions in the second draft which need correction, I would like to outline some of the more important deficiencies.

First of all, the promissory note attached to the mortgage form makes it possible for the lender to accelerate the entire amount due *without notice* if the homeowner is more than 30 days late in a payment. If the homeowner cannot pay the outstanding amount due, the lender can then foreclose. This provision gives the lender a grossly unfair advantage over the homeowner. If a family is only 30 days late in meeting a payment because of temporary financial difficulties or even forgetfulness, they can lose their home.

The lender should have the right to accelerate the entire amount due if the buyer is late on a monthly payment. But surely the homeowner is entitled to a reasonable notice of the lender's intention to accelerate. If he is given reasonable notice he then has an opportunity to bring his payments up to date, thereby preventing the mortgage loan from being accelerated.

Without this protection, it is entirely possible for an unscrupulous lender to seize upon late payments as an excuse for accelerating, thereby forcing the homeowner to refinance his mortgage at a higher interest rate or lose him home.

Second, the proposed forms require that the homeowner prepay his real estate taxes and property insurance by making monthly payments into an escrow account held by the lender. I have no doubt that the vast majority of homeowners will prefer the convenience of this arrangement and I do not suggest that it be prohibited. Nonetheless, there are some homeowners who prefer to pay their taxes or insurance direct when they are due and I do not see why they should not have this option, particularly if it is agreeable to the lender.

The proposed standard form, however, would preclude such an arrangement even if the lender were willing. It thus interferes with the freedom of contract between the lender and borrower. It attempts to lock every homebuyer into a single mold regardless of individual preferences.

I would like to see the option for including taxes and insurance on the monthly mortgage payments rest exclusively with the buyer. However, there are occasions when the lender might have a legitimate reason to require the escrowing of tax payments. He might be dissatisfied with the ability of the homeowner to pay his taxes in one lump sum when due. Since a tax lien can be placed upon the property, the lender's security interest is affected. There is, however, no legitimate reason for a lender to require that insurance funds be escrowed.

I would therefore recommend that the option of including property insurance payments on the monthly mortgage payment rest exclusively with the homebuyer. Second, the forms should permit the borrower and lender to negotiate as to whether tax payments will be similarly escrowed. During a period where mortgage funds are readily available, such as the present, the homebuyer has the ability to shop around for a mortgage loan at the most favorable terms. Under these circumstances, many mortgage lenders are willing to forego the escrowing of tax payments. These natural, competitive forces of the market place should not be frustrated by governmentally sponsored standard mortgage forms which would prohibit a lender from offering more flexible terms to a qualified borrower.

Third, there is nothing in the proposed forms to prevent a lender from requiring excessive initial payments into an escrow account for taxes and insurance. Indeed, the forms permit the lender to require whatever he deems necessary. Thus, it would be possible for a lender to require the borrower to deposit one or more year's tax and insurance payments into an escrow account at closing time and to make monthly payments thereafter. I know of a case where a lender required the borrower to deposit insurance premiums for the first three years into an escrow account.

There is no legitimate reason for a lender to have any more funds in the tax and insurance escrow account than may become due and payable at the time the next bills are rendered. The standard forms should prohibit the lender from padding the escrow account, but unfortunately, they fail to do so.

Fourth, the proposed mortgage forms actually prohibit the payment of interest on tax and insurance funds held in the homeowner's escrow account even though the lender has the use of those funds. If this provision had been developed by a group of private lenders instead of the Federal government, I am convinced that the Justice Department could bring an antitrust action on the grounds that the provision is evidence of a conspiracy in restraint of trade.

I do not wish to get into an argument over whether the lender should or should not pay interest on escrow funds. Some lenders probably break even or even lose money because of the cost of administering escrow funds. Others undoubtedly make money.

Regardless of each lender's situation, I find it absurd that standard mortgage forms promulgated by the Federal government would absolutely prohibit the payment of interest. This is governmentally imposed price fixing at its worse. I believe it is far more preferable and consistent with our economic traditions to let the market place determine whether interest is paid on escrow funds. Let the borrower and lender bargain over the payment of interest. I do not say the forms should require the payment of interest, but neither should they prohibit such payment.

I would hate to think our lending institutions could not survive without the governmentally imposed price fixing implicit in the proposed forms. One would not be too inaccurate to say that these proposed mortgage forms represent socialism for the lender and free enterprise for the borrower.

Fifth, the proposed mortgage forms provide for a prepayment penalty of an unspecified amount if the borrower wishes to pay off his mortgage during the first few years of the loan. This provision can work an extreme hardship on military families and others, who, by the nature of their occupations, are required to make frequent moves every few years.

If the rationale for a prepayment penalty is to permit the lender to recover his fixed administrative expenses which would not be realized through early repayment, the argument is dubious since most mortgage lend-

ers fully cover their administrative costs at closing time by charging points.

On the other hand, if the reason for a prepayment penalty clause is to prevent the homebuyer from refinancing when rates are reduced, the provision is unfair because the forms also permit the lender to require a new mortgage loan at a higher rate if the original buyer sells his home to a new buyer. If the lender has the opportunity to take advantage of a higher rate, a similar privilege must be accorded the borrower.

I believe the prepayment penalty clause should be stricken from the forms. Substantial prepayment penalty clauses can lock homeowners in their present homes and distort the orderly functioning of our housing markets. It can have a depressing effect on the demand for new home construction on the part of families who already occupy a home. Prepayment penalty clauses also retard the sale of existing homes.

Sixth, the proposed mortgage forms subject homebuyers to possible tie-in sales of property insurance by stipulating that the insurance company must be satisfactory to the lender. My Subcommittee on Financial Institutions has uncovered numerous abuses in the sale of credit life insurance. Instead of selecting the lowest costing credit life insurance, most creditors select the highest cost insurance in order to earn greater commissions. This form of reverse competition has kept credit life insurance premiums excessively high.

I am fearful that the same result would occur if the standard mortgage forms were to permit the mortgage lender to veto the right of the homebuyer to select his own insurance company. I would therefore recommend that the homebuyer be permitted to select any insurance company he wanted as long as the company were licensed by the State Insurance Commissioner to do business in that State. If it is concluded that lenders cannot adequately rely upon the certifications of State Insurance Commissioners the mortgage forms can further require that the insurance company also be approved by a Federal agency such as the Department of Housing and Urban Development.

Seventh, the proposed forms prevent the borrower from collecting the proceeds of any insurance payment and deciding whether to repair the property, reduce the principal on the mortgage, or use the money for something else. Instead, the proceeds are paid to the lender and he is given the exclusive right to decide what to do with the proceeds.

For example, suppose a homeowner's roof were damaged by fire and the insurance company paid the mortgage lender $2,000 in damages. The lender would have the power to use the $2,000 to reduce the principal of the mortgage loan instead of repairing the roof. If the homeowner wanted the roof repaired, he would have to pay for the repairs with his own money. Or perhaps he could be "persuaded" to take out a home improvement loan from the lender at a much higher rate of interest.

I see no reason to give the lender this much power. The homebuyer should have control of any insurance proceeds as long as the lender's security interest is not impaired. For example, if the borrower wants to spend the insurance proceeds on something else without repairing the damage to his home, he should be permitted to do so as long as the revised value of his home exceeds the amount due on the mortgage. The lender should be permitted to take control of any insurance proceeds only if the homeowner's proposed use of those proceeds would leave the value of the property less than the amount due on the mortgage loan.

These are just some of the deficiencies in the proposed standard mortgage forms. There are others of a more detailed nature which I have not gone into.

In summary, I believe the proposed forms are unfair to the American homebuyer. They constitute a major step backwards in consumer protection. They are totally inconsistent with the government's duty toward the homebuyer. And they are directly contrary to the objectives of the authorizing legislation. I would hope that these hearings will lead to a considerable revision.

A mortgage form is probably the most important single legal document a person will sign in his lifetime. Morever, an investment in a home is probably the most substantial financial commitment he will make. The mortgage form will effect his legal and financial well-being over a 25 or 30 year period. However, despite the extreme importance of a mortgage contract, most homebuyers do not bother to read it in detail or obtain representation from an attorney.

Since these proposed mortgage forms are being promulgated by agencies or instrumentalities of the Federal government, most homebuyers will be even less inclined to examine their mortgage contract carefully. Most homebuyers will assume that Federally approved forms could not possibly contain provisions which are to their financial disadvantage. In view of the great public trust assumed by FNMA and the Federal Home Loan Mortgage Corporation it is imperative that the forms be as fair and as reasonable to the borrower as they are to the lender.

CENTRAL ARIZONA PROJECT

Mr. FANNIN. Mr. President, 3 years ago Congress authorized the central Arizona project after many years of study and debate.

Since then progress has continued to be agonizingly slow for those of us who understand the importance of this project to the future of Arizona.

One stumbling block hopefully was removed April 13 when Gov. Jack Williams signed a new bill passed by the Arizona Legislature creating a conservancy district. This provides the legal machinery for contracting for central Arizona project water.

It is my hope that now the administration and Congress will provide the means to get work on the central Arizona project in high gear and to complete it by 1980.

The urgency of this project has been underscored in recent months by the severe drought that has struck Arizona.

A good summary of the project, where it stands, and its purpose, was published in the most recent issue of Lawyers Title News.

This article was written by Rich Johnson, executive director of the Central Arizona Project Association. I ask unanimous consent that the article be printed in the RECORD so that it may be available to Senators who are interested in following the progress of this important project.

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

ARIZONA'S WATER FUTURE BRIGHTENED

(By Rich Johnson)

After more than twenty years of legislative and legal controversy, the Central Arizona Project was authorized as a federal reclamation project by the U. S. Congress on September 30, 1968.

The Project is one of the most extensive multiple-purpose water conservation and utilization projects ever authorized. Significantly, too, in the legislative process leading to authorization some of the most troublesome controversies which had plagued the seven states of the Colorado River Basin were resolved so that future water resource development can proceed on a broad regional basis.

The Colorado River Basin Project Act authorizes not only the Central Arizona Project but also five smaller water projects in the four-state upper portion of the Basin, as well as instituting studies of ways in which the supply of water in the Colorado River may be augmented to meet future needs of one of the fastest growing areas of the nation.

The Central Arizona Project unit will—when completed by about 1980—deliver an average of about 1.2 million acre-feet of Colorado River water annually to agricultural, industrial, and municipal users primarily in the central and southern areas of the state.

The project's service area includes the state's two major cities (Phoenix and Tucson) and about thirty smaller towns, and has a combined population of more than 1.5 million. It also includes about 750,000 acres of irrigated farmland.

Diversion point for the aqueduct is Lake Havasu on the mainstream of the Colorado River just above the existing Parker Dam. Water will be lifted approximately 800 feet at that point and delivered into a concrete lined gravity flow canal for a trip of 190 miles to Orme Dam Reservoir, about 25 miles northeast of Phoenix in the Salt River Valley.

From there the aqueduct will continue southeast for about 97 miles to serve users in Pinal and southeastern Maricopa County. From a control reservoir near Marana, a pipe aqueduct will carry water another 20 miles south to industrial and municipal users in the Tucson area. From another water source—the San Pedro River in Cochise County—a 65-mile aqueduct will convey water from Charleston Dam Reservoir to Tucson.

Buttes Dam and Reservoir will also be constructed on the Gila River in Pinal County as a flood control and water conservation facility.

Reservoirs at Orme, Buttes, and Charleston Dams will be fully developed for their recreation values as well as their regulatory and storage functions.

No new hydroelectric dams will be constructed on the mainstream of the Colorado River as a part of the Central Arizona Project. The electric power required for lifting the water will be supplied from a thermal electric plant now under construction near Page, Arizona.

Total construction cost of the Project is estimated to be about $1 billion, of which Arizona beneficiaries will repay about 87% to the federal treasury over a period of fifty years following completion.

THE PURPOSE

The purpose of the Central Arizona Project is to provide a supplemental supply of water in an area where the need has for many years exceeded the renewable supply. Of the approximately 4.5 million acre-feet used annually, only about one million is available from locally stored river flows. The rest is pumped from deep wells which tap stored groundwater deposited over a period of many thousands of years.

Depletion of the groundwater resource to meet progressively greater needs has been a growing problem for many years. As the Central Arizona Project is designed to slow the rate of annual depletion, delivery of Central Arizona Project water for agricultural use will be limited to lands having a recent history of irrigation. This restriction will prevent development of new farmlands using Project water and help to sustain production on lands already developed.

The Project plan earmarks at least one-third of water deliveries for domestic mu-

nicipal and industrial uses in keeping with the urban population growth and the expansion of manufacturing.

It is impossible to put an explicit dollar value on water in an arid region like Arizona. Water is a resource rock upon which the total economy is built. If the present annual use of water per year in the state is viewed in relation to annual personal income, then the approximately 6 million acre-feet of water used in Arizona is basic to an income of about $5 billion. The equation is at least indicative of the value of the Project's 1.2 million acre-feet of delivered water.

The value of water is never static, however. As its end use changes, so does its value, and in Arizona the end use is gradually but surely changing from the lower per unit productive value of agricultural irrigation to the higher value of manufactured goods and the imponderable values of domestic municipal use.

While Central Arizona Project water deliveries are planned primarily for the needs of people in the most heavily populated and industrialized central and southern parts of the state, the plan and the authorizing act provide for indirect augmentation of water supply in the higher elevation communities of the Arizona northlands.

This would be accomplished by exchanging Colorado River water delivered via the Project aqueduct in central Arizona for a corresponding amount retained by users higher up on the state's internal watersheds.

That principle of water exchange can not only relieve some chronic water supply problems of northern county cities and towns, but also make possible the ultimate implementation of planning for recreation water impoundments by the Arizona Game and Fish Department. Such relatively small-scale impoundments will serve the growing recreation needs of the people in central Arizona and enhance the recreation oriented economics of the area in which they are located.

WATER SOURCES

With the Project in operation after 1980, central Arizona will have one of the most sophisticated and elective water supply systems in the world. There will be three sources to draw from—surface runoff water stored in reservoirs on the Gila, Salt, Verde, Agua Fria, and San Pedro rivers; groundwater reserves; and Colorado River water delivered via the Central Arizona Project aqueduct.

These three sources can be drawn upon by management decision for varying amounts and different proportions of the total demand depending upon variations in the quantities available from the two stored surface water sources—reservoirs on internal streams, and Lake Mead on the Colorado River. Withdrawal of groundwater can be reduced when surface water supplies are relatively abundant, thus permitting more recharge to accumulate in groundwater aquifers for use in periods when surface water is less abundant.

In addition to these three primary sources, about 50% of all Central Arizona Project water delivered for urban municipal use will be returned as sewage effluent and available for treatment and reuse for appropriate beneficial purposes.

This availability of water production source alternatives puts central Arizona in an enviable position; in fact, a better position than that of most regions of normally more abundant water where the total dependency is upon a single developed source of supply.

Before the Central Arizona Project can go on the line, of course, it must be completed in steel and concrete. At present it is an engineering plan on the drawing boards of the Bureau of Reclamation. Final advance planning leading to the awarding of construction contracts could not be started until the Project had been authorized by Congress. Following authorization at the end of 1968, the process of advance planning began in only a limited way until Congress appropriated $1.1 million for the purpose in December 1969.

For the fiscal year which began July 1, 1970, the Nixon Administration recommended an appropriation of $3.1 million for the Central Arizona Project. That amount includes $200,000 which was withheld from the previous year's appropriation by the Bureau of the Budget.

Of the $3.1 million recommended for appropriation, about $2.25 million was earmarked as the federal government's 1970–71 obligation towards the cost of constructing a thermal electric generation plant from which energy will ultimately be made available by pumping Colorado River water via the CAP aqueduct. This left about $850,000 for continuation of CAP diversion and aqueduct advance planning. This is not regarded as adequate funding to meet the requirements if CAP water deliveries are to begin in 1980.

For this reason the state legislature has appropriated $685,000 on a reimbursable basis to supplement funds appropriated by the Congress.

The 91st Congress, however, acting upon a request by Arizona Congressman John Rhodes, appropriated an additional $1.2 million specified for actual construction. These construction funds may or may not be released by the Administration's Office of Management and Budget for use this year.

Although no serious question has ever been raised concerning marketability of all the water to be made available by the Central Arizona Project, it became necessary after Project was authorized to begin determination of how the water would be allocated among those who would want to sign delivery contracts with the secretary of the interior. January 6, 1969, the secretary asked that potential contractors file "expressions of interest" with the Bureau of Reclamation.

As of October 8, 1970, a total of 47 of these "expressions of interest" had been filed, and collectively they indicated a market for roughly four times the amount of water that is likely to be available for average annual delivery via the CAP.

ALLOCATION GUIDELINES

The Arizona Interstate Stream Commission, which was authorized several years ago to advise the secretary of the interior in connection with CAP water delivery contracts, has a research program under way to develop water allocation guidelines on the basis of need and benefits. This work is being done under direction of the commission's staff, headed by the state water engineer, Wesley E. Steiner, and the consulting firm of Dunlap and Associates. The studies involve linear mathematical programming of data in a systems analysis giving weight to the many economic and social effects of water allocation.

Related to this responsibility the commission has also established a Water Allocation Advisory Board open to membership representing any and all potential users of water in Arizona.

The question of water supply in the Colorado River for the CAP has been raised at various times. In authorizing the Project, the Congress was assured by federal water experts that the supply of water in the river, with the storage reservoirs at Hoover and Glen Canyon dams, will be sufficient until about 1995 or 2000 to meet legal delivery requirements under anticipated development conditions.

The authorizing act also directs the secretary of the interior to "conduct full and complete reconnaissance investigations for the purpose of developing a general plan to meet the future water needs of the Western United States." His final report is to be submitted on or before June 30, 1977.

Furthermore, the act provides that satisfaction of requirements of the Mexican Water Treaty from the Colorado River constitutes a national obligation which shall be the first obligation of any water augmentation project planned. Relieved of the burden of the Mexican Water Treaty obligation, the supply of water in the Colorado River will be adequate for all presently existing or authorized deliveries to the Colorado River states, according to authorities.

For the present and the short-term future, the economic values of the Central Arizona Project are primarily in terms of preserving agricultural productivity and land values, the tax base associated with those values, and the great variety of business activities associated with farm crop production.

Despite large cash receipts for crops marketed from Arizona irrigated farms, the trend in Arizona is toward urbanization of land which appears to have a dependably available supply of water. The City of Phoenix, which occupied only 17.1 square miles in 1950, now includes 247.7 square miles in its corporate limits. The city's metropolitan area now has a population of nearly a million people, using more than 200 gallons of water per day per capita, according to estimates prepared by the Arizona Interstate Stream Commission.

The City of Tucson has experienced a similar rate of growth, with accompanying increases in municipal water useage. In addition to the growing need for domestic water in the Tucson area, the copper mining industry of the county is expanding at a rapid pace and its water requirements must be met.

The fact that the Central Arizona Project aqueduct, after reaching the Salt River Valley, will traverse the 100-mile stretch of land between Phoenix and Tucson increases the probability that this corridor will be extensively urbanized. In the process of this development the economic and population impact upon Pinal County, lying between Phoenix and Tucson, is bound to be highly significant.

This potential development offers Arizona a unique opportunity for long-range planning to achieve a model urban environment. A substantial part of the land in the area between Phoenix and Tucson is in state ownership making it possible to manage its development according to a master public policy plan. The corridor can be segmented with appropriately spaced regional parks to provide open space and recreation facilities. Urban community water system effluent can be reused for recreation purposes and, with proper treatment, for irrigation of farm green belts separating industrial park sites from residential areas. Rights of way for utilities such as power and a mass transportation system can be established well before they are required.

By taking these planning steps now, it will be possible to reduce the specter of overcrowding of people in Phoenix and Tucson, to reduce the concentration of air pollutants which are associated with such overcrowding of people and their traffic congestion.

A MODEL ENVIRONMENT

In short, the Central Arizona Project aqueduct presents a very real opportunity for Arizona to develop a model urban-rural environment linking its two largest cities, and to accomplish it in a way that is compatible with resource conservation and ecological goals.

Still on the horizon, and beyond the Central Arizona Project, lies the challenge that must be faced by all of the American Southwest which lies in the arid zone of the vast Colorado Basin. Weather modification to increase normal precipitation over the watersheds, and very large-scale water desalting plants are possibilities receiving intensive study at the present time. Other possibilities include the transportation of water over

great distances from regions where surplus water may be found.

The twenty-first century seems likely to be an age in which many of man's most urgent social, environmental, and economic problems will depend upon wise development of water and its related land resources. If so, the broad regional concepts incorporated in the Central Arizona Project authorization act may be the pattern for planning and action.

ALASKA OIL DISCOVERIES

Mr. GRAVEL. Mr. President, millions of words have been written about the Alaska oil discoveries, the proposed Alaska pipeline, the ecology of the tundra, and the relationship of all this to national energy needs.

Recently I read an article in the Bulletin of Atomic Scientists that provides such a fresh perspective to these important and complex issues that is worthy of special notice. In this brief piece, William W. Porter II, of Palmdale, Calif., gives us a rare insight to the possible consequences to the human environment of our failure to move ahead with production of our known energy reserves in Alaska.

It is an article worth reading and pondering, for it is a forerunner to difficult questions of public policy that will arise all too soon if we lose perspective on how a modern society is to maintain itself.

I ask unanimous consent that Mr. Porter's article be printed in the RECORD.

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

COMPETITION BETWEEN ECOSYSTEMS

L. C. Bliss' article on "Why We Must Plan Now to Protect the Arctic" (Bulletin, Oct. 1970) has given a good resume of the unusual engineering problems caused by permafrost—soil with pore spaces permanently filled with ice to depths down to some 1,200 feet—but the conclusions do not follow logically.

The argument to curtail Alaska oil development starts from the long popular fallacy which equates "environmental technology" with "economic and engineering technology" —a theme often repeated with references to economic pressure, companies, stockholders, profits, etc. This conflict is not between the public interest in Alaskan environment and the private economic interest of oil companies and their stockholders. The real conflict is the competition between two ecosystems: part of the Arctic ecosystem, and the ecosystem of the 200 million people in the 48 states.

Environmentalists, in general, have failed to evaluate the human environment, or to recognize that oil is the mainstay and an integral and indispensable element of the human ecosystem.

Having had a small part in administering oil reserves as an Interior Department employee in World War II, I gained a frightening insight into how great a national calamity an oil shortage can be: no oil—no mechanized farming—no food—famine—no general transportation—no national defense—no oil and gas heating—no adequate energy supply, since about 74 per cent of total U.S. energy requirements are met by oil and gas etc.

The ecology of the Arctic, therefore, has little significance until compared with the contingent ecology of the 48 states. Everybody favors continued study of ecology and development with a minimum of damage; but no matter what ecologists find, it cannot justify subjecting 200 million people to an oil shortage for the sake of preserving the ecosystem of the small percentage of the area of the North Slope that may be adversely affected by oil development.

The obligation of government clearly is to favor the ecosystem which contributes most to the well-being of its citizens. Shall 200 million people suffer the extreme hardship of an oil shortage to avoid fancied inconvenience to a few caribou and moose, or the creation of more small lakes? The animals may not mind anyway. Caribou graze in the oilfield and sleep on the drilling pads. I have had to jam on brakes to avoid hitting a moose ambling along a Canadian road like a friendly cow.

Human survival has been possible only by replacing elements of the natural environment with human environment elements beneficial to man. Buffalo range had to yield to wheat growing for bread. The Stone Age environment that supported only about a million Indians in 1492 gave way to our environment based on energy and metals. Restoration of the natural environment is, therefore, out until a way is found to get rid of around 199 million people.

Resolution of competing ecologies in favor of the American people is not new. After the Panama treaty became effective February 26, 1904, there was no hesitancy in deciding to destroy the natural environment of the Canal Zone which favored tropical diseases, and to supplant it with a new environment favorable to white people.

The oft heard appeals to "save the Arctic" are meaningless and misleading because "the Arctic" is not threatened by oil. The North Slope tundra is an area of about 70,000 square miles or 45 million acres. The two outstanding oil lease sales of July 1965 and the famous billion dollar sale of September 1969 granted less than half a million acres each. Oil history shows that much of it will not be developed. If as much as an optimistic 10 per cent of the North Slope ultimately should be developed for oil, such a godsend to the country would still leave the environmentalists over 40 million acres of tundra free of oil development. Since few people have seen the Alaskan tundra, which slopes north to the Arctic Ocean, and still fewer want to see it, those who know the gravity of an oil shortage believe the tundra enthusiasts should be able to get by with the 40 million acres of nonoil land.

Various suggestions that "governments and society must insist that when oil-fields are discovered they are not harvested until really needed," and that potential oil reserves should be "set aside for an emergency" is dangerous national policy. The United States really needs more oil reserves now. We use about 34 per cent of world oil production, but own only 8 per cent of world oil reserves. Under prohibited development, there will be little discovery because neither government nor industry can afford to lay out today's huge exploration costs to find oilfields they are not permitted to develop. Such curtailment of oil exploration and development now will create a serious shortage for the United States whenever the unreliable world supply gets tight. The Suez Canal is blocked now, and Syria is keeping the Trans-Arabia pipeline closed. An oil supply can't suddenly be turned on when laymen belatedly recognize a shortage that they wouldn't let the experts prepare for a decade or more sooner.

The Trans-Alaskan Pipeline System (TAPS) from the Alaskan North Slope to Valdez on the Gulf of Alaska will not "deliver oil to areas where there is little oil deficit." California has produced about 10 billion barrels of oil since 1940 and now depends on imports for one-third of west coast needs compared to one-fifth for the whole country. This is no "area of little oil deficit," but an area that would be in serious trouble if the eastern hemisphere political situation blows up and cuts off half the oil supply of our free world allies plus some of our own. The burden would be shifted to western hemisphere sources which now supply the California deficit. This is a very dangerous time to curtail oil exploration and development.

COMPARATIVE TAX STRUCTURES OF UNITED STATES AND OTHER TRADING NATIONS

Mr. FANNIN. Mr. President, there are many causes of America's failure to hold its own in the increasingly competitive world markets.

One of these causes is the comparative tax structures of the United States and other trading nations.

Most of our foreign competitors have tax structures that encourage their manufacturers to invest in new machinery and equipment. These foreign governments not only provide for rapid depreciation; they also offer subsidies, services, and other encouragement for their manufacturers engaged in world trade.

International trading agreements are drawn up so that they favor our competitors. These agreements give foreign governments ample opportunity to subsidize their export manufacturers, but there are few opportunities for the United States to provide incentives legally to our manufacturers.

American manufacturers are at a distinct disadvantage not only in trying to export goods, but in trying to maintain their markets against foreign competition at home.

Currently there is deep concern over unemployment in the United States, and justifiably so.

Political opportunists are seizing the issue and pointing their political finger in various directions.

One thing that most of them seem to ignore is the fact that there must be business before there can be employment. If American industry does not have the incentive to compete, there will be precious few jobs for Americans.

The President's Task Force on Business Taxation has recommended that changes be made in Treasury Department regulations to provide a more realistic tax depreciation. This would be a stimulus to American industry and thus help in curing unemployment.

Early next month the Internal Revenue Service will hold hearings on proposed new regulations that would encourage American business to modernize so that it can remain competitive in today's world.

Mr. President, the Chamber of Commerce of the United States has sent the IRS an interesting memorandum on the proposed regulations for depreciation allowances using the asset depreciation range system. This memorandum gives some very good examples of why we need to adopt these new regulations.

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

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

APRIL 12, 1971.

Re: Proposed regulations for depreciation allowances using the asset depreciation range system.

COMMISSIONER OF INTERNAL REVENUE
Washington, D.C.

DEAR MR. COMMISSIONER: The Chamber of Commerce of the United States supports the Treasury Department in its efforts to simplify and make more realistic tax depreciation by adoption of the proposed regulations regarding the asset depreciation range (ADR) system.

For many years, the National Chamber has urged meaningful depreciation reforms to insure the continued modernization of American industry and to enable American business to compete more effectively in world markets. The proposed regulations are a major step toward implementing the National Chamber's recommendations and the Treasury Department is to be commended.

EFFECT ON COMPETITION WITH OTHER INDUSTRIAL NATIONS

The National Chamber has long called for permanent improvements in our inadequate depreciation structure that would make it comparable to the capital recovery allowances of other industrial nations. The United States cannot afford to fall farther behind our major trade competitors and still hope to recover from our precarious balance of payments position. We cannot afford to further handicap American business at a time when modernization and expansion of our production factors are so necessary. Until the time that the United States can close the gap between the systems of capital recovery used by our competitors and that which is allowed by our own tax system, there will be little chance for increasing exports and reducing imports.

As was pointed out last year in the report of the President's Task Force on Business Taxation, other industrialized nations have provisions relating to cost recovery allowances and capital investment incentives that are much more favorable than our own. The Task Force said:

"If the United States is to improve, or even maintain, its position in international trade, domestic policy will have to encourage, rather than downgrade, the making of private investment for expanding, modernizing, and increasing the efficiency of our industrial facilities. Constructive revision of the present capital cost recovery system is an important element of any public policy designed to further this objective."

All the other leading industrialized nations have adopted cost recovery allowances that encourage investment in machinery and equipment. Instead of an industry writing off machinery and equipment in thirteen years in the United States, it can anticipate it would be able to write off similar equipment in less than ten years in such countries as Italy, France, the Netherlands, Sweden, Switzerland and West Germany. In Japan, such machinery could be written off in eleven years, with a 34.5 percent allowance in the first taxable year compared to 7.7 percent in the United States. Thus, the capital cost recovery allowance provided for machinery and equipment in the United States is substantially less than that provided in the leading industrial nations with whom we are competing in world markets.

Even if the cost recovery periods assigned to machinery and equipment according to the present guidelines were reduced by the 40 percent recommended by the President's Task Force on Business Taxation, the recovery would still be less than the recovery provided for in Western Europe and, in the early years, less than the recovery provided for in Japan. Therefore, while the ADR regulations are certainly a step in the right direction, they will only partially close the gap with the other nations against whom American business must compete.

TECHNOLOGICAL OBSOLESCENCE AND INCREASE IN EMPLOYMENT

In a highly technological age, the American industrial community is continually faced with a need to replace obsolete equipment and machinery. It is very common for an industry to purchase and install a new piece of equipment only to find that even before it becomes fully operative it has become obsolete because of some new technical development or improvement. Unfortunately, often the industry is forced to use that piece of equipment for many years before the investment capital can be regained.

High labor costs in this country have a significant impact on the ability of American industry to compete in world markets. A combination of high labor costs and the forced retention of obsolete equipment serve only to deter the expansion of our exports. What we need is a taxing system that encourages, rather than discourages, replacement of obsolete industrial machinery and equipment. Realistic depreciation practices encourage the replacement of obsolete machinery and equipment, and assist in creating jobs for American workers.

With wages already outpacing productivity, there can be but one practical course of adjustment. Since wages cannot be lowered, production must be increased, and to do so requires that an adequate capital recovery system be permanently worked into our tax structure. The National Chamber has consistently asked that a provision be written into the tax law that would be an integral part of the depreciation structure; a provision that would represent some measurement of the unrecognized obsolescence in capital consumption.

With six percent unemployment in this country, we are concerned with providing more jobs and raising the standard of living of all Americans. As former Secretary of the Treasury Douglas Dillon said in hearings before the Ways and Means Committee in 1961:

"All of our citizens will benefit from modernization of our industry. A basic fact of economic life is that modernization and expansion are essential to higher productivity. Rising productivity will provide us with a rising level of per capita income, with resultant and widely shared benefits in the form of rising real wages and rising investment incomes."

EFFECTS ON INFLATION

A problem with the present system of depreciation is that it makes no allowance for inflation, which raises the cost of replacing an asset without raising the depreciation set aside for it. Due to inflation, United States business has underdepreciated its assets, overstated its profits, and paid income taxes on the overstatement. In essence, American business has been paying taxes on its capital.

As was stated by the President's Task Force on Business Taxation:

". . . a rapid rate of expansion of production capability is desirable in the interests of reducing the costs of production and meeting more fully the demands arising in all sectors of the economy. Curbing inflationary pressures is not a one-shot matter; over the coming years, the greater the increase in our ability to produce, the better able will the United States be to cope with these demands.

* * *

"Our recommendations, by shortening the time lag between investment and write-off, would accomplish a good deal toward reducing the adverse impact of inflation on the adequacy of cost recovery allowances. . . ."

INADEQUACY OF PRESENT DEPRECIATION PRACTICES

This country's depreciation provisions have been inadequate as far back as 1934 when T.D. 4422 was issued by Treasury as a substitute for a proposed statutory reduction in depreciation allowances. T.D. 4422 was principally a revenue-raising measure to finance the Federal Government during the Depression. In 1934 hearings before the Ways and Means Committee on the question of reducing depreciation allowances by 25 percent through statutory enactment, the National Chamber in its testimony said:

"The present statute authorizes a deduction from gross income for tax purposes of 'a reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence.' "

It is now proposed to reduce this reasonable allowance by 25 percent for 3 years. . . . Taxes levied according to this proposal would be taxes based on an alleged income which did not exist and in effect would be a direct tax on capital.

Bulletin "F" in its last revision was used for two decades before it was replaced in 1962. Bulletin "F" disregarded obsolescence and its demise was welcomed by the business community. As the National Chamber pointed out to the Ways and Means Committee in 1958:

"These lives in Bulletin 'F' are based on the historical-use patterns of the depression-ridden 1930s and the war years of the early 1940s . . . The law provides a reasonable allowance for wear and tear and obsolescence but, as I have mentioned, the burden of proof imposed by the 1934 Treasury ruling and the Revenue Service has almost completely nullified the allowance for obsolescence. The burden of proof is impossible. Obsolescence cannot be proved; it can only be predicted. And Revenue agents generally do not let taxpayers depart from Bulletin 'F' or the historical pattern of the 1930s and 1940s by gazing, no matter how intelligently, into the crystal ball of prophecy."

Inflation and rapid obsolescence were causing a distortion of the real income of businesses and, in 1954, the Internal Revenue Code was amended to provide for more realistic depreciation by recognizing the double declining balance and sum-of-the-years digits methods of depreciation. The Code adopted the principle of allowing greater depreciation allowances in the earlier years of an asset's life, and less in the later years as it became old or obsolete. "Additional first year depreciation" was added to the Code of 1958.

While accelerated depreciation and additional first year depreciation were generally welcomed by the business community, they did not solve the real problem of depreciation. Thus, the outdated Bulletin "F" was superseded by the reserve ratio test and the guideline lives of Revenue Procedures 62–21 and 65–13. The guidelines have improved the situation, but have far from solved the problem of providing realistic allowances.

The two main criticisms of the reserve ratio test are that it uses the hindsight approach of an asset's life, similar to the mortality tables used by the revenue agents under T.D. 4422, and that it is extremely complex in its application. The actual effect of the reserve ratio test is that it has not worked in practice.

In line with the Chamber's position that a permanent capital cost recovery tax system is necessary, in 1970 the President's Task Force on Business Taxation urged as a part of its recommendations that a capital cost recovery allowance system be substituted for the outmoded system of deductions based on the useful life of property. The Task Force also recommended that the reserve ratio test be eliminated. This latter position has also been advocated by the National Chamber for many years.

CONCLUSION

The National Chamber views the proposed regulations on the ADR System as a major step towards achieving the goals of an adequate capital cost recovery system of de-

preciation. The Treasury Department is to be congratulated on its recommendations for business depreciation reform. It is encouraging that Treasury has recognized the deficiency in reasonable allowances for depreciation and is taking proper steps to correct that deficiency.

Respectfully submitted,

ROBERT R. STATHAM,
Taxation and Finance Manager.

GENOCIDE CONVENTION—PROPER EXERCISE OF TREATY-MAKING POWER

Mr. PROXMIRE. Mr. President, yesterday, I spoke at some length concerning the question of concurrent jurisdiction and extradition as it applies to the Genocide Convention. I would like today to speak about the contention that the Genocide Convention would alter the balance of authority between the States and the Federal Government. I believe that this contention is unfounded.

The crime of genocide comes within the scope of article I, section 8, clause 10 of the U.S. Constitution which expressly authorizes Congress, "to define and punish . . . offenses against the law of nations." I think it would be helpful to review the background of this clause in the Constitution since this particular provision of the Constitution "has seldom been used and there are few precedents under it." Adrian Fisher, legal adviser, Department of State, "The United Nations and the Genocide Convention," United Nations League of Lawyers Review (Nov. 1950).

In the Federalist, No. XLII, Madison says:

> The power to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations, belongs with equal propriety to the general government, and is still a greater improvement on the Articles of Confederation. These articles contain no provision for the case of offenses against the law of nations; and consequently leave it in the power of any indiscrete member to embroil the confederacy with foreign nations.

This comment in the Federalist on this subject shows clearly that the framers of the Constitution felt that criminal activities of international concern should be a matter for the Federal Government as part of the responsibility of the Federal Government for the conduct of foreign relations of the United States. In the principal case involving article 1, section 8, clause 10 of the Constitution, *United States* v. *Arizona*, 120 U.S. 479 (1887), the Supreme Court sustained the constitutionality of a Federal statute to prevent and punish the counterfeiting within the United States of notes, bonds, and securities of foreign governments and on this provision as follows:

> Congress has the power to make all laws which shall be necessary and proper to carry into execution the powers vested by the Constitution in the Government of the United States, Art. 1, Sec. 8, Clause 18; and the Government of the United States has been vested exclusively with the power of representing the nation in all its intercourse with foreign countries. It alone can "regulate commerce with foreign nations"; Art. 1, Sec. 8, Clause 3; make treaties and appoint ambassadors and other public ministers and consuls. Art. II, Sec. 2, Clause 2. A state is expressly prohibited from entering into any official intercourse between a state and foreign nations in prevented, and exclusive authority for that purpose given to the United States. The national government is in this way made responsible for foreign nations for all violations by the United States of their international obligations and because of this, Congress is expressly authorized to "define and punish . . . offenses against the law of nations." Art. 1, Sec. 8, Clause 10.

In 1820, Justice Story remarked about the uncertain and undeveloped state of that part of international law which related to international crimes. He said: "Offenses, too, against the law of nations, cannot with any accuracy, be said to be ascertained and defined in any public code recognized by the common consent of nations. In respect, therefore, as well as to felonies on the high seas as to felonies against the law of nations, there is a peculiar fitness to giving the power to define as well as to punish; and there is not the slightest reason to doubt that this consideration had very great weight in producing the phraseology (Article I, Section 8, Clause 10) in question." *United States* v. *Smith*, 5 Wheat. 153, 159 (1820).

One of the most profound influences upon the drafters of the U.S. Constitution was Blackstone. It is, therefore, interesting to note a passage in volume IV of Blackstone's Commentaries on the Laws of England, where it is stated:

> The principal offenses against the law of nations animadverted on as such by the municipal laws of England, are of three kinds: 1. Violation of safe-conducts; 2. Infringement on the rights of ambassadors; and 3. Piracy. (15th Edition, London, 1809, p. 67.)

During the last century, there have been numerous attempts to develop international law usually through the conclusion of international treaties or conventions so as to make illegal various types of conduct. The most notable of these efforts was the establishment of the United Nations and its subsequent attempts to insure the protection and preservation of human rights vis-a-vis the Human Rights Conventions. Most authorities maintain, for instance, that the practice of slavery and the slave trade are crimes under international law. This principle has been embodied in a human rights convention of the United Nations. The United States is a party to this convention—the Convention To Suppress the Slave Trade and Slavery of September 25, 1926. The convention is designed to suppress the slave trade and bring about the abolition of slavery; and, like the Genocide Convention, it obligates contracting parties to penalize violations of the convention. In addition, a number of international conventions have been adopted to repress such activities as the white slave trade, illegal traffic in arms traffic in narcotic drugs, and counterfeiting. These activities are also categorized by some authorities as crimes under international law. It certainly seems proper, then, that genocide should be within the scope of the treatymaking power of the United States and also within the legal jurisdiction of Congress to outlaw.

Philip Perlman, Solicitor General of the State Department, testified in 1950 before the Senate Foreign Relations Committee that:

> It is accurate to say that the treaty power extends to all proper subjects of negotiation with other governments, and that Genocide or the Genocide Convention appears to be a proper subject of negotiation.

I urge the Senate to act quickly on the Genocide Convention. It seems clear that there are no constitutional barriers to prevent us from doing so.

DEATH OF ERNEST F. JESSEN, ALASKA PIONEER

Mr. GRAVEL. Mr. President, Alaska is close enough to its frontier origins to pay honor to its pioneers.

One of those great pioneers died March 26 in Fairbanks. He was Ernest F. Jessen, a man who had spent most of his 80 years in Alaska.

Ernie Jessen was known by most Alaskans. His name became identified with the publications which he produced. His life was devoted both to Alaska and to the newspaper business and he survived crisis after crisis to retain his voice in Alaska journalism.

Ernie Jessen's is a story that may never again be duplicated in Alaska. Newspapers these days are corporate enterprises. Few rarely become extensions of a personality. But Jessen was an exception and so was his most noteworthy publication, Jessen's Weekly. His service to Alaska never can be adequately described. But those of us who knew him can sense its importance by the depth of feeling for our loss. I ask unanimous consent that an editorial from the Anchorage Daily News describing Jessen's place in Alaska be printed in the RECORD.

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

ERNEST F. JESSEN

We join with his multitude of friends throughout the state in mourning the passing of Ernest F. Jessen, publisher of Jessen's Weekly, Jessen's Daily and the All-Alaska Weekly in Fairbanks.

Ernie Jessen came north with the gold rush, fell in love with Alaska and as a newspaperman persevered through setbacks which would have driven out a lesser man. He founded Jessen's Weekly in 1942, was told it "wouldn't last six weeks," published it without missing an edition through an $80,000 fire in 1948 until he sold the paper in 1959. Soon he was back at the helm, however, after repossessing the publication from a successor and assuming the paper's debts. The Fairbanks flood of 1967 halted publication and Jessen sold his damaged plant to other interests, who converted it to a daily. The daily was closed by the Internal Revenue Service in 1969. Again Jessen took over and tried to revive the daily, but the paper's accumulated debt was too much and it folded on Aug. 27, 1969. By last year Jessen was back once again, with the All-Alaska Weekly. All of this, it should be added, was accomplished despite competition from the daily Fairbanks News-Miner.

That is staying power and when Ernie Jessen died at 80 last Friday Alaska lost just a little of its stamina as well as a life-long friend.

FAIR FREE TRADE

Mr. FANNIN. Mr. President, recently I introduced S. 1476, a bill designed to help

foster fair free trade. It would bring foreign manufacturers doing business in the United States effectively under the same antitrust laws that apply to American business.

It is evident that free trade will not last much longer unless our trading partners stop abusing the system. Japan and the European Economic Community want to play the game under their own rules while holding the United States to another set of rules.

We can no longer afford the luxury of overlooking the unfair trading tactics of foreign manufacturers. Economic survival is now the issue.

Our Nation has been slow to awaken to this problem. Even American businessmen, who should be the first to recognize the threat, have ignored the situation, apparently hoping the problem would go away.

Now there are hopeful signs that business leaders and the public are becoming aware of the dangers of unfair foreign competition.

A very good article on this matter was published in Forbes magazine of May 1, 1971. 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:

ONE-WAY STREET—HOW LONG WILL THE UNITED STATES CONTINUE GRANTING THE JAPANESE FULL ACCESS TO OUR MARKETS WHILE U.S. BUSINESS IS SEVERELY HAMSTRUNG IN JAPAN?

Where does free trade stop and unfair competition begin?

Or, put it another way: What kind of a game is it when one contestant plays by the rules and the other fellow makes up his own rules as he goes along?

For years the great majority of businessmen turned their backs on the "bellyachers"—largely from the textile and shoe industries—who argued for import quotas and the like. But that was before the unique business-government conglomerate called Japan Inc. captured upwards of 50% of the U.S. radio, motorcycle, electronic calculator and selected camera markets (to name a few), and began widening its annual trade surplus with us to around $1.5 billion. Today Japan controls 15% of the total U.S. import market. And it's shooting for 20% by 1975.

U.S. businessmen aren't turning their backs anymore—not even traditional free-traders. Says du Pont President Charles McCoy: "We don't want to build walls to hide behind. We only want *fair* free trade with Japan." In that sense, the growing sentiment among U.S. executives for some measure of trade restraint is the antithesis of America-first protectionism. The new plea is for equal trade laws for all.

"We have to stop kidding ourselves," says President Ely Callaway of Burlington Industries. "The Japanese don't play by our liberal rules. What industry, let along company, can compete with an economic system that fosters monopolies, price-fixing and disruptive trade practices?"

"Unless there is a major change in our trade policy," says Chairman Joseph Wright of Zenith Radio Corp., "about 80% of the U.S. home electronics industry will be produced overseas within three or four years." Other businessmen estimate that by 1976 imports could cause unemployment in the U.S. car industry to increase 15%.

To those who argue that U.S. restrictions would trigger a trade war, du Pont's McCoy says: "In the give and take of international trade, there is always a trade war under way."

Not everyone favors trade protection. Indeed, the Nixon Administration considers Japan an indispensable trade partner and key political ally. Also, many companies have adapted to the flow of excellent and low-priced Japanese imports by relocating factories abroad where labor is cheap. Others are hedging by either buying shares in Japanese competitors or even licensing them. Such licenses yield RCA about $30 million a year.

But others with few ties to Japan, including powerful unions and companies like du Pont, Monsanto and U.S. Steel, are speaking up loud and clear for some degree of trade restraint. What particularly irks them is that we have opened our market to the Japanese, while allowing them to block the flow of U.S. goods and investments into Japan. That is taking its toll. For the day is gone when clearly superior U.S. companies could win out no matter what the competition did.

By and large, the last thing the Americans want is stiff tariffs and import quotas. They would prefer really free trade with an open Japan. Only if Japan drags its feet, and only then, do they favor trade restrictions. Unfortunately, the Japanese continue to drag their feet.

In Japan, as the gross national product moves toward $400 billion by 1975, economic growth is a national mania. To continue growing over 10% per year, the single-minded Japanese are seeking a big share of every market in sight. Profits are secondary. And the government is right in there, as a sort of import-export manager.

"Everybody there," says a U.S. executive, "sings from the same sheet of music." You will not find the strict dividing line there—nor the antagonism—that has traditionally existed between the government and business in America.

Take television sets. The Japanese have captured 30% of the U.S. market largely by selling their excellent sets here at very low prices. How did they manage that? According to Treasury Department investigators, since 1968 (at least) the Japanese have been dumping. That is, they have reportedly been selling their sets here 15% to 20% cheaper than they do back in Japan. So, in effect, Japanese consumers are subsidizing the exports. And since the government blocks the import of foreign-made TVs, consumers have little choice but to pay the inflated TV prices—or to listen to radio.

But, in fact, most Japanese pay willingly to help their companies penetrate the U.S. market.

The U.S. TV makers tried to counterattack in the mid-Sixties by exporting their relatively inexpensive consoles to Japan. But Zenith, Motorola and others got nowhere against the country's welter of official and unofficial harassments. For example, regulations serve to bar the free entry of necessary repair parts.

Zenith, among others, has now reluctantly begun building plants overseas. Says Chairman Wright, somewhat bitterly: "Lacking some change in government trade policy, more and more of our productive facilities for the U.S. market will be located in foreign countries."

The U.S. television industry, down from 50 to about 15 companies, hasn't surrendered yet. Under the industry's urging the Treasury Department seems close to imposing punitive tariffs on dumped TVs. Also, National Union Electric Corp., which folded its Emerson and DuMont plants last year, is seeking $360 million in damages from Japan's seven leading TV makers from dumping. And the plants' 1,500 former workers are suing the same seven for $68 million. The suits name Sony, Toshiba, Sharp, Matsushita, Hitachi, Mitsubishi and Sanyo.

Interestingly, coordinating defense counsel for the Japanese is reportedly Mudge, Rose, Guthrie & Alexander, the former law firm of President Nixon and Attorney General John Mitchell. Mitchell has the duty of enforcing the criminal statute on dumping. In that same vein, the President's assistant for international economic affairs is from Bell & Howell, a company with ties to Japan.

Apparently, Japan's general trade strategy isn't limited to TVs. Since 1970, U.S. businessmen have filed complaints accusing the Japanese of dumping about ten items. For example, Allegheny Ludlum President Roger Ahlbrandt charges flatly that the Japanese are dumping stainless steel products.

PLANES, COMPUTERS, AND CARS

What Japan did in labor-intensive fields like textiles, it is now trying to duplicate in even richer industries:

In aircraft, Mitsubishi is building its MU-2 in a Texas factory. Meanwhile, U.S. light aircraft are on Japan's import quota list (along with 128 other products ranging from integrated circuits to canned pineapple). That means Japanese buyers must seek import quota certificates from the Ministry of International Trade & Industry (MITI) for every U.S.-made plane. In the process, it is safe to assume that friendly MITI officials might remind the buyers that Japanese companies make planes too.

In computers, these same import certificates are needed. Because of such barriers, U.S. companies like Digital Equipment Corp., which controls about 70% of the world minicomputer market, has only a 2% share of Japan's market. Even IBM, one of the few foreign firms with a profitable 100% subsidiary in Japan, has its troubles. To date IBM has agreed to license its Japanese competitors, and it has limited its Japanese production to small- and medium-sized machines. Reportedly, it also destroys used computers returned to the company. Not surprisingly, IBM's market share has steadily shrunk to about 25%. At the same time, the government is pressuring its six fledgling computer makers to consolidate and enter the world market. One company, Fujitsu, is already selling here.

In semiconductors, the government has prevented both Texas Instruments and Motorola from establishing wholly owned subsidiaries there. Fairchild Camera is trying an end run by creating a 100%-owned subsidiary in Okinawa which is expected to soon become part of Japan. But one Japan-watcher says: "The Japanese will boot Fairchild out. When they own the land, they make the rules."

In autos, everybody knows about the U.S. growth of Datsun and Toyota. But our Big Three's move into Japan is another story. For years, they got nowhere. Then, appropriately enough this April Fool's Day, MITI "liberalized" its investment regulations. But now it seems that the Detroit auto makers will have to wait about three years to buy up to 35% of Japan's weak-sister car makers. By then, some experts predict, the Japanese market will be saturated.

The Japanese plead for patience and stress that they *are* changing. They add that if they threw open their doors today, big U.S. companies would overwhelm their fragile economy. Apparently, the Japanese don't realize that they are big boys *now*.

Despite the obvious trouble of dealing with the Japanese, executives from a score of companies interviewed by Forbes put a good face on their experiences—on the record. Off the record, however, they called their trade partners names that would make Spiro Agnew blush.

Why are so many U.S. businessmen reluctant to speak out? Some are honestly unaware of any basic threat from the Japanese. Others hesitate to buck government policy, which has favored free trade—with the notable exception of President Nixon's promise to aid textiles. Still others are afraid of encouraging old-line protectionists and actually damaging free trade. Also, it may be tough for some Americans to admit—out loud—that foreign competition is something to worry about. Though it is.

More than 100 years ago, Commodore Perry's gunboats forced the Japanese to let foreigners do business on their soil. Perhaps the more modern but equally blunt weapons of tariffs and quotas will have to be trotted out to do the same job today.

COST OVERRUN ON F-14 AIRCRAFT

Mr. PROXMIRE. Mr. President, the latest in the long line of major weapon programs to falter on the production line is the F-14 aircraft. It used to be alleged, by spokesmen for the military establishment, that most weapon procurements went smoothly and that only a few programs ran into problems. These problems, when they occasionally surfaced, were described as "horror stories," exceptional instances of human error or extraordinary circumstances.

Now we know that the "horror stories" are not exceptional. Military procurement is a horror story that runs continually. Cost overruns, technical performance failures, and schedule delays are not aberrations from the system or deviations from the norm. They are the way the system operates. In the abnormal world of defense contracting, mismanagement, and waste are the norm.

Recent disclosures of cost overruns on the F-14 are yet another case in point. Cost increases are now estimated at $700 million to a billion dollars for the 700 aircraft scheduled to be produced, and they are still going up.

What is most disturbing are the indications that the cost overruns have been known by the Navy but concealed from the Congress and the public. At a Pentagon press conference on December 22, 1970, following the first successful test flight of the F-14, the Navy indicated that costs were being held down to original estimates. Ten days later the F-14 prototype crashed and was demolished during its second test flight.

But there was no word from the Navy in December about cost increases. As recently as March of this year, Secretary of Defense Melvin Laird and Deputy Secretary David Packard gave no signs of cost difficulties in the F-14 program during their testimony before Congress.

Yet the prime contractor, Grumman Aerospace Corp., had been telling the Navy about its cost problems since September of 1969. The Navy has known about the F-14 cost overrun for more than a year and a half. In the words of Aerospace Daily, the Navy is guilty of "dissembling," and "The Pentagon has yet to acknowledge that a coverup is underway."

In a rather remarkable interview with a Pentagon spokesman reported by Aerospace Daily a few days ago, a reporter asked whether anyone was going to be reprimanded because of Navy lying about the F-14. Here is what the Pentagon spokesman replied:

That's one of the most important questions in the government today. When are we going to stop this damn lying? The people don't believe the government and here we have another case of people pretending it was absolutely no problem. Let's not kid each other; they knew from the contractor when they were sitting there that there was problem in cost. It seems to me that when these public servants come in here (to talk to the press) they take an oath to tell the truth. These guys lie and are costing the government the faith of the people. You let this lying go on in this building and you've got nothing left.

It would be difficult not to be skeptical about the possibility of the Navy actually reprimanding anyone for not telling the truth or concealing the facts about a weapon cost overrun from the public. The last official to be reprimanded in connection with a cost overrun, to my knowledge, was A. Ernest Fitzgerald. But he was guilty of committing truth. Instead of dissembling, he told the Congress what was happening to the costs of the C-5A. The Pentagon later fired Fitzgerald.

I ask unanimous consent to have printed in the RECORD the Aerospace Daily article dated April 15, 1971; a New York Times article dated April 8, 1971, and an article from the Washington Post dated April 9, 1971, dealing with the F-14 cost overrun.

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

PENTAGON DISSEMBLING ON F-14 COST OVERRUN

Defense Secretary Melvin R. Laird Tuesday chose to continue a tactic on the subject of F-14 cost overruns that does neither the Pentagon, nor the Navy nor the nation any service. Laird, in a full-scale press conference, parroted a line voiced Monday by F-14 project manager, Capt. Lionel E. Ames, who claimed that "at this time" no changes had been made in the contract or cost estimates. However, the Navy's own testimony on Capitol Hill demonstrated that the statements amounted to dissembling.

Pentagon sources have confirmed that the delay in release of Selected Acquisition Reports is caused by the F-14. Said one in an unguarded moment, "They are still manipulating the figures."

It is generally conceded by sources close to the problem that the F-14 contract will be rewritten to be more in line with the "fly before buy" concept dredged up from administrations predating Robert S. McNamara. And it is also reported that the number of F-14s ordered will be considerably fewer than the 48 required by the present contract.

Similarly, a congressional report indicates procurement will be nearly halved over the next five years from original plans (Daily, April 9). In itself, this will increase unit costs. And the Navy has maintained the F-14 will run $11.5 million in total program cost each since 1968 when it first made public its attempt to ditch the F-111B.

SUBJECT SENSITIVE TO NAVY

What makes the subject so sensitive to the Navy is that it cannot blame any shortcomings of the new fighter on anyone else. The Navy and Grumman are the proud fathers. And Vice Adm. Thomas Connolly, deputy chief of naval operations for air who supported the F-111B while working for adoption of the Grumman plane, and the Navy now are being pilloried by the same arguments they used to get their way.

It is obvious the Navy had sufficient notice from Grumman that cost problems were arising but Ames said he did not choose to take the indications seriously because "we get letters like that all the time." In contrast, Congress, which hears similar plaints from the Pentagon each year that the budget cannot possibly be cut, does investigate claims and then tries to make an informed judgment. In this case, the information was rejected out of hand because such a development might have ruffled Navy egos.

The Navy also failed to let Deputy Defense Secretary David Packard and Laird know of the problem before they testified before Congress in March. Ames emphatically declared that the hierarchy was not furious with him or the Navy, as reported by the press, for failing to provide this information. Evidence from other sources indicates Ames is ill informed.

Demonstrating the Navy's regard for the public's right to know was Rear Adm. Lawrence Geis, the Navy's information chief. When the Ames press conference Tuesday was prematurely broken up by DOD and Navy officials, Geis grabbed Ames and literally yanked him from the room into the seclusion of the office of Daniel Z. Henkin, the Pentagon's chief spokesman. Geis, when a reporter approached Ames, hissed, "Let's get out of here."

Geis was also instrumental in a 360 degree turn the Navy made on the subject. At first, Ames was scheduled for a Monday morning press conference, but this was scrubbed when information officials decided his appearance would not benefit the Navy. The Navy caved in when DOD applied pressure. But Ames, effective as usual, told reporters that neither the contract nor the price for the F-14 had been changed. He made the mistake of indulging in an old reliable bureaucratic technique made popular by McNamara. At the moment their remarks are correct, but only technically so, because, as in the case of the F-14, the situation is due soon to change. In this case, it will be less than two weeks after Congress receives a report prepared by a Navy team now auditing Grumman business.

The Pentagon has yet to acknowledge that a coverup is underway. The only indication before the Ames press conference that a cost overrun was expected came the afternoon of April 6 when Navy information officials got wind of the fact that the Washington Post was publishing a story the next morning on a potential $700 million cost rise. They began encouraging other reporters to look into the possibility of a "Lockheed in the F-14 program."

Navy civilian officials also added fuel. Research and development boss Robert Frosch Jr. knew of the cost problems before testifying before Congress April 6 but this fact was not included in his published testimony.

The Navy claims it cannot estimate the cost rise for the F-14, but a published figure is $1 million each. However, there are rumors that the engines alone for the F-14B may add $1 million to the cost of each aircraft. In addition, the Advanced Sparrow will not be available although Navy sources claim that any version of the missile will suffice. However, no official comment will be made on how much use of earlier models will degrade capability of the plane as well as that of the Air Force F-15 for which it was also designed.

The situation was summed up earlier when DOD spokesmen were asked about who was going to be reprimanded because of Navy lying about the F-14. "That's one of the most important questions in the government today. When are we going to stop this damn lying? The people don't believe the government and here we have another case of people pretending it was absolutely no problem. Let's not kid each other; they knew from the contractor when they were sitting there that there was problem in cost. It seems to me that when these public servants come in here (to talk to the press) they take an oath to tell the truth. These guys lie and are costing the government the faith of the people. You let this lying go on in this building and you've got nothing left."

[From the New York Times, Apr. 8, 1971]

GRUMMAN SAYS IT FACES COST PROBLEMS ON F-14

(By Dana Adams Schmidt)

WASHINGTON.—The Grumman Corporation has written to the Navy, pleading that it is running into financial trouble in its attempt to meet its contract for the production of

the F–14 fighter plane, successor to the F–4 Phantom.

The Pentagon said today that Grumman had written a letter outlining cost problems to Rear Adm. Edwin E. McMorries, contracting officer at the Naval Air Systems Command.

While Grumman, the Navy and the Pentagon would not say exactly what was in the letter, officials said privately that the letter reflected problems that had been building up for a year and had resulted in an estimate that the F–14 would cost at least $1-million more than the estimated $11.5 million stipulated in the contract. The Navy had planned to buy about 720 F–14's.

CONTRACTED FOR 38

Company officials said that Grumman had contracted for only 38 planes and would produce these at the price agreed upon. The difficulty arose, they said, over the remaining aircraft for which the Navy has an option.

Grumman's difficulties were similar to but less serious than those of the Lockheed Aircraft Corporation of California, which has been trying to meet the terms of its contract for the Air Force's giant C–5A transports. Its problems were complicated by the bankruptcy of Rolls Royce, the British manufacturer, which was making the transport's engines.

To save Lockheed, the Defense Department made a new agreement under which the company would not lose more than $200-million no matter how much the C–5A costs.

In the Grumman case, the biggest complication, apart from increasing costs, was the crash last Dec. 30 of the F–14 test model on its second flight at the company's test field in Calverton, L.I. The company quickly established that the crash was caused by a failure of the hydraulic system and the Navy optimistically announced that the crash would not delay Grumman's production schedule.

But Navy officials privately conceded today that they had indications Grumman would be delayed at least six months.

Jerry W. Friedheim, a spokesman for the Defense Department, remarked that the Grumman contract was written before Defense Secretary Melvin R. Laird instituted his "fly-before-you-buy" policy, which means that contracts for production of prototypes are separated from the production contract. The latter is not granted until the former has proved satisfactory.

Grumman, whose headquarters is in Bethpage, L.I., won its contract in the last week of the Johnson Administration in stiff competition with the McDonnel Douglas Corporation. In its new budget last Jan. 28, the Defense Department asked Congress for $935-million for development and production of the F–14.

[From the Washington Post, Apr. 9, 1971]

NAVY KNEW OF GRUMMAN WOES IN 1969

(By Michael Getler)

Brewing financial troubles for the Navy's $8 billion-plus F–14 jet fighter program were repeatedly brought to the attention of the military starting 18 months ago by the plane's manufacturer, Grumman Aerospace Corp.

But as recently as three months ago, Navy officials publicly indicated that the plane's costs were being kept in line. There was no hint of the potential $700 million cost overrun which now confronts the Navy in its plans for producing more than 700 of the swing-wing planes.

In a letter from Grumman President William M. Zarkowsky to the Navy's F–14 contracting officer—written March 31, 1971, and released by the Pentagon yesterday—Grumman says its concern over meeting agreed upon costs for the plane after the initial purchase of 26 fighters "was first presented in September, 1969," and again "in some detail" in July, 1970, and "in numerous discussions in recent months."

Yet, in a Dec. 22, 1970, Pentagon press conference right after the first successful F–14 test flight, Navy officials were questioned about the plane's cost and gave no hint of trouble.

In fact, they indicated that the plane's price tag, estimated by the project manager at $11.5 million each, was protected against inflation. Grumman, in its letter, mentioned "extraordinary inflation" since the 1968 competition for the plane as part of problem which had pushed costs up.

At the December press conference held by Navy Secretary John H. Chafee, accompanied by two Navy admirals and F–14 project manager Capt. Leonard E. Ames Jr., the Navy was asked if it was "keeping within costs."

"Yes," replied Ames.

"When was the $11.5 million per plane estimate made?" he was asked. "Yesterday," he answered. "It's a current figure."

"Is that estimate made in terms of 1971 dollars?" a reporter asked, meaning would the price inevitably rise from inflation each year?

"No," said Ames, "these are in escalated dollars and they are based on escalating the production costs at 4 per cent per year compounded, and the research and development costs at 5 per cent per year compounded. Now, if the national economy exceeds that in 1977 or '78, there will be some adjustment."

High-level government officials close to the project now estimate that the cost increase in the F–14 could grow by at least $1 million per plane above the $11.5 million figure.

In its letter to the Navy contracting officer, Rear Adm. E. E. McMorries, Grumman said it will be able to deliver the first 26 planes at the original price "without any impairment, financial or otherwise." Those 26 planes were paid for out of the current fiscal year budget.

All told, the Navy says it expects to buy 710 F–14s, and that it is the next 684 of these which present financial trouble—a potential $700 million overrun.

Citing both abnormal inflation and a "drastic change" in the amount of business (affecting overhead costs) the company has today, as opposed to the estimates it made in 1968, the Grumman letter said the firm "finds it appropriate to inform the Navy that present data demonstrates that performance of Lots IV through VIII (the remaining planes) of the contract is commercially impracticable under existing terms and conditions."

The Navy's budget request for next fiscal year includes $1.035 billion for the F–14 and involves purchase of a minimum of 48 planes as required by the fixed-price contract.

PING-PONG DIPLOMACY

Mr. TAFT. Mr. President, I should like to make a brief observation on the extraordinary events that have transpired as a result of the visit of the American table tennis team to the Peoples' Republic of China. It seems to me that the Communist Chinese, by their actions, show that they have a far more realistic view of President Nixon's Vietnam policies than do certain prominent members of the Democrat party who seek the job of President.

Not long ago, this Chamber was ringing with dire predictions that Peking would send troops to fight in Vietnam. Not a word of hope was then expressed for the steady, careful, and responsible steps the President was taking to disengage the United States from Vietnam; exactly the same types of careful, pragmatic steps that have led to the current first thaw in our relations with mainland China.

I would, therefore, suggest that those who now seek to take credit for President Nixon's success give some thought to the possibility that, to the peoples of Southeast Asia, the American sacrifice has not been in vain, and American motives are not as suspect as the detractors would have us believe. And to those persons—of all parties—who object to "Ping-Pong" diplomacy, I would only say, "give the President a chance"; it may be only a temporary dramatic gimmick, but it can also be the beginning of a new and more hopeful dialog.

LAND CLAIMS OF ALASKAN INDIANS, ESKIMOS, AND ALEUTS

Mr. GRAVEL. Mr. President, hopefully within a very short period of time the Senate will again be asked to consider a measure settling the longstanding land claims of Alaskan Indians, Eskimos, and Aleuts. Last year the Senate passed S. 1830 as a suggested settlement of the land claims issue. That measure did not pass the House.

New proposals are now before both the House and Senate and from all appearances early action will be forthcoming.

The key to the settlement is land. This is in every sense of the word a land settlement problem. The Natives of Alaska will be awarded title to certain portions of land as compensation for land taken from them.

Often the land feature of the settlement is misunderstood. Recently Prof. John J. Teal, Jr., a noted American scientist associated with the University of Alaska, developed a statement putting the land issue in perspective.

I think it is a valuable statement, one that makes a very significant contribution to the understanding of this issue. I ask unanimous consent that statement be printed in the RECORD.

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

SOME THOUGHTS ON CONVEYANCE OF FORMAL TITLE TO NATIVE-OWNED LANDS IN ALASKA

It seems reasonable to suppose that the delivery of title to the lands in Alaska owned by the original or native citizens will be no cause for fear that these lands will be bundled up and removed from Alaska, or taken to Asia or some other continent. They will remain in Alaska, utilized and husbanded under the domain of the United States by their original owners, unquestionably American citizens. Their status as an integral part of our country, deeds in owners' hands, will be indistinguishable from that of the wide farmlands of our Midwest, the ranchlands of the Southwest, or the rock farms of New England. The owners, as American citizens, will have precisely the same responsibilities and obligations to their government as do residents in other parts of the country, and the government will have the same rights of eminent domain. Consequently, the American people as a whole need fear no loss through a recognition by Congress of the just title to the owners; in fact, the status quo will be preserved, now properly validated and registered.

The likelihood is that, in terms of acreage,

the extent of the claims is far too modest for practicality. Bare subsistence in an Alaskan food-gathering economy required about a thousand acres per person, and we are all aware that there has been inflation during the past century. More than a fifth of Alaska, well over 100 million acres is represented by coastal/tundra/mountain lands which from about 17,000 years ago to this very day are inhabited only by the original owners, the so-called native persons. For example, on the entire Arctic Slope there is only one full-time non-native resident. Yet the natives state that they will welcome settlers who come to live full-time, and will do their best to accommodate them. For purposes of best utilization title should be given for not less than 100 million acres (to our society at large, the least desirable parts of Alaska). And perhaps, for the sake of administrative book work, the Bureau of Land Management should inform the owners that they have been given credit for the 17,000 years of "proving" their homesteads and grazing lands, and the passing of functional titles generation to generation.

For several centuries the better organized nations have proposed a doctrine of "effective use and occupation" as the criterion of land ownership, and this has, when convenient, been interpreted to mean agricultural use. However, agricultural use, based upon particular southern forms of plants and animals, has often been inconvenient or unrealistic, and observers have noted other forms of effective use and occupation. Thus, to rid themselves of the difficult burdens of title based upon agriculture, the wide-roaming British invented valid claims based upon the stamping and mailing of letters from a small telephone booth set up on shore; when floating ice made the shore uncertain, they invented the Sector Principle by which one could divide, say, Antarctica or the Arctic Islands like a pie from an armchair in London; the Spaniards invented a system of land claims based upon the imbedding of a Cross at the low water mark of a beach; we Americans startled a History, long accustomed to the retention of land ownership by basic populations no matter what the conquest, by the invention of removing the population; the Texan with his longhorns and the Wyoming Basque with his sheep did their agricultural validation without touching the land with a plow, merely turning animals loose, occasionally, indeed, fighting the agricultural fence-builders; it is even questionable that the settler in New Hampshire, wandering amongst his giant boulders, was engaged in agriculture at all.

Therefore, there cannot be doubt that the natives of Alaska, jealously preserving through the millenia the lands which grew and sustained their food supplies and other needs (even engaging in that most respected of "proofs", warfare to keep their land), fully met, on both individual and tribal bases, the criteria of that "effective use and occupation" which delivers title. Their "agriculture", perhaps an extreme example of loose-herding, nevertheless was their vital concern, and when European man arrived the herds were there in plenty, and there was no sign of such despoliation under original ownership as has occurred during the past century of enlightenment. As owners, the natives have been, for one reason or another, good caretakers. But principally, we must in logic and fairness remember that they have for generations met the internationally agreed standards for land ownership.

The historical record shows that when we "purchased" Alaska from Imperial Russia in 1867, we bought a pig-in-a-poke, since Alaska belonged, not to the Russians, but to the native people. At best, we bought Russia's claims to the right to govern. The native owners were never asked nor consulted in any way about the purchase, not even if Alaska were for sale. Their basic rights to the land, however, were recognized in the Organic Act of 1884, and subsequent official documents. But the written deeds have yet to be delivered although nearly a century has passed. In many states even squatters' rights convey title in less than a decade.

While on the one hand the Alaskan natives should retain title to that one-fifth of Alaska, or 100 million acres which they alone inhabit, on the other hand they plan to relinquish fourth-fifths to the government, asking a price roughtly equivalent to the cost of building the proposed Pipeline. Precedents for such compensation or payment exist in our history, for example, in the purchase of Manhattan from the Indians for $26 (although a case there could be made out for overcharge). To satisfy our Puritan ethic regarding the frugality of our neighbors, we can be sure that the native people, as those most likely to retain life-long residence in Alaska, will use the money up there and to its best advantage, some of it even going for the establishment of those social, educational, and vocational institutions so long promised by our government. Neither the land nor the money will be packed away to another continent: all of it will remain under the domain of the United States and used by American citizens. It will be, in a true sense, a payment to ourselves.

It is not unreasonable to suppose, were we to purchase England from the Irish, especially without informing the English, that our Attorney General, or his wife, would do some phoning about. At the very least he could be expected to caution the Treasury Department to use restraint; and we can be certain that individual Englishment would retain title to their farms if for no other reason than that our concepts of democracy, liberty, and property are based upon their land rights, or that it gives us a warm feeling to say that "an Englishman's home is his castle".

No less a response is due the Alaskan natives and their land rights. By the purchase of Alaska we may have extinguished Russia's claims to the right to govern; in no way did it extinguish, any more than did conquests or treaties or purchases at other times in history, the individual rights of the Alaskan inhabitants to title to their land. If we claim that it did, then we are shaking our own foundations most seriously.

It would be a source of great satisfaction to millions of Americans who attempt to live by our national ideals, which are essentially those of fair play between men, if, as we approach our 200th Anniversary, a generation—ours—were at last to begin the practice of fair play with our native fellow citizens. There is no way in which anything can be lost by the swift conveyance of written title; everything stays here. A feeling of consistency and a great deal of self-respect is to be won.

PROCLAMATION OF POW DAY IN KANSAS CITY, KANS., APRIL 28, 1971

Mr. PEARSON. Mr. President, I am pleased to note that Kansas City, Kans., has proclaimed Wednesday, April 28, as POW Day. I think this is a most fitting and proper action on the part of Kansas City, Kans. I invite the attention of Senators to the proclamation and ask unanimous consent that it be printed in the RECORD.

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

PROCLAMATION

Whereas, International concern for the plight of Soviet Jews has saved the lives of several Jewish citizens in the Soviet Union, proving for the first time that the Iron Curtain can be pierced by public opinion; and

Whereas, We as Americans cannot have any less concern for the plight of American Prisoners of War in the hands of the North Vietnamese; and

Whereas, Since the President, each Governor, along with the Mayors of America's cities have been called upon to declare Wednesday, April 28, 1971, as POW day in an effort to get humane treatment for American POW's, and if not, the out and out release of these men,

Now, therefore, I, Joseph H. McDowell, Mayor of the City of Kansas City, Kansas, do hereby proclaim Wednesday, April 28, 1971, as POW Day in Kansas City, Kansas.

ECONOMIC DEVELOPMENT OF ALASKA

Mr. GRAVEL. Mr. President, at the public hearings of the Public Works' Subcommittee on Economic Development in Anchorage last week Mr. Harry Carter, executive director of the Alaska Federation of Natives, delivered a very incisive statement, relating the questions of economic development to both the human and natural resources of the State of Alaska. Mr. Carter showed how intimately related in Alaska are the questions of economic development and settlement of the Alaska Native land claims. Therefore his statement is of double importance to Congress, as it proceeds with its deliberations of both the land claims issue and the promotion of economic development.

I commend his comments to the Senate and ask unanimous consent that his statement be printed in the RECORD.

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

TESTIMONY OF HARRY CARTER, EXECUTIVE DIRECTOR, ALASKA FEDERATION OF NATIVES, INC.

The Land Claims may be settled by Congress this year. This event will place responsibilities and obligations upon Alaska's Native people and our various institutions and organizations that we are prepared to accept. We began the process of developing a sound basis of procedures and systematic planning in 1966. This is designed to enable us to administer and direct our internal affairs and to work constructively and cooperatively with external concerns and the Establishment. This process will soon begin to show visible results.

Our people are a part of the State's human resources. Our history and culture are a part of the nation's rich national heritage.

Our lands, as they are restored to us, still constitute a portion of the State's natural resources, but they may now be used in our own best interests as well as part of the long range economic development potential of the entire State.

The task we face at AFN, and our people face as a whole, has two distinct stipulations. One, it must be accomplished within the meaning and responsibility of the term "general public good". Secondly, it must be accomplished in awareness that immediate problems that confront us must be solved according to the effect those solutions will have on the foreseeable future.

Economic development is a combination of people and resources. Sound economic development for the Native people must take place in a controlled and balanced manner at the village level, the regional level, and the State level. By using the best techniques we can command, we will approach the development of our people and our lands sys-

tematically with immediate, intermediate and long range goals and objectives.

Our recent focus has been to bring the AFN to an efficient functioning central administrative entity to guide and direct planning and growth in a comprehensive manner. This function will soon include the support of regional and local growth by providing a full battery of technical advisors and resource materials to aid local management and control. Presently this is being accomplished in a limited way by arrangement whereby AFN or other Native organizations are under contract with agencies of government and private foundations to provide a variety of services. The money available from land claims settlement will permit AFN to negotiate large-scale contracts in addition to serving as a major prime contractor in its own right.

The Native people of Alaska have a unifying belief that can be traced back more than 4,000 years through the unwritten history and traditions passed from generation to generation. It can be compared to the article of faith held in common by the American people that men are born free to follow their individual pursuits within the context of our society. The Natives underlying belief relates to the land which has meant survival to individuals and communities. Eskimo teaching communicates clearly that abuse of living things or taking more from the natural harvest than is needed to sustain life results in nature withdrawing the harvests and punishment through natural disaster. One theme in educational stories deals with construction of villages. People were taught to go some distance from a new village site to select and cut the sod for insulating their homes in order to prevent breaking up the surrounding ground and disturbing the permafrost. Indians of the Interior knew that destruction of the forests would lead to destruction of the habitat of the animals that supplied their food. Alaskan Natives along the coastal areas were equally aware of the need for fish escapement and the necessity for keeping the natural surroundings as little disturbed as possible to insure survival for coming posterity. Education in aboriginal conservation and management is not couched in technical terms, but in custom and tradition woven into the ancient patterns of social controls. Conservation rooted in pragmatic and empirical attitudes in the use and management of natural resources is still a basic attitude of the Natives of Alaska.

Settlement of the Land Claims will provide us with land and money, two of the resources of modern economic development. The land has both implicit and explicit value. To visibly alter our lands or the adjacent waters for immediate monetary gain would violate all our traditions and past experience. To use our lands and their natural resources intelligently, taking into consideration all of the data and information readily available to us through Government and private industry, is in keeping with our philosophy and the administrative and management capabilities now being organized.

Money will provide the means to achieve the third resource required for conducting our internal affairs and our economic development—labor. We presently recognize the circumstantial weakness in lack of trained and/or experienced professional and technical people within our ranks. Our past several years have been spent in utilizing all of our immediately available executive and leadership resources in developing a strong core of Native people to make the crucial decisions and direct the professional and technical advisors who work in our interests. Concurrently, we have generated, supported, or actively helped to develop the many projects and programs of State or Federal Government that provide the education, experience or training so desperately needed by our people. Programs such as village magistrate training, self-help housing construction, education leading to paraprofessional standing in the medical and helping services, and those things related to the activities of Rural CAP and O.E.O. programs have all contributed to a rapidly growing sector within our population that can provide the needed manpower to support our coming internal operations.

We expect to invest an appropriate portion of our money in our people. In a planned and controlled setting we anticipate providing the needed motivation and financial support to enable our youth and young adults to meet the job demands and take the responsibilities inherent to the management of the combined assets of the Alaskan Native people. Until such time as our rapidly growing population matures to where our own manpower resources can meet and exceed the demand, we intend to employ the best we can obtain from any and all sources open to us. Meanwhile, we intend to engage in an intensive management intern and in-service technician policy that will permit us to expand our decision making and administrative control in a rapid and orderly way.

AFN and the Native people as a whole, face a critical condition that relates to timing and the current and immediately forthcoming economic development of the State. This is found in two sectors—construction and its supporting and auxiliary services. It is mandatory that positive action along the lines contained in various statements by the President of the United States be implemented in Alaska at once. Operational preparation for the 1971 construction season is almost upon us. The actual formation of management structures and the initial "gear-up" for what we all know is ahead, regarding the pipeline and the petroleum mining interests (together with an attendant initial boom) must be begun this year or much of what has been said becomes meaningless. It is past rhetoric; and the Native people of Alaska will enter the ballpark with two strikes against them.

We appreciate oil industry support, through Aleyska, to help minorities move into the business arena. We also realize that the amount of money for this purpose, as well as the times at which they can supply it is too limited to permit us to actively and directly participate in the coming construction season, or to generate all the various factors of production necessary to accomplish a meaningful quality and quantity movement of Minority manpower into business and industry before the natural course of events throws up virtually insurmountable barriers in the future.

We have the competency and understanding to recognize what technical limitations exist within our capabilities. We also have the know-how to hire the expertise to cover those areas we do not command.

In spite of the fact that Alaska may become one of the richest per capita States in the Union—possibly even richest without the per capita qualifications—we recognize the present dire straits of the State due to little dramatic in-flow of cash. We also recognize the natural hesitancy the Federal Government has to continue to provide public funds for a State's needs prior to revenue sharing legislation. Nevertheless, without Federal intervention at this time through strong financial support to assure minority participation in the very beginning stages of a tremendous economic development, the entire preparation and preliminary foundation for solid participation may be damaged beyond repair.

For example,

1. Housing developments on the order of another 1200 units through HUD are immediately available to Alaska. This requires immediate capability for directed expansion and coordination of existing corporations, under a unified complex, to decide upon site locations, the negotiation and supervision of contracts and contract compliance, and the subsequent management and maintenance of the completed units.

2. A minimum of 500 existing legally established minority owned and managed corporations or private proprietorships are currently in a position to expand into active real participation in the State's economy. They are presently locked and barred from such productive activities by lack of capital and their inability to command expertise or technical service leading to an overall efficient operation. Public support of minority enterprise has been established as national policy, but money in the amount that sound business practices demand has not been forthcoming; nor does it appear to be in the foreseeable future. The only avenue to circumvent regulatory disbursement of funds at the local level—which is invariably too little too late—is direct allocation of funds to the recipient in real dollar amounts in such a way that the responsibility to meet contract or grant stipulations is placed directly upon the recipient by the primary source of funds. We see so little actual money because the largest portion is "bled off".

3. Certain aspects of raising the standard of living and improving the quality of life in the rural areas of Alaska involve communications, or construction of facilities for transportation and public utilities presently in the mill. These are not yet under any kind of related or planned system. They often involve private enterprise in an uneasy marriage between corporate enterprise and government at various levels.

Such matters are part of the immediate and continuing interests vital to the Native people. We need to be in the position to underwrite specific needed construction if the State or Federal Government cannot conveniently do so, and, of equal importance, we must move minority people into the construction and installation of such facilities from the beginning of construction in order for them to be prepared to engage in the subsequent operation, maintenance, and management of the services. For example RCA in Bethel, pilot projects dealing with proving out feasibility in transportation and communication, and familiarization with anticipated required technical expertise necessary to operate or maintain sophisticated installations now being finalized prior to letting of contracts.

4. One of the major priorities of AFN, once land claims settlement frees money for investment purposes, recognizes the financial capacity of the Native people as managers of major U.S. investment bank. AFN can serve as the focal point for coordinating or catalyzing the entry of Native owned capitol into national channels of finance. This can naturally be accomplished, in a progressive way, in the eventual entry into banking, insurance, and credit unions. Our initial approach will be to deal first with finances in our own back yard. This will include anticipated capitalization regarding concerns now under jurisdiction of ANICA, ANAC, CEDC, and AVEC, etc. Certain parts of the programs of these corporations, who mainly serve Alaskan Native interests, are danger of floundering or facing outright failure. Immediate funds are needed to protect the investment already made by the public. If these various organizations are to succeed in the production ascribed to them, certain aspects of specific programs must be supported. Others must be expanded by providing technical expertise or equipment basic to a successful operation. Ultimately AFN will be in a position to invest Native held funds in these or similar entities. Presently, in order to protect public investment, it is incumbent upon us to point out that public expenditure is required in order to hold the line now, and to enable us at a later date through investment of Native capital, to eventually return with

interest the initial investment returned through the dynamics of domestic gross product and national net product.

The foregoing examples are not a plea for a handout. I am talking about investment and reward in the accepted economic sense. The money invested for the purposes outlined above, will eventually be returned with interest in the taxes and other revenue directly received or generated within the State. This is ultimately returned, with significant overall increase to the national purse.

I have briefly outlined here the current status and operating conditions of AFN as it relates to an imminent land claims settlement. We are aware of our strengths and our weakness. We are now functioning in that awareness and working actively to overcome a situational weakness. The organizational requirements and restrictions generally anticipated are to be found in AFN proposed legislation now before Congress. The State, regional and local level administrative and management units are of a familiar and proven corporate structure and generally will be subject to all the usual controls and regulations of any corporate venture.

The aims, policy, and direction of the governing body of the Native-owned corporate complex will be dedicated to the intelligent management of our renewable and non-renewable resources, human and natural. We will be guided by the humanitarian aesthetic, and economic realities of the world in which we all live and the national policies that affect everyone.

AN INTIMATE TRIBUTE TO THE LATE WHITNEY M. YOUNG, JR.

Mr. JAVITS. Mr. President, there were many tributes to Whitney M. Young, Jr., during those hours of shock and dismay, after word was received from Nigeria of his untimely death. I invite the special attention of Congress to one tribute which I feel conveys a uniquely intimate view of this great civil rights leader. It was broadcast over WVOX radio, Westchester County, N.Y., by the station's president, William O'Shaughnessy, who knew Whitney Young professionally, as a friend and as a neighbor. I ask unanimous consent that the tribute be printed in the RECORD.

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

WHITNEY MOORE YOUNG, Jr.

Whitney Moore Young, Junior, always believed in what his friend SENATOR JAVITS calls "the genius of the free enterprise system."

This extraordinary resident of our city and of our county plowed right in to the conscience of the Establishment and may have done more for black men in our nation than anyone else.

We are not forgetting Martin Luther King or John Kennedy. But Whitney Young had a different approach and a different style. And history may yet show us that he accomplished more in the board room than other Civil Rights leaders did in the streets. He did not come on, this man, like a Sherman tank or like gangbusters. Instead, he won the big men in our country to his side and then enlisted them in his cause.

He would inspire men like Nelson Rockefeller and persuade corporate heads like DeWitt Wallace of Reader's Digest and Donald Kendall of Pepsico to install black men in the executive suites of their company. Other Civil Rights leaders of his day started at the bottom—in the streets—and worked up, often to the accompaniment of unrest and tumult. Whitney Young started right at the top. And he never used his powerful and high-level contacts to his own advantage.

The articulate and soft-spoken man from Oxford Road whose heart stopped beating on a beach yesterday in Nigeria was a splendid model for black men and an inspiration to all Americans. "Hang in," said Whitney Young. Trust in this country. Work hard and believe in the sometimes elusive magic of the free enterprise system.

The world was his stage. And yet at a dinner party a few years ago, attended by the likes of William Paley and President Nixon and Henry Cabot Lodge and John Hay Whitney—he bombarded his dinner companion that long ago evening with questions about Westchester schools and about the city government in New Rochelle.

And last year at the opening of the world headquarters of Pepsico, we asked him how the giant bottler was doing in hiring minorities. He said they were doing better than most. And then he winked at us when he saw Donald Kendall coming and said: "I'm still selling." And then he put his arm around Donald Kendall and walked him out into the sunshine to do "a little selling" as he called it.

The cause of Free Enterprise as well as the cause of Civil Rights has lost an eloquent and graceful champion. And Westchester has lost one of its most illustrious citizens.

He was a classy man and his contributions in terms of self confidence for his own people were immeasurable. He got his message across to all Americans. But he never stooped to conquer.

He was a national leader. But he was also a mortal man and our neighbor. And as such, he leaves a special family on Oxford Road which has lost a husband and a father.

This is a WVOX Editorial. This is William O'Shaughnessy.

THE MEXICAN AMERICANS—NEGLECTED FELLOW CITIZENS

Mr. CRANSTON. Mr. President, on Saturday, April 3, 1971, the distinguished Senator from South Dakota (Mr. MCGOVERN) spoke before the California Democratic Council in Santa Monica, Calif., on the subject of our grievously neglected fellow citizens, the Mexican Americans.

Despite the fact that there are estimated to be some 7 million Mexican Americans in the United States today, these individuals continue to be the unfortunate subjects of much abuse and neglect. It is astonishing, for example, that the U.S. Census Bureau failed to count Mexican Americans in the 1970 census. This unjustifiable oversight may have lasting political repercussions if efforts are not made to insure that legislative redistricting provides more adequate political representation for Mexican Americans. Further, the lack of equal opportunity for Mexican-Americans in employment and education is well documented, yet the Federal Government continues to ignore the procedures it might employ and the laws it should enforce in order to open the doors of opportunity for Mexican Americans.

It is disgraceful that such hypocrisy exists in this great Nation. I believe that Senator MCGOVERN has examined the extent of the problem and has recommended solutions with his usual insight, candor, and sensitivity. I commend his speech to the attention of Senators and ask unanimous consent that it be printed in the RECORD.

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

OUR MOST NEGLECTED: THE MEXICAN-AMERICANS

(Speech by Senator GEORGE MCGOVERN)

In view of my long opposition to the disaster in Indochina, you might have expected me to devote my remarks today to another attack on this incredible and unjustified war.

But on reflection, I have decided that such a speech to this group would be carrying coals to Newcastle—roughly comparable to a temperance lecture to the W.C.T.U.

No person with enough humanity to attend a convention of the C.D.C. needs any further convincing that the war in Indochina is sheer madness.

Nor do I need to stress the obvious truth that the sentencing of Lt. Calley does not assuage the national burden of guilt and shame we must all carry until this monstrous slaughter is ended.

Nor do I need to belabor the common sense of the McGovern-Hatfield Amendment—except to say that I fully expect the Senate to enact this Amendment cutting off further military operations in Indochina beyond December 31 of this year.

Today, I want to talk about another issue that is not as much on our consciences as it should be—the treatment we accord our Mexican-American citizens.

More than a century ago, the California Constitution was drafted and signed in both English and Spanish. Almost one-third of the signers had Spanish surnames.

This Constitution guaranteed Mexican-Americans equal rights. Yet, given their relative position among the nation's minorities—second only to blacks in terms of population—Mexican-Americans can only be described as the most invisible of all our minority groups.

America is a country addicted to hard figures. Statistics are everything. All of our social planning is predicated on the flow of hard figures that come churning out of the Census Bureau every ten years.

Imagine my surprise, then, when I learned recently that the Census Bureau, which literally counts almost everything in this country that is living and inanimate, from people to electric canopeners, did not count Mexican-Americans in the 1970 Census.

Symbolically, anyway, Mexican-Americans in America apparently don't count. Whites count. Blacks count. Indians count. But due to the inexplicable ways of the bureaucracy, Mexican-Americans don't count.

It's a good thing Mexican-Americans keep track of themselves; otherwise, nobody else would know how many of them there really are.

The President's Committee on Opportunities for Spanish-Speaking Americans has estimated that there are a minimum of seven million Mexican-Americans in the country today.

The question of equal treatment for Mexican-Americans is especially pertinent for Californians. There are an estimated three million Mexican-Americans in California, the largest single minority group in any State in the Union.

And their number is growing. Public school figures for the fall of 1970 in California show that 18.5% of all first grade students are Mexican-Americans; 15.2% of all sixth grade students are Mexican-Americans.

In Los Angeles County, 18.1% of all public school students are Mexican-Americans, and approximately 20% of sixth grade students are Mexican-Americans.

Furthermore, these figures probably understate the size of the Mexican-American school-age population because of a higher dropout rate and the fact that one out of every five parochial school students is a Mexican-American.

These figures are pregnant with political meaning. They tell us that very likely one

out of every six new California voters in 1976 will be Mexican-American. And they raise the question of who these voters will have the opportunity to cast their ballot for.

I am a firm believer that when it comes to equal opportunity, the first opportunity must be for equal political power. For it is from that fundamental opportunity, that all others spring. As Chairman of the McGovern Reform Commission, I have fought for that kind of power within the Democratic Party itself and I sincerely hope the results will be visible at the 1972 convention.

I see no reason why the same principle should not extend to every sphere of political activity, including representation in local and state government. Mexican-Americans comprise 14% of California's population; yet they have only two representatives in the state's Assembly and none in the state Senate. By my calculation, if Mexican-Americans were to be fairly represented, they should have a total of 17 seats in the legislature—12 instead of two in the Assembly, and five instead of none in the Senate.

Frankly, I can see no reason why every effort should not be made to facilitate this kind of equal representation for Mexican-Americans. And I would suggest that the California Democratic Party bend every effort to assure that the redistricting of the legislature reflect this need as a primary concern. If the Democratic Party is to mean anything in the future, it must now mean permitting all Americans to fully represent themselves politically. Mexican-Americans want to represent themselves. And that time has surely come.

This is not simply an altruistic position for the Democratic Party to take. It is necessary for the survival of the Democratic Party as a party of all the people. If the Democratic Party does not take positive steps to include America's minorities *in*—and not just with rhetoric but a full share of power—the day will surely come when those minorities will leave the Democratic Party *out* in the political cold.

You can't play games with people anymore. You either give them what they deserve, or they will give you what you deserve.

A second area of equal opportunity for Mexican-Americans I would like to talk about is employment. In this case, my remarks are aimed primarily at the United States Government.

When it comes to employing Mexican-Americans, our government ranks as the most hypocritical of institutions in the country. The government is perfectly willing to impose employment goals and quotas on private industry, as in the Philadelphia Plan. But when it comes to imposing goals and quotas on itself, that is another story.

The Federal Government is the nation's largest employer, and California's as well. The latest available figures indicate that 2,601,639 persons are employed in civilian capacities by the Federal Government. Only 2.8% of those employees have Spanish surnames, and that includes Puerto Ricans.

That percentage can be put in perspective by the fact that between five and seven percent of the nation's population have Spanish surnames. Clearly, on a population basis, Mexican-Americans are grossly under-employed by the Federal Government.

The President has the power today to issue an Executive Order setting a specific goal for employment of Mexican-Americans by the Federal Government. If that goal were set at five percent, that would mean 55,000 additional jobs for Mexican-Americans.

But total number of jobs isn't the only issue here. What level jobs is also an issue. Mexican-Americans have historically been excluded from management and supervisory positions. At this moment, only 35 jobs, or one-third of one percent, of the Federal Government's top 9,286 jobs are held by persons with Spanish surnames. Only 133 of the top 24,300 jobs are held by persons with Spanish surnames.

In California, the Federal Government employs three times as many persons as the State. The Internal Revenue Service in the state employs 4,457 persons, only 108 of which or 2.4%, have Spanish surnames. *That* is really taxation without representation! The Department of Health, Education, and Welfare employs 5,429 persons in the state; only 234, or 4.3%, have Spanish surnames. Further, 189 of the 234 are paid poverty level wages by the government.

This failure of the Federal Government to provide equal employment opportunities to Mexican-Americans transcends Republican or Democratic Administrations. The low level of employment has held steady since the early sixties.

And California itself is not doing much better than the Federal Government. Of the state's 117,431,000 jobs, only 4,289, or 3.64% are held by Mexican-Americans. And the average pay for Mexican-Americans is $1,176 lower than the average pay for whites—a gap that has widened by 26% since 1960.

This unfair treatment by both the Federal and State Government persists in the fact of grievous unemployment among Mexican-Americans. Once again, unemployed Mexican-Americans, as such, are not specifically counted by the government. But reliable estimates place average Mexican-American unemployment at 18%. In especially impacted areas like East Los Angeles the figure is probably over 20%. Can you imagine what 55,000 jobs would mean for these unemployed people and their families?

The time is long past to end the hypocrisy of equal employment opportunity practiced by the Federal Government since President Eisenhower issued the first Equal Opportunity Executive Order in 1955. It is time for the Federal Government and the state of California to follow the principle of employment of Mexican-Americans, and other minorities, commensurate with their percentage of the total population.

Eight days ago, at their annual stockholders meeting, the President of Pacific Telephone announced that his company, the largest private employer in the state, would achieve that objective by 1975. If Pacific Telephone can do it, I don't see why the Federal Government and the state of California can't.

All it would take is a stroke of the pen. The Civil Service Commission has recommended it. In July of last year, five major Mexican-American organizations asked for such an Executive Order. Yet the President has yet to pick up his pen.

I assure you that if I were sitting in San Clemente today, that pen would be picked up and an Executive Order signed. And I would invite Mexican-American leaders to come and watch in person. I think it is extremely unfortunate—though not unexpected given their overall treatment—that leading Mexican-Americans, despite formal requests to personally visit with the President, have not yet had the opportunity to do so.

A third area of equal opportunity for Mexican-Americans that I would like to discuss is that of culture, specifically respect for the Mexican-American culture. It seems to me that this country, which is in danger of becoming completely homogenized culturally, should prize the diversity and uniqueness of the different peoples that are Americans.

Mexican-Americans have a unique contribution to make to the country, especially in the language area. The sparkling gift of the Spanish language is a resource we should reward, not penalize, as is so often the case today.

It is no accident that Mexican-Americans do not benefit as fully from available programs as other minority groups. The language barrier screens them out. As simple a thing as the fact that all government forms are printed in English causes innumerable hardships.

Yet this barrier could also serve as a bridge. We could employ thousands of Mexican-Americans as translation aides in hospitals, employment service offices, welfare agencies, in any number of divisions of government. We might even employ them in the Census Bureau so that from now on we could count Mexican-Americans along with everybody else. And we could pay a special premium for the skill of being bilingual. At least as much as the $15 a month being paid by Los Angeles County to its bilingual employees.

We could also use this gift of language in our relations abroad. In the Western hemisphere alone, 183 million persons speak Spanish. Americans are notorious for failing to speak the language of other countries. Yet we have millions of native-born Americans who already speak Spanish. This resource should no longer be permitted to go unused.

Finally, there is a fourth area of equal opportunity for Mexican-Americans that needs attention—the chance for higher education. I have been increasingly concerned lately with the difficulties facing veterans of our ill-conceived involvement in Vietnam. The unemployment rate among returning Vietnam veterans between 20 and 24 years of age is 12.4%.

These difficulties are even worse for veterans from minority groups, including Mexican-Americans who have contributed more than their fair share to this war. Fifteen percent of California's casualties, and 10% of all casualties in the southwest, have been Mexican-Americans.

What Mexican-Americans want to know is why they are first in war but last in peace? Why are they good enough to lead men in combat in Vietnam, to carry the heavy responsibility of life and death, but not good enough to handle a desk in Washington?

I think it is unconscionable that these young men are not being guaranteed either work or education upon their return home. No veteran of this war should be shunted around from place to place looking for work, or be deprived of the chance to go to college because he lacks sufficient funds.

We need to reinstitute a genuine GI Bill of Rights for our Vietnam Veterans, providing benefits equal to or even greater than those granted veterans of wars past. I am working on a legislative formula that would guarantee every Vietnam veteran either a good public service job, or a generous opportunity for a college education at public expense.

I believe further that we should extend the guarantee of higher education to any minority student who has the ability to absorb the education. And if a student is willing to repay the guarantee by several years of service to the community from which he came, then the cost of his education should be free. Serving America in peace should be just as important as serving her in war.

There is one last thought I would like to express regarding the opportunity for higher education. Unlike other minority groups, Mexican-Americans do not have an institution of higher education they can call their own. The creation of such an institution would be of enormous benefit, not only to Mexican-Americans, but to all Americans. Such an institution would soon help fill the need for Mexican-Americans with professional training in all kinds of disciplines. It would be a constant source of leadership for the Mexican-American community. It could be a repository of Mexican-American culture, and as such would be a national resource.

The Federal Government has a proud history of fostering higher education, beginning with the land grant colleges. I see no reason why the government could not sponsor the founding of a college specifically for Mexican-Americans. When the nation had a land gap to fill, it gave the railroads the land they

needed. Why shouldn't the government bridge the culture gap by giving Mexican-Americans the land and whatever other resources are required to establish an institution to serve their needs as well as America's.

Let me say, in conclusion, that I appreciate having the opportunity today to share my feelings with you regarding the needs of our fellow citizens of Mexican descent. I think we all know that their need for an equal opportunity is really America's need as well—the need to fulfill the promise upon which the nation was founded and without which it would cease to be an inspiration to mankind.

Let us rededicate ourselves to the following propositions.

Mexican-Americans can no longer be taxed while remaining politically unrepresented.

Mexican-Americans can no longer be first in war casualties and last in civilian jobs.

And billions can no longer be spent to enrich the culture of other countries while zero is spent to assist the indigenous Mexican-American culture.

And we, white Americans and the Democratic party, the institutions that have benefitted most from the Mexican-American, must be the first to correct the injustices of the last 100 years.

DEATH OF BRIAN L. BUNKER, NEVADA PIONEER

Mr. CANNON. Mr. President, recently the entire State of Nevada was saddened by the passing of a pioneer resident who had contributed so much to the development of southern Nevada, economically and spiritually.

I refer to the demise of Brian L. Bunker, who was a leader of the Church of Jesus Christ of the Latter Day Saints. His life typified the enterprise, dedication, and steadfastness which has helped build our State and made Nevada and the Southwest the fastest growing section of the Nation.

I ask unanimous consent that an editorial published in the Las Vegas Review Journal be printed in the RECORD.

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

SOUTHERN NEVADA LOSES REAL PIONEER

A real pioneer of southern Nevada has died. Bryan Lamond Bunker, 73, descendant of the original family which settled Bunkerville and made it into a thriving agricultural area, died in Salt Lake City last Tuesday. During his lifetime, Bunker contributed much to the development of southern Nevada, not only in its religious aspects but in business and youth projects as well.

He had devoted much of his adult life to the Church of Jesus Christ of Latter Day Saints, growing up in the little Mormon farming town of St. Thomas. As a young man he fulfilled a mission for the church and he had the distinction of being the second man to be named as bishop of the L.D.S. Church in Las Vegas and again the second man to be chosen as President of the Southern Nevada Stake. In the following 25 years, he attained higher honors in the Church, serving as president of the California Mission of the church and in his final years as first counselor to the President of the Salt Lake City Temple of the L.D.S. Church.

Ambitious for higher education, he was the first youth from St. Thomas to become a "boarding student" at the Las Vegas High School, because the Moapa Valley schools at that time ended with the eighth grade. He led the way for other rural students, until high schools were established in the Valleys, to enroll in high school in Las Vegas.

He was another pathfinder, the first from the Valley to enroll at the University of Nevada at Reno, as it was the custom for Mormon youths to be sent to Utah for higher education. Jobs were scarce when he returned from college, so he became the driver of an eight-horse team hauling copper ore from a mine in the Arizona Strip to the railroad at St. Thomas. He next became a rodman on preliminary surveys for the site for Boulder Dam.

He worked at Will Beckley's Men's Clothing store, where he became acquainted with practically every man in town. In his position as bishop of the L.D.S. Church, he wielded great political power, although he never sought public office for himself.

He was a builder as well as a leader. Even though money was scarce during the Depression years, he inspired the Mormon people to contribute funds and labor for the construction of the first permanent L.D.S. Church in Las Vegas at Ninth Street and Clark Avenue. This became a community center, as well as a church edifice, as there were few meeting places in the town at that time.

He was an insurance company representative, a hotel owner, and the founder of Bunker Brothers Mortuary. He fostered the Boy Scout movement in this area, serving as president of the Boulder Dam Area Council and receiving the Silver Beaver award. Recognizing the need for recreation for young people, he became a member of the first board of directors of the YMCA and helped raise funds for the headquarters.

He encouraged the United Fund concept, to replace the many fund raising projects for organizations concerned with health, welfare and recreation in the community, and served as president of the United Fund. He also was a past president of the Las Vegas Chamber of Commerce and the Rotary Club.

He was a quiet worker, using persuasion rather than pressure to accomplish his own personal goals and those of his community and church. He has left many monuments in southern Nevada, not all of mortar and stone, but mostly in the hearts of the many people he helped during his time as an official of the church and in his everyday routine of being a good citizen.

The L.D.S. Church has lost a devoted servant, and southern Nevada a real pioneer.

A VOLUNTEER ARMY WOULD BE MANNED BY THE DISADVANTAGED

Mr. KENNEDY. Mr. President, many of those who oppose a volunteer army at this time have pointed to the inequities that it would produce. Of particular concern has been the likelihood that the establishment of a volunteer army, whose basic attraction was higher pay, would pull disproportionately from the lower socioeconomic levels of our society. The poor, the disadvantaged, those who have received the least benefits from our society would be compelled by economic circumstance to accept the risks of military service.

Recently an article written by Representative CHARLES B. RANGEL, of New York, was published in the New York Times. The article, entitled "Black Hessians in a White Man's Army," underlines the potential negative results of a volunteer army.

I commend the article to the attention of Senators as the debate begins in the Senate on whether or not to extend the draft.

I would particularly call your attention to the following statement by the Representative:

Middle- and upper-class whites will not be enticed to join by financial inducements. But disadvantaged Blacks, Mexicans and Puerto Ricans must volunteer since there are no other economic options open to them. Of course, there will still be white soldiers. Except for a sprinkling of poor Southern white enlisted men, they will largely form the officer class.

It is uncertain that a volunteer army would produce the extreme polarization that this description depicts, but it is a strong possibility, and it is a possibility that the Nation cannot afford.

Mr. President, I ask unanimous consent that the article, published on April 17, be printed in the RECORD.

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

BLACK HESSIANS IN A WHITE MAN'S ARMY

(By CHARLES B. RANGEL)

WASHINGTON.—I "volunteered" to serve Uncle Sam. In 1947 I quit a predominantly white high school because I couldn't compete academically. I was soon faced with the black drop-out's classic choice—hustle on the streets or join the Army.

Eventually, I was sent to Korea where one day I "volunteered" to lead a mission behind enemy lines. It wasn't glory or love of country that prompted me. I was motivated by the same reasons so many blacks join the paratroopers—for the extra money and the chance of promotion that such dangerous duty assignments provide. After the mission, a colonel pinned some medals on my chest and told my unit with John Wayne fervor: "Keep kickin' hell out of those gooks."

I left Korea with some money, some rank and an ingrained prejudice against a people called "gooks" who lived in a country I never knew existed before. In fact, it wasn't until I noticed some Chinese bodies on a battle field one day that I learned Korea bordered China.

I mention all this because there were thousands of blacks like me on the front lines of Korea, as today there are thousands like me in Vietnam and in American military outposts all over the world. Patriotism has nothing to do with the reasons why they're there, as it will have absolutely nothing to do with the reasons why the proposed volunteer Army will be largely black, Puerto Rican and Mexican.

President Nixon's proposal to create a volunteer Army is mainly induced by his desire to get the articulate young whites off his back and to make America's belligerence in Asia more palatable to their parents. This plan is characteristic of how America solves its problems—it will buy its way out by offering handsome pay increases and other attractive benefits to those who join up. This rationale recalls the Civil War days when rich men paid poor men to perform their military obligations for them. Nixon's proposed $3,000 bonus for combat duty accomplishes exactly that.

Who will take Nixon up on his offer? Senator Kennedy reports that in several talks to college groups, almost all students raised their hands when asked how many favored a volunteer army. Yet, there was almost none who kept their hands up when he asked if they would volunteer.

Middle- and upper-class whites will not be enticed to join by financial inducements. But disadvantaged blacks, Mexicans and Puerto Ricans must volunteer since there are no other economic options open to them. Of course, there will still be white soldiers. Except for a sprinkling of poor Southern white enlisted men, they will largely form the officer class.

It would be a lie to label this a volunteer army. It would be a mercenary army composed of men soldiering for a pay check. Thus America's oppressed races would be fighting

and dying so that affluent whites can continue to enjoy the fruits of imperialism. White Americans could then sip cocktails and watch the black Hessians make war on their color television sets, just like the plantation owners who sipped mint juleps on their verandas and watched the darkies toiling in their fields. This is not too much of an exaggeration. Blacks and other minorities would once again be doing the white man's dirty work.

During the cold Korean winters, the Chinese repeatedly flashed a large photograph at my black unit showing white people lounging around a Florida swimming pool. Their loudspeaker would bark: "You're over here doing their killing for them and you're not even allowed to sit at that pool."

At present, America is in a crucial dilemma. It needs millions of bodies in uniform to maintain its international police force. It is having trouble getting these bodies because many of its young do not wish to be engaged in the merciless obliteration of Southeast Asia. So, characteristically again, America has decided to follow the precedents set by the Roman and British Empires. It will hire mercenaries to prop up its foreign hirelings around the world.

There is only one way this country can get its young to loyally perform military service. It must begin to institute morally just foreign and domestic policies. A random selection draft system would then be all that would be needed since such policies would permit a substantial reduction in the size of America's permanent forces. Only an empire needs an Army of three million men.

What staggers me about the President's plan is its lack of farsightedness. Doesn't he realize that a large number of blacks will become incensed when they realize they are doing the white man's killing? Armies are, by nature, great instruments of power. A mercenary Army would mean that blacks and Spanish-Americans finally had some real power. The Russian revolution began when its oppressed army and navy revolted.

REPORT BY SENATOR HARTKE ON PARIS PEACE CONVERSATIONS

Mr. HARTKE. Mr. President, yesterday the Committee on Foreign Relations began its exceptionally important hearings on Senate legislative proposals to end America's involvement in the Indochina war. As the author of Senate Resolution 66, I was privileged to have the opportunity to testify on that resolution. In the course of my testimony I presented the first comprehensive report on my conversations in Paris earlier this month with all four delegations to the peace talks.

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

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

TESTIMONY OF U.S. SENATOR VANCE HARTKE BEFORE THE COMMITTEE ON FOREIGN RELATIONS, APRIL 20, 1971

Mr. Chairman, I welcome the opportunity to testify before this distinguished Committee on behalf of Senate Resolution 66, which I had the honor to introduce on March 4, 1971.

That resolution calls for the immediate withdrawal of all United States military forces from Indochina, conditioned only upon agreement on arrangements for the safe withdrawal of our forces and the release of our prisoners of war. It would end American involvement in the war at the earliest possible—rather than the earliest convenient—date. It is based on the proposition that no date is too soon for extricating ourselves from what has been an unmitigated disaster from the outset, and that every day's delay serves only to waste lives and bodies and treasure.

In the nearly seven weeks since I introduced S. Res. 66, three events, or series of events, have occurred to strengthen my conviction that Senate action is essential if we are to stop this appalling wastage. These events were, first, the South Vietnamese debacle in Laos; second, my conversations in Paris with representatives of all four delegations to the Vietnam Peace Talks; and third, President Nixon's television address to the nation on April 7.

Of the South Vietnamese invasion of Laos and its abrupt conclusion, I shall say only that it demonstrates the murderous futility of "Vietnamization." And if "Vietnamization" is the option we are asked to choose in preference to an early, fixed-date withdrawal, we are in effect being offered no choice at all. That seems to me to be the principal lesson of Laos.

The outcome of the Laos invasion was still very much in doubt when I decided, in mid-March, to go to Paris to hear from each of the parties to the Peace Talks their account of the status of the discussions and what, if any, prospects they saw for a negotiated settlement of the war. I was especially anxious to get a first-hand explanation from the representatives of North Vietnam and the Provisional Revolutionary Government (that is, the political arm of the Viet Cong) of the terms of the Peace Initiative put forward on September 17, 1970, by Madame Nguyen Thi Binh, Foreign Minister and Delegation Leader of the P. R. G. I thought it essential to have such an explanation because, contrary to what the Administration had been telling us of the rigid inflexibility and total refusal of the other side to engage in meaningful negotiations, we had begun to hear an increasing number of reports to the effect that the terms of Mme. Binh's proposal were at least worth considering as the basis for further negotiations.

Before leaving for Paris on April 1, I received a thorough briefing from senior officials at the State Department and had a full and useful discussion with Ambassador Diem of the Republic of Vietnam. And on the afternoon of my arrival in Paris, April 2, I had the pleasure of a long talk with my old friend Ambassador David Bruce, the head of our own team of negotiators at the Peace Talks.

So it was with that background that I entered into conversations with representatives of the other side, Mr. Nguyen-Minh Vy, Deputy Head of the North Vietnamese delegation at Paris, and Mme. Nguyen Thi Binh, Head of the P. R. G. delegation.

I can report that our discussions, lasting four-and-a-half hours with the North Vietnamese and three-and-a-half hours with the P. R. G., were both frank and cordial. I was especially struck by Mr. Vy's repeated insistence on his own delegation's flexibility. My distinct impression was that the only non-negotiable items in the P. R. G. peace initiative—which, of course, Hanoi fully supports—are a firm withdrawal date for all U.S. military forces and the exclusion of President Thieu, Vice President Ky, and Prime Minister Khiem from any coalition government in South Vietnam. All other points are negotiable. But most importantly, from our standpoint, the setting of a mutually agreeable date for withdrawal of our forces from Vietnam is an essential prerequisite to any meaningful negotiations.

Both conversations centered on the two great issues of a ceasefire and the return of our prisoners of war. Regarding the first, a P.R.G. statement issued on December 10, 1970, following its formal peace initiative of September 17, says:

"A cease-fire will be observed between the South Viet-Nam people's Liberation Armed Forces and the troops and military personnel of the United States and other foreign countries in the U.S. camp immediately after the Government of the U.S. declares it will completely withdraw from South Viet-Nam its troops and military personnel and those of the other foreign countries in the U.S. camp by June 30, 1971; the parties will discuss at once:

"The question of ensuring safety for the total withdrawal from South Viet-Nam of U.S. troops and those of the other foreign countries in the U.S. camp and,

"The question of releasing captured militarymen."

I first asked Mr. Vy what the word "immediately" meant in this context. He replied that it meant as soon as word could be got to the forces in the field—a matter, he thought, of no more than 48 hours. As to the date of June 30, 1971, specified in the P.R.G. proposal, both he and Mme. Binh stated that that was their suggestion, but that if it was unaccepeable to us, we should propose an alternative. I might add, Mr. Chairman, that it was my distinct impression that there would be little or no problem in arriving at a mutually acceptable date. And whatever that date might prove to be, let me emphasize—for there has been confusion on this point—there are no other conditions. The ceasefire between our force and theirs could go into effect within 48 hours of its announcement. The killing of Americans could be ended just that quickly.

As to the release of our prisoners of war—called "captured militarymen" by both Hanoi and the P.R.G.—I attempted to get as much clarification as possible on just how soon after announcement of a withdrawal date we could expect to have them returned. The language of the P.R.G. peace initiative says only that "the parties will discuss at once" the P.O.W. question. Both Communist delegations refused to specify a fixed time period at the end of which all our prisoners would be home. They kept insisting that the setting of a withdrawal date must precede substantive discussions of the issue, and that it is only President Nixon's intransigence that has created the obstacle to an early settlement of the P.O.W. question.

Let me go on to say, however, that both Mr. Vy and Mme. Binh gave broad indications that the issue would be resolved very speedily once the withdrawal date is set. Mr. Vy called to my attention the fact that in 1954, at the conclusion of Vietnam's war of independence against France, large numbers of French prisoners were released before the Geneva Conference even convened, and that once the formal peace talks did begin, the entire issue was settled within three weeks.

Also, the two delegations took considerable pains to assure me that they have no interest whatever in keeping American prisoners a day longer than is necessary. Mr. Vy pointed out that our men are being given a food ration three times as large as that of the average Vietnamese and that their living conditions generally are more comfortable than the prevailing standard in North Vietnam. And Mme. Binh said, "Your men are a burden to us. We want to be rid of them—the sooner the better."

"I can tell you," she added, "that if the American forces withdraw in a rapid and appropriate fashion, your captured militarymen will be returned in a rapid and appropriate fashion."

Let me summarize what I learned on this very difficult issue by saying that there is now no doubt in my mind that all of our P.O.W.'s would be returned to us by the time our last troop contingent is withdrawn from Vietnam, and a substantial number—particularly the sick and wounded—would be on their way home within weeks of the setting of a date for final withdrawal.

In this as in every other war in human history, prisoners are exchanged when the war

is over. For the Administration to continue to pretend that there is some other solution to the problem is to perpetuate a cruel hoax of its own devising on the families of those men and on the American people generally. And by the same token, prolonging the war only adds to the toll, not alone of prisoners but of dead and wounded as well.

Let me now touch briefly on some of the other significant issues that arose in my discussions in Paris.

Ending American involvement in the war will not, in and of itself, end the Indochina war altogether. Both the Hanoi and P.R.G. delegations made it clear that they would continue fighting against the forces of South Vietnam so long as the Thieu-Ky-Khiem regime remains in power in Saigon. The December 10 statement issued by the P.R.G. says in Paragraph 2:

"A cease-fire will be observed by the South Viet-Nam P.L.A.F. and the armed forces of the Saigon Administration immediately after the P.R.G. of the R.S.V.N. and a Saigon Administration without Thieu-Ky-Khiem, that stands for peace, independence, neutrality, and democracy, agree on the formation of a provisional government composed of three segments with a view to organize general elections, as proposed in the September 17, 1970 statement of the P.R.G. of the R.S.V.N."

The question of most immediate interest to us in this connection is whether any part of that paragraph would have to be implemented before a ceasefire with American forces and the return of American prisoners could take place. I can report that no such condition would be involved. The killing of Americans could stop and the present Saigon regime could continue its own struggle for survival without jeopardizing American disengagement.

Mme. Binh told me, however, that the United States would have to bear responsibility for prolonging the war, even after all our own forces were gone, so long as we continued to support the Thieu-Ky-Khiem government. The war can never be completely settled, she said, until the U.S. withdraws its support from the present regime. Once that happens, Mme. Binh remarked, the future of South Vietnam could be settled by South Vietnamese organized in a provisional coalition government consisting of three elements: (1) "persons" of the P.R.G.; (2) "persons" of the Saigon Administration other than Thieu, Ky, or Khiem; and (3) "persons" of all religious and political factions in South Vietnam "standing for peace, independence, neutrality and democracy."

There are two points worth noting in this connection. First, Mr. Vy of the Hanoi delegation wanted to be certain I recognized, as proof of his own government's flexibility, that they were no longer insisting on either reunification with the North or on P.R.G. domination of the prospective coalition government in Saigon. "I myself," he said, "am a Southerner and a socialist. No goal is nearer my heart than a unified and socialist Vietnam. But we all recognize that events of the past 15 years have created different social and economic structures in the two parts of Vietnam, and these differences will disappear only after a long period of time and as the result of careful negotiations between the two governments.

"But really, you must know," he added, "that even a unified and socialist Vietnam would not constitute a threat to the United States."

The second point to be noted in connection with the P.R.G. proposal for a Vietnamese solution to Vietnam's problems appears in the text of their September 17 statement and concerns the Nixon Administration's dire warnings of a "bloodbath" that would allegedly follow our withdrawal.

"The provisional coalition government will," it says, "prohibit all acts of terror, reprisal, and discrimination against those who have collaborated with either side. . . ."

No doubt it would be foolish to take any government's word—including our own—at face value. But it is worth considering that the coalition government envisioned in this document would include Buddhist and Roman Catholic leaders as well as anti-Communist figures of the stature of General Nguyen Van Minh; and I do not see how anyone could seriously suppose that such a government would countenance a policy of Communist-inspired reprisals.

Other issues of interest and concern arose out of my conversation with Ambassador Lam and Minister Phuong of the Republic of South Vietnam. The burden of their remarks was that American opinion was being misled by "Communist propaganda," especially in regard to the Laos operation; that the South Vietnamese were being severely handicapped in their prosecution of the war by the "inferior equipment" which we have provided them and by our continual disclosure of the nature and extent of all military operations; that they foresaw no end to the fighting and no hope for negotiations; and that America's role as anti-Communist world leader obliges us to continue providing South Vietnam with one hundred percent of its needs for carrying on the war.

Some of the flavor of this rather discouraging conversation may be conveyed by an exchange I had with Minister Phuong. When I stated that the American public was becoming increasingly impatient with the loss of our young men in Vietnam, Mr. Phuong replied very heatedly that their young men were dying too—ten times as many as ours.

"But it is not our country," I said.

And he replied, even more heatedly, "But you are a world leader! It is your responsibility!"

Now quite apart from the misstatement of fact—it is certainly not true that South Vietnamese losses have been ten times as heavy as our own—I think we must all be disheartened by the "success" two Administrations have had in convincing the Saigon regime that their survival continues to be more important to us than it is to their own people. I wonder how many Americans outside the White House and the Pentagon would subscribe to that disgraceful notion.

In any case, nothing I heard in my conversation with the South Vietnamese delegation would incline me to believe that they are well on their way to assuming the burden and responsibility of their own self-defense after these long years of American sacrifice.

Let me now attempt to summarize in point-by-point fashion the conclusions I reached as a result of those long conversations in Paris with the four delegations to the Peace Talks and with other deeply knowledgeable observers of the Indochina conflict. Among the latter were the Venerable Thich Nhat Hanh, Official Representative in Paris of the Unified Buddhist Church of Vietnam; Mr. Froment-Meurice, head of the Asian Desk of the French Foreign Ministry; and a number of distinguished American and European journalists, among them Mr. Walter Lippmann.

1. The setting of an agreed date for complete United States military withdrawal from Vietnam is the absolutely indispensable first step toward a negotiated settlement of the war on all fronts. That date, in my judgment, could be anywhere from 30 days from now—as my resolution would have it— to the middle of 1972. A date later than that would of course be better than none at all, but it would not, I think, produce the immediately desirable effects we all want—namely, an immediate ceasefire and the early release of our prisoners of war.

2. Upon the setting of a date within the time-frame I have suggested, a ceasefire between American and Communist forces could go into effect within 48 hours. Our representatives and theirs would work out mutually acceptable procedures for the safe withdrawal of our forces. Even if it then took us a year or more to withdraw completely, no more Americans would be killed or maimed or taken prisoner.

3. Upon the setting of the date, discussions would begin "at once"—meaning that very day if we wish—concerning the release of all our prisoners of war. Repatriation would very likely occur in stages, with the sick and wounded being returned very rapidly and all prisoners home by the time our last forces were withdrawn.

4. The agreements upon which our withdrawal would be conditioned are fully self-policing. For if at any time we found the other side not living up to its commitments, we could simply stop, or even reverse, the withdrawal process. And indeed, in the absence of the kind of agreement in which we could repose some high degree of confidence, we would not even begin that process.

5. Fighting among the Vietnamese themselves will continue until the Thieu-Ky-Khiem government is replaced by a coalition of Communist, non-Communist, and anti-Communist elements, excluding only the three leaders of the present regime.

6. The Paris Peace Talks are totally deadlocked. They offer no hope whatever of ending the conflict so long as the United States persists in refusing to discuss a date for the complete withdrawal of our forces.

Finally, Mr. Chairman, I should like to discuss the central features of President Nixon's April 7 speech in the light of the preceding six points and with particular reference to what it tells us of the need to adopt one of the fixed-date resolutions now before this Committee.

Let me begin by dismissing as almost wholly irrelevant the very modest increase Mr. Nixon announced in the troop withdrawal rate. Even if it were to continue through 1972—and we have no assurance that it will—leaving only a residual ground force by election day, there is still the likelihood of heavy American participation in an air war against North Vietnamese and P.R.G. forces. And so long as that continues, there will be no peace in Indochina—and no return of our prisoners of war. Moreover, when our total troop strength drops to a certain level during the withdrawal process, those remaining will be terribly vulnerable to attack. Suppose the other side launches such an attack and it succeeds in breaking through whatever defense arrangements have been made: what then will we do? Will we pull out precipitously and ignominiously, a la Dunkirk? Or will we re-escalate to set off a whole new round of bloodletting, this time possibly even using nuclear weapons?

The President gave no hint. Instead, as is increasingly his custom, he turned the logic of the situation upside down and said that he could not give a firm date for total withdrawal because to do so would enable enemy commanders to plan just such an attack as I have been positing. The really outrageous aspect of this upside-down logic is that Mr. Nixon knows full well that a fundamental point in the other side's peace proposal is that discussions on ensuring the safety of our departing forces would begin as soon as a withdrawal date is agreed upon. And as I stressed in Point 4, in the absence of an agreed procedure satisfactory to ourselves, we would not even have to begin the withdrawals.

Much the same reasoning applies to President Nixon's continued cynical use of the prisoner of war issue as an excuse for not ending our involvement in Vietnam. In an earlier speech he said flatly that he would never remove all our forces while P.O.W.s were still held in enemy prison camps. And on April 7 he said that to announce a date for total withdrawal would be to throw away the only bargaining counter he has with

which to obtain the release of our P.O.W.s.

Once again the upside-down logic. Once again the utter disregard of a clearly articulated feature of the other side's peace proposal. And once again we find the President of the United States pretending not to notice a point so elementary that any school child will have understood it by now: if no satisfactory arrangements are made for the release of our prisoners, or if at any time during the withdrawal period we find the Communists not living up to their contractual obligations, we can not only stop but reverse the process.

What so deeply troubles me about the President's failure to take these considerations into account—and indeed his pretense that they do not even exist—is that we are left with absolutely no hint as to what his ultimate objectives in Vietnam might be. For my part, I am forced to conclude that he does not in fact intend to bring the war to an early end; had he wished to do so, the negotiating path in Paris lay open to him as early as last September. But he chose not to take it. He chose, instead, to pursue the will-o-the-wisp he calls "Vietnamization." And this, so far as I or any of my European friends can determine, amounts to nothing less than a desperate effort to maintain a permanent American presence in South Vietnam through a residual military force, as in Korea, and a client regime in Saigon.

If this is indeed the purpose to which he and Dr. Kissinger have committed this nation, then, I say, the American people will not tolerate it and we who are their elected representatives must not tolerate it.

We have it in our power to force a change in this shockingly misguided policy. We can adopt a resolution such as mine, demanding an end to the war at the earliest practicable date. And if the President chooses to ignore it, we can enact legislation such as that offered by our distinguished colleagues from Oregon and South Dakota, closing the public purse to expenditures for carrying on the war after this year. Either or both would have the effect of reclaiming for the American people that ultimate control over foreign policy which has eluded them since 1965.

For the people know, even if their President does not, that we have stayed too long in Vietnam and have bled too much and have perpetrated too many horrors. We have sacrificed not only our men and wealth but our good standing among the civilized nations of the world. We have driven our own children into spiritual exile and thereby mortgaged the future of this society.

The war must end, and it must end now.

The Senate of the United States, acting through this Committee, must now take the first decisive step toward peace.

FARM LABOR HOUSING IMPROVEMENTS DEPEND ON INCREASED FUNDING UNDER NEW LAW

Mr. STEVENSON. Mr. President, I am hopeful that an increase in the appropriation for the farm labor housing provisions of the Housing Act of 1949, as amended, to $25 million will be recommended by the respective Appropriations Committees and passed by both Houses of Congress.

It can hardly be debated that farmworkers are among the most poorly housed people in the country today. The Migratory Labor Subcommittee has studied the problem, heard testimony on it, seen it firsthand and in documentary films, and each time we are appalled with what we find. I believe that the time is past due for a concerted attack on the problem.

Last summer proposed legislation was introduced in the 91st Congress to amend sections 514 and 516 of the Housing Act of 1949, as amended, which deals with the farm labor housing program administered by the Farmers Home Administration. These amendments were included in the Housing Act of 1970 which passed Congress and was signed into law by the President on December 31, 1970. The amendments which were passed in that act greatly strengthen the farm labor housing program and will make it a much more attractive and useful means of providing housing for farmworkers.

The amendments reduce the interest rate for section 514 loans from 5 to 1 percent and increase the maximum grant limitation for section 516 from 66⅔ to 90 percent. Eligibility for loans and grants was expanded to include nonprofit organizations of farmworkers and thus reaffirmed Congress' intent that broadly based nonprofit organizations are eligible to receive loans and grants. Other changes made by the amendments which strengthened the program include allowing organizations to build labor housing anyplace within the State where a need can be documented and not only in the community where the membership of the organization resides; requiring that housing built under the program be suitable for year-round occupancy unless the Secretary of Agriculture can show that there is no need for such type of housing; and allowing loans and grant funds to be expended for furnishing the units constructed.

Under the old law, prior to these amendments, the demand on funds for the program did not exceed those appropriated. However, based upon information from potential applicants, the demand for funds for the amended program will greatly increase.

Funds for section 514 come from the Farmers Home Administration's Insured Loan Fund and the program level set for that section by the Administration seems to be adequate to meet the increased demand. My main concern is with the appropriation for the section 516 grant program. The budget request for fiscal year 1972 is $2.5 million and with the estimated carryover from previous years, gives a program level of $3.767 million. This level is not substantially higher than expenditures in previous years—it is less than that expended in fiscal year 1969—and does not take into account the increased demand that the new amendments will create.

The demand could, I believe, increase more than tenfold, and I therefore suggest that appropriations be increased to $25 million. Congress has authorized $50 million to be spent for the period ending October 1, 1973. Of that authorization $33.5 million remains to be appropriated.

Finally, I would like to emphasize that farmworkers do not have an opportunity to participate in other housing programs. Low income levels exclude them from homeownership programs under section 235 administered by the Department of Housing and Urban Development, and section 502 programs administered by Farmers Home Administration. Additionally, low incomes exclude the farmworker from existing rental housing programs. Of the existing housing programs, only public housing has the potential of reaching the majority of farmworkers. However, in most cases, local housing authorities do not exist in rural areas of high farmworker concentration and need. Thus, the specialized farm labor housing program contained in sections 514 and 516 is essential, for it gives a subsidy nearly as advantageous as public housing programs, and it allows institutions other than local housing authorities to contract and operate Government housing.

Even the $25 million that I believe must be appropriated will fall far short of the need. By appropriating $25 million, the Congress will still be meeting less than 1 percent of the total need for farm labor housing. Although adequate data is not available, it is estimated that our Nation's 3 million farmworkers and their families live in about 600,000 units. Of these units, over 50 percent—or 300,000—are substandard and in need of replacement. The remaining 300,000 need repair or remodeling. The estimated cost of new units is $10,000 per unit. Under this program in the past 9 years, $30 million has been actually expended for the construction or repair of about 7,000 units. For fiscal year 1972, by appropriating $25 million, the repair or building of 3,000 units could be accomplished.

The authorization for funds is a matter of law. The program has been amended to make it more workable. We have an opportunity under the new law to begin fulfilling our promise to those who toil in our fields. All that remains is for a reasonable appropriation to be made so we can get on to solving this appalling problem.

TRANSPORTATION RECOMMENDATIONS OF THE NATIONAL ASSOCIATION OF COUNTIES

Mr. WILLIAMS. Mr. President, on April 5, 1971, the Board of Directors of the National Association of Counties—NACO—held its legislative conference, one of three annual meetings held by the board. The NACO has affiliations with 800 counties, which together constitute 90 percent of the population of the United States, and officially has a membership of approximately 20,000 individuals, including both appointed and elected officials.

At this recent meeting, the steering committee adopted eight recommendations relating to subjects of concern to county governments, all of which were approved by the board of directors. The recommendation concerning national transportation policies is worthy of note, and I feel that it points out the frustration at local officials with the unwillingness or inability of this administration to come to grips with urgent transportation problems.

Mr. President, I ask unanimous consent that the transportation recommendations adopted by the National Association of Counties be printed in the RECORD.

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

TRANSPORTATION RECOMMENDATIONS ADOPTED BY THE NATIONAL ASSOCIATION OF COUNTIES BOARD OF DIRECTORS, APRIL 5, 1971

The National Association of Counties is very concerned about the lack of recognition at the national level of immediate and long range local transportation needs. Local fiscal resources are not adequate to meet all the demands for mobility of its citizens. Instead of making full use of available federal funds for transportation, the Federal Government has conducted a deliberate policy of withholding funds appropriated for highway improvements, airports and mass transit development.

1. NACO supports an amendment to the Airport Development Act of 1970 to clearly establish Congressional priorities in expending aviation user tax revenues for modernizing and expanding the national airport and airways systems. The funds should remain in the Airport and Airways Trust Fund until expended and the funds not be diverted for the other purposes.

2. NACO urges the Congress to appropriate at least a minimum of $520 million authorized for airport development in fiscal 1971 and 1972 ($225 million not appropriated in 1971 plus $295 million in 1972). NACO also urges the Administration to obligate the appropriated funds available immediately for critically needed local airport projects.

3. NACO urges the Administration and DOT to release the funds appropriated for highway improvements. Over $3 billion of highway user tax revenues is currently contained in the Highway Trust Fund.

4. NACO urges the Congress and the Administration to meet their commitments to local governments in fully funding the recently enacted Mass Transportation Act of 1970. In view of current funding problems, NACO reaffirms its support for the creation of public transportation trust fund as the only sure way to meet long range local funding needs. We recommend that this trust fund be funded from a portion of the automobile excise tax.

5. NACO supports fewer "strings" in federal assistance programs, increased flexibility in the use of transportation dollars at the local level, and decreased local matching requirements. However, we believe the most critical problem facing local governments is a lack of available funds to meet immediate and future needs. This problem is not met by pooling several existing under-funded programs and calling it special revenue sharing for transportation. Instead, NACO supports funding transportation programs through separate trust funds for airports, highways and public transportation.

CALIFORNIA'S CRITICAL STRIKE IN INTERNATIONAL TRADE

Mr. CRANSTON. Mr. President, recently it was my privilege to address the California Council for International Trade in San Francisco. At that time, I discussed the potential impact of the proposed International Trade Act of 1971 (S. 834) as well as the liberalization of U.S. foreign trade policy on California. Foreign trade means a great deal to California, which ranks as one of the largest trading units in the world.

Because of the great importance of this issue for my State, I wanted to share my remarks with the Senate. I ask unanimous consent that the text of my speech be printed in the RECORD.

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

A CONGRESSIONAL VIEW OF CALIFORNIA'S CRITICAL STAKE IN INTERNATIONAL TRADE

(Speech by Senator ALAN CRANSTON)

Of the many important and extremely complex national issues before the Congress today, very few are capable of uniting the California Congressional delegation.

But on the issue of protectionist trade legislation, our delegation has strongly opposed efforts to pass a quota-laden trade bill.

Last November 20, California's delegation voted overwhelmingly against the quota legislation which passed the House that evening (215–165).

Fortunately the Senate killed the bill.

The basis for this bipartisan, united front against protectionism is founded on the economic realities of what foreign trade means to the well being of the State of California.

California is one of the world's largest trading units. It exports and imports nearly $6 billion worth of industrial and agricultural products annually. The State's nearly $3 billion in exports are composed of products grown and manufactured in California. The almost equal—$3 billion—amount of imports are used here by Californians.

California ranks second among the states with $550 million in agricultural exports. As a $1 billion customer of American farm exports, Japan alone bought nearly $90 million worth of California agricultural commodities last year.

Aircraft represented the largest share of our State's industrial exports with nearly $1 billion in export sales in 1970. Exports through California's great seaports and airports—from San Francisco and Oakland in the north to Los Angeles and San Diego in the south—accounted for nearly $3 billion in sales last year. Southern California alone accounted for nearly half of the total West Coast imports and a third of its exports.

These are the dimensions of our State's great stake in foreign trade which Californians in Washington are trying to protect.

During the trade debate in the Congress, I was warned by the experts in international trade and finance that if we failed to block the bill, foreign retaliation against American quotas could result in a 10 to 15 percent loss in California's $6 billion trading volume.

If 10 percent—$600 million—was lost to the State, as many as 45,000 people could lose jobs directly related to the State's export trade.

The jobs of 65,000 Californians would be in jeopardy if retaliation caused a 15 percent—$900 million—loss in trading volume.

The basic health of the California economy and the continued viability of our State's industry and agriculture are gravely threatened now by new moves in Congress and at the White House to pass quota-laden trade legislation. There are ominous hints that efforts will be made to attach quotas by amendment to whatever handy piece of legislation might be on the floor for consideration at a moment deemed appropriate.

Success in blocking legislation is not enough, really.

I believe we should seek to enact forward-looking trade legislation.

So I recently joined with Senators Harris, Hart, Hughes, Javits, McGovern, Mondale, Percy and Stevenson in sponsoring The International Trade Act of 1971.

Our bi-partisan bill does more than say "No" to quotas.

It provides realistic alternatives that should stem the protectionist tide in Congress and in the Nation. It is a long and complex piece of legislation.

But let me review a few of its highlights:

It strengthens the President's authority to retaliate against foreign restrictions on our industrial and agricultural exports;

It strengthens existing provisions against such unfair trade practices as dumping and subsidies;

It establishes procedures to protect American concerns and importers quickly when such unfair foreign competition is encountered.

It gives the President new authority until 1973 to reduce by as much as 50 percent the levels of tariffs in existence on January 1, 1972, the date on which the Kennedy round of tariff reductions will become effective;

And the bill recognizes the need to begin to expand and normalize our trade relations in non-strategic goods with Eastern Europe.

On that last point, the legislation specifies that the President can conclude a short-term trade agreement with a communist country with which we have diplomatic relations if he believes it is in our national interest to do so.

Products from Eastern Europe could then enter the U.S. at the prevailing rate of duty rather than paying the Smoot-Hawley rates of the 1930's which they are now required to pay.

Such agreements would be a significant step toward expanded trade and, I think, toward peace. They would aid American firms to enter a market they are now losing to European competitors.

The present obstruction to East-West trade makes little economic and political sense in 1971, and it works directly against our national economic interests. In 1969, the U.S. enjoyed only 3 percent of East-West trade while contributing to approximately 16 percent of total world trade.

The West Germans, Japanese, and British are rapidly moving into this market while we are hamstrung by antiquated cold war policies that cost U.S. business a great deal of cold cash.

It simply makes no sense to deny favored nation status to the nations of East Europe.

It in no way denies those nations access to Western goods.

The goods get there legally anyway—and with the full consent of our government.

All our denial does is prevent East Europeans from earning U.S. dollars which, of course, would be used to buy U.S. goods. Unfortunately, President Nixon reportedly turned down a quiet proposal recently from two Cabinet members—Secretary of State Rogers and Secretary of Commerce Stans—that we seek to develop trade with East-Europe Communist nations under the same tariff rates we extend to non-communist nations. I think the President was very wrong.

I know as American trade policies have moved away from protectionism in the last decade, certain American industries have been hard hit by increased imports.

The International Trade Act of 1971 that I have joined Senator Harris and others in introducing moves significantly to aid workers, firms and industries who have developed a financial stake in the trade policies that have done so much to enrich this nation.

This would help many Californians.

Under the 1962 Trade Expansion Act, a system was established to give such aid. But the formula it provided—called Adjustment Assistance—was so complicated, setting forth such strict criteria for financial aid, that virtually no workers, firms, or industries were ruled eligible for financial help from the Federal Government's Tariff Commission in its first years of operation.

Only 6,800 workers have been granted assistance since the 1962 trade bill became law.

Since the end of March 1971 the Tariff Commission had acted only on 29 worker petitions for help.

In California only 50 workers have received adjustment assistance.

The statistics on assistance to industry are equally alarming.

Only 7 companies have been certified for assistance from the Commerce Department since 1962.

There were no California firms among the seven.

Among industries, only manufacturers of

sheet glass, barber chairs, and pianos have been granted some type of adjustment assistance relief by the President.

Yet over the past two years, approximately 50,000 American textile and apparel workers have lost their jobs, and 14,000 shoe workers have no work.

Is it surprising that these workers, their firms, and their unions, seeking to protect themselves, are demanding quotas?

Our new trade bill offers help in other ways.

It changes the criteria by which workers, firms, and industries can qualify for adjustment assistance. It also removes the present $85 per week ceiling on worker assistance.

It provides for simplified procedures by which injured firms can obtain assistance in the form of loans, tax benefits, and technical assistance.

Under its broadened criteria for adjustment assistance, the President would be able to grant entire industries relief far more easily than he can under present law.

I believe that if working men and women are injured by a trade policy which is in the national interest, the Nation must protect them. The International Trade Act of 1971 provides that such a worker can receive no more and no less than 100 percent of his average weekly wage for one year.

If this unemployment insurance does not bring him to that level, the act provides an additional allowance.

Present federal adjustment assistance procedures ask certain workers, firms, and industries to assume a wholly unfair financial burden for our present trade policies. I believe that the new trade bill represents a sound way to help without instituting quotas which will trigger a trade war against American products, and create vast foreign relations problems for our country.

California's 83,000 textile and apparel workers, and the State's 3,000 shoe workers, along with workers from other industries such as electronics, steel, and agriculture may one day need assistance.

They would not be likely to get it under present law.

They would, under the proposed law.

Let me now seek to place all this in a larger context. Two-thirds of the world's people live in developing nations. By the year 2000 this figure is expected to grow to five-sixths of all people.

These countries must provide employment for their burgeoning populations—but the extraction and export of raw materials to the industrial nations no longer is sufficient to meet their employment and profit needs.

As these underdeveloped nations try to meet their employment crises, they inevitably turn towards the export of manufactured articles.

We see this occurring in Asia today.

In the face of this new trend there stands the growing tide of protectionism in the United States and other industrial nations.

The day may not be far away when our nation and its protectionist policies will be blamed whenever there is social and political turmoil caused by joblessness in the urban centers of the developing countries.

I know that no member of Congress advocates swinging open our trade doors to the manufactured products of the world in an irrational pattern. Our first obligation is to American workers and industry.

However, we need viable trade policies, and more attention must be paid to international economic issues by foreign policy makers at the highest levels.

The International Trade Act of 1971 is a realistic first step which I hope will lead the way to other constructive measures.

We face the threat of a complete breakdown of international cooperation with very real danger of a political collision between the highly industrial nations of the world and the developing countries if we do not give greater thought and attention to the changing economic forces at work in our world.

The Japanese textiles fiasco is a good example of how economic relations are eroding our political relations.

On February 25 President Nixon said in his State of The World message:

"A continued liberal trade policy . . . is indispensable to our domestic economic health and to a successful U.S. foreign policy."

"A retreat from our historic policies would greatly harm those broad international interests which we can further only with others' cooperation."

Only two weeks later he delivered a blistering attack against a Japanese offer for voluntary limits on their textile exports to the U.S.

Instead of accepting the offer and alleviating the pressure for quotas in Congress—and thus unburdening himself of his campaign debt to Southern textile interests—the President chose to reject the offer.

Because of his actions in dealing with the Japanese, I seriously question the quality of his leadership in the international economic field, and the depth of his commitment to liberal trade policies.

Our relations with the Japanese are deteriorating.

There are ominous signs that Southern textile interests in the Senate may try to gold the President's treaty for American withdrawal from Okinawa as hostage for a Japanese commitment to further reduce textile exports.

If this were to occur the Sato Government would be in great political trouble, and our relations with the Japanese would sink to a postwar low-point.

It is clear that commercial and economic issues are becoming the life blood of foreign policy.

They may be fast replacing some of the more traditional diplomatic and security questions.

It's high time, too, that we faced the fact that the United States is no longer the world's largest trading unit. We have been surpassed by the European Common Market. We can no longer afford to follow or to establish policies that rest on an economic position which we no longer hold.

I believe that a lowering of the barriers which stand in the way of greater American trade with Communist China could significantly ease the tensions between the two countries. It would certainly open up vast new horizons for many California and national firms eager to explore a huge market.

Our present trade with the People's Republic of China amounts to only a few million dollars a year.

The Nixon Administration has already slightly eased the total embargo on U.S. trade with China, and such corporations as General Motors and Monsanto are now trading with China through intermediaries.

I fully endorse the President's stated goal of February 25 of this year to "Remove needless obstacles between the Chinese and American peoples."

I am heartened by the action he took recently in lifting restrictions on travel by Americans to China. This led to the invitation from China to our ping pong team to visit there, accompanied by the first American newsmen to go there in a long, long time. All this, and ensuing opening the way to communication and widening trade, is all to the good.

Trade in non-strategic goods is a viable method to achieve the goal set forth by the President. I want to stress the phrase "non-strategic goods."

I am not suggesting, by any means, that we ship strategic material to China.

Greater Sino-American trade makes sense economically, and will be particularly good for business in California. It need not be linked at all to the separate issue of diplomatic recognition, nor to a matter of offering a seat in the U.N. to the Peoples' Republic—which now seems inevitable regardless of our nation's position.

Protectionism, in sum, is only an escape to economic nationalism—bringing with it unavoidable and disastrous effects for all sectors of the American economy.

HUDSON COUNTY CLUB OF THE DEAF BASKETBALL TEAM WINS CHAMPIONSHIP

Mr. WILLIAMS. Mr. President, the outstanding achievement of the Hudson County Club of the Deaf basketball team deserves appropriate attention. Under their rookie coach, Tom Cooney, the club compiled a season record of 14–0, and in a two-game sweep, spectacularly captured the New Jersey Athletic Association of the Deaf State Championship, placing New Jersey in the eastern tournament for the first time in 17 years.

The men of this team, consisting of Capt. Barri Snyder, team members Mike Slomkowski, Desmond Hitchman, Peter Rozynski, Ray Sturm, Conrad Fleetwood, Mike Drury, and Ralph Newberry, and Manager Simon Bacino, have extended a great and an untiring effort, and deserve a hearty congratulations and best wishes.

ECONOMIC DEVELOPMENT OF ALASKA

Mr. GRAVEL. Mr. President, I should like to commend to the attention of the Senate a statement by Prof. Charles Konigsberg of Alaska Methodist University before the Public Works Committee, Subcommittee on Economic Development, during its public hearings in Anchorage, Alaska, this past week. Dr. Konigsberg's testimony exhibits the long-range perspective and philosophical perspicacity which is essential for successful and meaningful economic development not only in Alaska, but throughout the country.

He calls us to a rethinking of our ideas of development, from what he refers to as a "cowboy" or open economy to a "spaceman" or closed economy. The latter is one which takes into account the natural limits of the environment and ecological system of which we are a part.

I believe Professor Konigsberg's insights will be a help to each of us as we prepare new legislation to promote economic development which recognizes people as our most important resource.

I ask unanimous consent that his remarks be printed in the RECORD.

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

AN ECOLOGICAL OVERVIEW OF ECONOMIC DEVELOPMENT

(By Charles Konigsberg)

Gentlemen, this is a statement of *perspective:*

In an address at our recent University Institute on "Population and Resources", Dr. Preston Cloud, renowned resource geologist, observed that here in Alaska we are privileged to occupy one of very few remaining "first-class compartments on our Spaceship Earth."

I cite this observation not for the effect

of its imagery but to argue for its fundamental accuracy both as regards our world and Alaska's special relationship therein. As the Apollo astronauts' photography made clear, our world *is* a *spaceship;* and, as any time spent in Alaska, outside of its major cities, will prove to even the most insensitive person, our compartment in the world is indeed "first class".

If we all agree on these points, we must face squarely, then, the implications in regard to this subcommittee's interest in assisting state and local governments with their programs of "economic development". Our understanding of the premises which appear to underlie your view of programs of economic development is that those premises or assumptions are essentially unchanged from those underlying past programs—except with respect to institutional and funding arrangements within the context and goal of improving federal-state/local relationships. The underlying assumptions, in other words, incorporate traditional concepts of "growth", "progress and development", and "production/consumption" as perhaps best reflected in our all-American totem of the "GNP"—all of which adds up to the notion of an "open-economy", an ever-expanding production/consumption system.

However, the concept of "spaceship earth" is clearly at odds with such a notion. As the astronauts saw, we are a round sphere in space; we are a finite world, in which "all transactions are (therefore) circular". Our world is not ever-expanding. It is a "seamless web" of action and interaction, of dependence and interdependence, of inextricable relationships. In such a finite, circular, interacting, interrelated and interdependent world—where everything is connected to everything else—all things are, inescapably, *limited.* This includes the biosphere (of air, water, and land) which sustains all life; it includes all resources; and, thus, it includes all growth and development which depend on those *limited* resources.

The point is a most crucial one, as increasing numbers of persons in all fields of expertise have begun to emphasize. They include thoughtful and farsighted economists, among them Kenneth Boulding who has urged that we re-direct our thinking and practice from the idea of an *open* ("cowboy") economy, appropriate, perhaps, to our past, to that of the *closed* ("spaceman") economy of the present and future—an economy in which natural limits are recognized and obeyed. Dr. Boulding and others suggest that if we do not re-direct our thinking and our practice, we and our world may not have a future.

I and those for whom I speak argue for the same perspective, especially as it concerns the future of this magnificent land of Alaska. We insist that it will make an enormous difference in our chances for genuinely successful development here if we proceed with our programs on the basis of the "spaceman" or "cowboy" perspective . . . if we see ourselves operating in a world of limits or on a continuum into a non-existent infinity of expansion.

It is clear to us that already in Alaska, as elsewhere, we have been thinking and acting on the premises of the cowboy economy. It is equally clear to us that that approach has been a *failure.* Indeed, we suggest that the presence, if not the very existence of your subcommittee is evidence of and supports that conclusion. It is even more clear from the proof of what has occurred in most developed areas of the other forty-nine states, and in all other so-called "advanced" or developed regions of the world.

If we are all agreed that the purpose or goal of "progress and development" is to improve the total condition of life for human beings—to help them to realize a maximum condition of "life, liberty, and pursuit of happiness," the American Dream—where, then, is the proof that this has indeed occurred? We have yet to see it. The conclusion in 1971 must be that modern economic development has yet to solve any of the truly basic problems of human existence. Despite this lesson we have begun to repeat the same process, in the same ways, here in Alaska. We have failed, as elsewhere, to recognize, or to act on the recognition, that economic development is *inseparable from* its psychosocial, political, and environmental consequences, that, indeed, these are not "consequences" but primary dimensions of the process, a *single, whole* process.

This is self-evident in Alaska, particularly from a look at our urban areas where, with development, we have been experiencing increasingly higher costs of living, especially in housing (and thus a housing shortage) and all the other increased costs of an expanding population with its concomitant increase in social tensions and increased demand for social services: the inevitable call for greater political centralization (more government); increased crime rates and other symptoms of social disorder (more police; more restrictions); shortage of schoolrooms (increase in double-shifting; rising school and educational budgets); pressure for roadbuildings, to encourage more auto traffic . . . and traffic jams (in *Alaska?* . . . here, too, the automobile and the internal combustion engine have begun their usual rise to dominance over human beings and other life, guided by that unholy alliance between the commercial motive and the engineering mentality . . . and so we also lack mass transportation systems); our water-courses, our flood plains and greenbelts are being despoiled and sacrificed to short-sighted construction considerations (homes flood, of course, because "creeks run too close" to them, not the other way around) and we all pay the costs later on, again and again; our urban recreation areas and open-spaces, so crucial to social health, receive, as usual, last consideration; zoning battles increase in number and intensity but our urban scene remains "ticky-tacky" overall; our magnificent skyline views are increasingly corrupted by high rise buildings and large signs. our production of solid wastes is three times the national average; our sewer systems must be expanded, against strong resistance, though incremental pollution from sewage and other sources is manifested in the decline of our Cook Inlet and other fisheries, and in the contamination of Kenai clams. Thus, all the signs of a deteriorating social and physical environment—with every promise of worse yet to come—pollution in its many forms and disguises, winning "gradual acceptance" because "today's pollution is worse than yesterday's, so yesterday's eventually seems acceptable." These are not "side-effects"; they are *part* of progress-and-development.

We are being developed alright. Indeed, in Anchorage, it might be said that we have "arrived". Not so long ago a section of 48-inch pipe replaced the traditional Christmas scene (until irreverently restored after queries from unofficial quarters). And our "Story of the Year for 1970" was the DC-8 crash at our International Airport!—48 lives lost, at an airport which, in all its modernity, is now as coldly impersonal and as indistinguishable from all other major airports everywhere (so it is perhaps only right that we have our major accidents too, like everyone else, everywhere else). We have indeed arrived. We are indeed "catching up".

Nothing is all one-sided, of course. We have some encouraging, enlightened programs on the local scene (air pollution controls, the sewers program, the formation of a Borough Department of Environmental Quality), but they are as yet far from changing the complexion of our scene. We have not yet begun to perceive and act upon that *urban Achilles heel:* that increasing numbers of people mean an exponential increase in social interactions, and that to even begin to deal successfully with this situation (which has not yet been done anywhere) requires a type of determined, enlightened leadership, endless, comprehensive planning—and unremitting public education—that may in fact be beyond reasonable expectation at this stage of our experience.

And all of this is the function in most part of our continuing to think and act on the basis of out-moded premises which still underlie the operative view of economic development—the encouragement of expansion, of growth and progress along the old lines, without careful and deliberate consideration of all consequences—with all the severe social costs that we as yet fail to see, soon enough, as an integral part of the price of development in the old style. "Economic development", here as elsewhere has been essentially a process of satisfying short-run private and corporate interest at public expense (the *social* costs).

We must face the fact that we do not know—and we seem extremely reluctant to admit that we do not know—how to develop a society economically so that its social purposes are properly served, its environment protected, or its human values preserved.

That's what it means to say: ("You can't stop progress!")

We forget that life is for living, not for just making a living. We forget that America, that Alaska, is our home; not our business but our home!

(But, "you can't stop progress"!)

What is especially unfortunate here in Alaska is our failure thus far to truly learn from the mistakes of others, though our rhetoric would lead one to believe otherwise. What is even more tragic here is that we have been misleading our native populations into following down the same path, to the denial of their own great heritage, and to our collective loss as a society from the passing of that cultural diversity which would otherwise enrich all our lives. We have yet to make a success of our own way of life: must we impose it on others? It becomes addictive, as we know.

We need variety and diversity in ways of life, as well as in other things. They provide us with choices, with options, and help us to counter the homogenizing, one-way trend toward uniformity and conformity that so characterizes western technological civilization—and thus makes it, increasingly, so unstable and so vulnerable. Diversity and variety add strength and stability, and character, to a society.

But, it is said, we need economic development immediately to help ease the plight of that large sector of Alaskan society, mostly native, living in unacceptable conditions of deprivation . . . forgetting that nowhere else in America have we yet resolved such problems despite all the economic development undertaken there. We have yet to learn how.

The problem, moreover, has been wrongly stated from the start: it is not simply that 20% are doing badly but that the 80% are doing quite well, thank you. In a society (State of Alaska) which has one of the highest per capita incomes in the nation, to have a large percentage at or below poverty levels suggests that at the other extreme there exists great wealth. Has that money been put to work here in Alaska? We are unable to determine; but we are reminded that after the 1964 earthquake a considerable amount of very low-interest (3%) SBA money went to many of the wealthiest Alaskans who, as reported, threatened to leave Alaska if their demands for public funds were not met.

The question raised by the foregoing is that of the social conscience and sense of responsibility of influential community leaders. If major economic development does in fact take place here, will its profits and

benefits extend to all the people, the presently deprived as well as the presently wealthy? How can we be sure? We must, of course, strive in every way to help alleviate and to improve the condition of the underprivileged people of Alaskan society; but if we have in fact not learned new and more effective ways of going about it—money and programs are simply not enough—it *won't be done,* regardless of how much development we experience.

If this be the case what, then, is the point to further development, in view especially of the great social costs which are part of that process—not the least of which is the severe and worsening environmental degradation that has accompanied major economic development everywhere it has taken place?

The environment—in our view this is where to find the clue and the handle to where we have gone wrong in our approach to our human problems which, presumably, development is intended to relieve or correct. The basic failure lies in our historical misconception of man in relation to other life and to the natural environment which sustains us all. The thought that "the quality of human life is dependent on the quality of the environment" has become rather widespread, but we have yet to truly plan and act on that fundamental ground. Mankind, all living creatures and things in the "great chain-of-life", together with the physical-chemical world, form an ecological community the health of which depends upon a proper regard for and balancing of the roles of each. (This is another way of stating the concept of "spaceship earth", the seamless web of interaction, interrelationship, interdependence.) We must begin to think of ourselves, all life, and the "environment" as a *total environment,* as a community which we must treat with care and respect. We must understand that disrespect and mistreatment of any element of that community brings injury to all others, to the whole. Our programs of economic development have all suffered from this fundamental deficiency and that is why, at bottom, they have yet to help us solve our major human problems.

Indeed this is hardly surprising once we recognize that the misconception and deficiency referred to have been inherent in the dominant economic (and scientific-technological) thought which has fashioned our economic development programs, and which, to repeat an earlier point on "spaceman" vs. "cowboy" economy, Kenneth Boulding and others have sought so valiantly to bring to our attention. Some time back Bertrand de Jouvenel pointed out that:

". . . No doubt every lecturer in economics teaches his students that *output* is a result of three factors, labor, capital, and land (standing for all natural resources). But the emphasis is so very much on the first two that the third factor tends to be neglected.

"This induces in the student a calm conviction that the flow of goods depends entirely on human labor. For though labor is only one of the two remaining factors, the student learns that the other—capital—represents the objects 'given,' at the moment under consideration, as the basis of production—objects which were themselves produced by labor at a previous period. Thus, the means of production are reduced to human labor, in its different forms—labor represented by its concrete results, and labor available.

"While this method of presentation has its value, it has the great defect of suggesting that the flow of goods offered for the satisfaction of man's needs depends solely upon man's own effort, *completely independent of his natural surroundings.* (This also leads to *contempt* for the land. Consider the expression: "Like dirt beneath my feet.") People are not sufficiently clear that what we call 'production' can never be anything but the processing of natural resources, and depends entirely on those resources . . ."

This indictment has been confirmed and sharpened by Robert Heilbroner:

". . . By divorcing itself from the need to struggle with the elements of the political and social world, however recalcitrant they may be, conventional economics has ensured its technical virtuosity and its internal consistency, but at the cost of its social relevance. Every freshman who studies economics learns that each concept with which he deals is, in reality, inextricably enmeshed in political, sociological, and psychological considerations, so that the very discipline of economics itself only comes into being in the first place through the most heroic process of abstraction. Yet by the time he leaves graduate school, the impossible has been accomplished, and the young Ph.D. has come to regard the abstractions of economics as representing so much of 'reality' that he now ignores the political and social context from which they were originally derived. The result is a proliferation of economic 'models' of society that have neither social nor political antecedents or consequences, and in which 'paths' of development are explored that generate neither the friction (nor the heat) of social reality . . .

"Most basic of all . . . economics has subscribed to the ruling intellectual 'paradigm' (framework of understanding) of our times—a paradigm represented by the theoretical models of physical science. It need hardly be said that this scientific paradigm has proved to be an enormously powerful engine of investigation into the physical world. Yet it must be clear that it has severe limitations *as a model for social inquiry.* For in its elevation of 'value-free' inquiry and mathematical equations as the prime constituents of a proper scientific representation of physical reality, the paradigm unwittingly imposes these same considerations on the representation of social reality. As a result, it rules out of court aspects of society that we know to be determinative of much of the course of historic change. The fact that there is no place within the scientific paradigm for the expression of will or belief by the particles of nature, or for intrasystemic 'forces' for which no quantitative measurement can be found, excludes from the concerns of economics those elements of social valuation and social interaction that are central and intrinsic to the process of social change itself.

"What is needed, then, is a new paradigm that will permit a major enlargement of economics—not one that discards the relationships that economics can often usefully reveal, but one that absorbs them into a much larger and more complex system of social cause and effect . . ."

We share this view. And we suggest that the "larger and more complex system", the new framework of thought Mr. Heilbroner seeks, and which we all need, exists in the *ecological perspective.*

As Aldo Leopold once put it on the more everyday level: "The tragedy of modern man is that he seriously believes the heat comes from the stove and the food from the corner store." But—and the point cannot be stressed too hard—it comes from the *environment.* Again, all that men do in the economic way is to process the natural resources which the environment bestows. It is thus only good sense to take care of that *source of our supply.* And it is good sense for all the other reasons presented above.

To understand and to act on that truth, that would be *real* "progress".

RECOMMENDATIONS

What, then, can the subcommittee do to assist Alaska in light of the above while fulfilling its charge from the United States Senate?

(1) We respectfully urge that subcommittee members join us in re-thinking the entire subject of economic development in terms of the considerations we have outlined above, and that the subcommittee's recommendations for federal assistance to public works projects in Alaska directly reflect this re-orientation.

(2) That the subcommittee devote particular attention to the special character and significance of Alaska:

. . . because Alaska, on the threshold of major economic development, is the final opportunity for Americans to "civilize" a great region without too deeply upsetting its ecological balance and without succumbing to the technological Leviathan in the process;

. . . because Alaska incorporates the last great wilderness of size in the United States of America;

. . . and because, if there is something distinctive about the American, it is because he has had the opportunity to renew himself in the "wild";

that because of these considerations we have an additional and special responsibility to all Americans to safeguard the Alaskan environment.

(3) That what is required to fulfill the foregoing must involve the most intensive and comprehensive planning process, to include especially careful land-use classification and planning; and that all plans must include *limits to growth,* else no plan can be made to stick.

(4) That central to the planning process and all else referred to is the determination of an "optimum population" datum for Alaska, with that basic consideration to be a constant and primary factor in the formulation of all development-projects proposals.

(5) That the subcommittee extend maximum encouragement to and full cooperation with all direct local and state policies and programs for environmental protection, including, hopefully, those of a state "Department of the Environment" presently under consideration in our state legislature—a Department which we hope will be grounded in the awareness that to ensure a quality habitat is to provide the essential opportunity for a life of quality for the Alaskan people, and thus to be an inspiration to those who visit or who read about Alaska.

(6) Alaska can be America's new model for development, a reassuring example of balanced development in harmony with the natural environment and with our nature as the human species.

But this cannot take place overnight. Since we are presently in a transitional phase regarding our re-thinking of development, since we cannot as yet really "know" with precision how to proceed, we must move slowly. If we are to err in this, we must err on the side of caution; if we make a mistake it must be on the side of calculated restrain rather than that of an unplanned, unregulated process. The message today is very sharp and very clear: "If you're uncertain, don't. If you cannot adequately gauge the consequences, hold back. Go *slowly;* go very slowly."

"So long as there is a lake, a stream, a forest, a grassland, you must manage it, you must dam it, channel it, reforest it. You must restock the streams, create wildlife preserves, spending all your energy first destroying, then trying to undo that destruction by further destruction.

"But can you not leave one thing untouched, can you not leave one people alone? Can you not honor one promise? Can you not respect even one lake, and one stream, one nearly extinct breed of fish and one natural pelican rookery, and one natural lake—the greatest of the great lakes left from the days of the great glaciers?"—James Vidovich Chairman of the Pyramid Lake Tribal Council.

"What use is a house if you haven't got a tolerable planet to put it on?"—Thoreau

ADDENDUM

The concept of going slowly was embraced by the Department of the Interior when it responded to environmentalist concern for a careful evaluation of the Trans-Alaska pipeline application. It is fallacious to suggest, as some have, that "unemployment and business failures" resulting from pipeline delay are the fault of "conservationists, etc." If fault is to be assessed, it must be against those in the state government and in industry who encouraged massive buildups in equipment and inventory by businessmen without insuring that proper planning had been accomplished as to the best means of marketing Arctic oil. We are not insensitive to the fact of "economic penalty" involved in delay, but it does seem to us that the "delay" and "penalty", correctly perceived, are the result of premature and unreasonable expectations of those acting primarily on financial grounds rather than from other causes.

The concept of going slowly must include pre-determination of the pace at which development of our resources should proceed. This includes, for example, a close evaluation of the projected daily production at Prudhoe to determine whether "2 million barrels a day" is best for insuring maximum possible field recovery, also that state revenues will be maximized and spread over a longer period thus bringing a more constant cash-flow, or, if 2 million barrels a day is best only for the short-run financial advantage of industry. Not one of the above should be paramount over the guaranteeing of maximum recoverability of the field.

Going slowly also means that the food resources of the sea must not be sacrificed to the short-run interests of our fishing industry. This is a more difficult problem because of foreign competition, but we must maintain the most careful principle of conservation—something not done with our king crab, scallop. Dungeness crab, or shrimp resources.

Industry and state government must see to it that its projects will not, as before, contribute to the increase of unemployment in Alaska. Rather, economic development must have some positive impact on reducing residual unemployment in the State—something that has always been the consequence of previous projects, while contractors take their profits elsewhere and leave Alaska with the problem. We do not want to be left by ALPS or any industry as Boeing has left Seattle—dependent upon contrived projects that no longer have rational justification.

And going slowly means that off-shore drilling and mineral extraction must not be allowed until we have a precise evaluation of the impact it will have on fisheries. The idealized picture of off-shore production and terminal operations presented repeatedly by the industry on local television is somewhat at odds with the fact that, among other failings, choke-values were not installed in off-shore wells even though required by both State and Federal regulation. Going slowly, then, means such economic developments must be accompanied by the most stringent and constant surveillance and enforcement practices on the part of both industry and government.

We ask, too, that the following perspective on Alaska's development be kept in view. It was written in 1904 by "Henry Gannett, for many years the Chief Geographer for the Geological Survey and a member of the Alaska Harriman expedition near the turn of the century. After extolling the possibilities he foresaw for the development of Alaska's resources Gannett concluded:"

"There is one other asset of the territory not yet enumerated; imponderable and difficult to appraise, yet one of the chief assets of Alaska, if not the greatest. This is the scenery. There are glaciers, mountains, fiords elsewhere, but nowhere else on earth is there such abundance and magnificence of mountain, fiord and glacier scenery. For thousands of miles the coast is a continuous panorama. For one Yosemite of California, Alaska has hundreds. The mountains and glaciers of the Cascade Range are duplicated and a thousandfold exceeded in Alaska. The Alaska coast is to become the show place of the entire earth, and pilgrims not only from the United States but from beyond the seas will throng in endless procession to see it. Its grandeur is more valuable than the gold or the fish, or the timber, for it will never be exhausted. This value measured by direct returns in money from tourists will be enormous; measured in health and pleasure it will be incalculable."

Finally, we must keep in mind that economic development in an un-developed region like Alaska involves far more than pipelines and other projects, revenues, etc. In the context of Alaska it means a profound impact on and change in our lives here.

We must understand that "industry and business" are primarily agents, direct agents, of social and political and cultural change. Their economic role is, in fundamental terms, a minor one. This has always been true, everywhere, but we have refused to recognize that fact.

We must re-orient our current thinking, then, toward the awareness that development in Alaska means fundamental, revolutionary change in our lives.

And for this re-orientation of thought, we all need time.

A NEW BILL OF RIGHTS FOR AMERICA

Mr. HUMPHREY. Mr. President, on April 16 I was privileged to address the 17th constitutional convention of the Utility Workers Union of America.

In my remarks, I outlined what I consider must be the goals of America as we approach our 200th birthday as a nation. These new rights are, in a sense, an updating of those first 10 amendments that spelled out just how American men and women shall strive to enjoy life, liberty, and the pursuit of happiness.

Indeed, Mr. President, men are more important than machines. These new rights I discuss in my address should be a means for us to declare the primacy of man as a total being—a being of matter and dealing, as a virtuoso, in the material, but also, a being of spirit and higher purpose.

Mr. President, I would like to share my thinking with the Senate. I ask unanimous consent that the release and the text of my remarks be printed in the RECORD.

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

REMARKS TO 17TH CONSTITUTIONAL CONVENTION, UTILITY WORKERS UNION OF AMERICA, AFL–CIO, STATLER HILTON HOTEL, WASHINGTON, D.C.

WASHINGTON, April 16.—Senator Hubert H. Humphrey today outlined a "New Bill of Rights for America."

"More important than machines are men. The most common denominator that relates to all men is the rights they possess. And that's what I want to discuss today—a 'New Bill of Rights for America.'"

Speaking to the 17th Constitutional Convention of the Utility Workers Union of America, the Senator stated, "By the year 2000, we will be so engulfed by transistors, computers, hypersonic speed, new energy sources and uses, that the 1960's will look like the middle ages by comparison.

"These material goals are good if they stay within reason and do not destroy other values that are essential to preserving the humane and human qualities of man and the nature that surrounds us.

"The first of the new rights I wish to discuss is *the Right to Peace.* We in America are presently at war—a war that we must withdraw from as soon as possible. Every American's right to peace is being infringed upon by this continuing act of national violence.

"Actual physical violence certainly violates man's right to peace. But what about our right to be free from the threats to peace—free from fear of nuclear annihilation—free from the psychological and economic costs of an ever-increasing escalation of the nuclear arms race? Is that right any less real?

"Today, throughout this nation there are well over 5,000,000 Americans out of work. Unemployment is about 6%. Prices continue to rise. We are in the midst of a heartless, manufactured recession. Every American has *an absolute right to a job.* Every American that is able and desires to work, should be given that opportunity.

"What good will it do us to be at peace with each other? What good will it do if we are gainfully and productively employed? . . . if the air isn't fit to breath—if the water is too foul to drink—if food is too contaminated to eat—if the noise of technology-gone-mad deafens us—if we have paved over the country . . .

"Clearly, each one of us has a *right to a wholesome environment*—clean air, clean water, pure food, decent housing, security on the streets, peace and quiet, and the refreshing touch of unspoiled nature.

"America must build, and build soon, a health-care system that guarantees us the *right to be healthy;* not the right to be treated when we become sick. We must have the doctors, and nurses, and paramedical, technical and support personnel to make this system work. The richest nation on the face of the earth should also be the healthiest nation."

Senator Humphrey included in these new social and humanizing rights: ". . . a *right to justice . . . the right to free expression . . .* the *right to search for knowledge . . .* the *right to public accountability . . .* the *right to a meaningful role in society . . .* the *right to full opportunity . . .* the *right to public compassion . . .* the *right to movement and free association . . .* the *right to privacy . . .* and the *right to rest and recreation.*

"The best way to insure these rights for ourselves is to work for their enjoyment by everyone.

"We have the vision to seek these rights and make them real. We have the resources to attain and guarantee these rights. And we have the perseverance to continue the struggle to safeguard these rights from any and all who would weaken or threaten them."

NEW BILL OF RIGHTS FOR AMERICA

Recently, we in America have been so terribly caught up in the present and recent past that we sometimes fail to look far enough ahead to keep from repeating our mistakes.

America in its greatness has come more and more to have a sense of history and the role that the United States has and will play in shaping the future of mankind. This is good. This is necessary. We learn from the past and will repeat its mistakes without this knowledge. But what America must have and have right now is a strong feeling for the future. It is fine to have lived through history and to know that your times were filled with momentous deeds and great men. But wouldn't it be far better to create rather than chronicle history? Wouldn't we rather have a

hand in shaping what will come about? Can't we make things happen? I think we can. I know we must.

But before making history instead of enduring it, we must have the vision. We must know what to do now that will make the next century the first in a millennium of peace, human dignity and human aspirations fulfilled.

This new era will undoubtedly be one of unbelievable technological advance. By the year 2000 we will be so engulfed by transistors, computers, hypersonic speed, new energy sources and uses that the 1960's will look like the middle ages by comparison.

We foresee this era of unparalleled comfort and are well on the path to achieving it. These material goals are good if they stay within reason and do not destroy other values that are essential to preserving the human and humane qualities of man and the nature that surrounds us. However, our vision and the era we foresee, must be focused on the whole man and on all mankind. More important than machines are men. The most common denominator that relates to all men is the rights they possess. And that's what I want to talk about today—a "New Bill of Rights for America."

But is it enough today to speak of just protecting the rights of every man? I don't think so. In this world of speed and instant global transition and communication, we must move beyond merely helping man resist the incursions of his immediate environment. We must establish a doctrine of positive assertion of these rights of all men. In short, we must help man become not just protected but liberated. Life is more than just being left alone—it is more than mere existence. Liberty must not only be proclaimed but practiced. Happiness is to be found in the full and rich life of men who are both secure and liberated.

And as you can see, this doctrine of the liberated man is far from new—it dates to an earlier American era of revolution. What a tribute it would be to Americans alive today, to America herself, and her founders, if 1976 finds a Nation fully committed to the New Bill of Rights we are discussing here today. We have 5 years in which to present ourselves with this commitment on our 200th birthday as a free Nation.

The first of the new rights I wish to discuss is the Right to Peace. This right, that daily is being violated around the globe, includes more than just freedom from personal involvement in actual conflict. We in America are presently at war—a war that we must withdraw from as soon as possible. Every American's right to peace is being infringed upon by this act of national violence.

But here is where the right to peace really can be placed in focus. Violence in any country, no matter how far from our shores, is a lessening of everyone's right to peace.

The war in Vietnam violates the right to peace of all Asians, all Africans, all Europeans—of all mankind.

Actual physical violence certainly violates man's right to peace. But what about our right to be free from the threats to peace—free from fear of nuclear annihilation—free from the psychological and economic costs of an ever-increasing escalation of the nuclear arms race? Is that right any less real? Indeed, I think perhaps the violation of that right drains more from the positive resolves of a nation, more from all nations, than any direct confrontation ever has. We live with this spectre day in and day out. This new millennium must see our children free from it. Out with this ghost of man's bestial nature.

We have put up with this nuclear bogeyman long enough. Let us end his tyranny. His rule of terror shall be replaced by the rule of law and affirmation of the world's Right to Peace.

Today, throughout this Nation there are well over 5,000,000 Americans out of work. Unemployment is 6%. Prices continue to rise. We are in the midst of a heartless and manufactured recession. The price of cooling the inflation has been decreed by the Administration. It is economic and psychic suffering for millions of newly unemployed and their families.

I think that every American has an absolute right to a job.

"That's the next item on our New Bill of Rights. Every American that is able and desires to work, should be given that opportunity.

But what do we see? Bureaucrats and officials, safe in their jobs, decreeing that a certain number of American men, women, and children will bear the full cost of what are obviously futile attempts to slow inflation through unemployment. Many economic experts state categorically that inflation cannot be stopped by endemic unemployment, except in a depression similar to the 30's. I hope we will not have to wait for that disaster to prove the Administration's policy of "no-policy" correct.

What the economy needs is stabilization in wages, prices and profits—across the board. And this is not achieved by making one single union the whipping boy. You and I both know that the inflation we struggle with today is fueled by many things. There are the costs of land, money, and equipment to be taken into account in building anything. And not every construction worker is a member of a union building skyscrapers in New York.

In today's managed economy—when the Administration giveth and the Administration taketh away, it is economically and ethically indefensible to expect 5 million workers and their families to bear the whole burden for the 200,000,000 of us.

We must find ways in which this burden is borne by us all. We must share in these economic dislocations. It is better to maintain the active participation of these millions in the economy than have them reduced to bare subsistence—through Republican mismanagement of the American economy.

I repeat: every American has the right to suitable employment. We must work to see that right become not just a claim but a reality.

We have talked about peace and jobs for every willing and able American. But what good will it do us to be at peace with each other? What good will it do if we are gainfully and productively employed? What good will these things do us? If the air isn't fit to breathe—if the water is too foul to drink—if food is too contaminated to eat—if the noise of technology-gone-made deafens us—if we have paved over the country so that the only green we see is the face of our neighbor?

Clearly, you and I—each one of us has a right to a wholesome environment—clean air, clean water, pure food, peace and quiet, and the refreshing touch of unspoiled nature.

This doesn't mean that we are permitted to merely survive, sealed hermetically into an artificial environment.

This right guarantees every American an environment that humanizes and soothes—green fields, unspoiled wilderness, accessable parks, clear-running brooks and rivers, housing that cradles a child's soul—not crushes it under massive concrete, while harboring rats that gnaw at the child's feet. What irony that such a child's only touch with nature is a rat.

This right to a decent environment includes the ability to move about in it—with easy access to reasonably priced and efficient mass transportation. And this ability to move about freely in a wholesome environment must be secure—movement without fear for life, limb or property. Every American must be secure in his person—secure that all his rights will be respected as he respects the rights of others.

This right of a wholesome environment is of particular concern for you who work to provide us all with the utility threads that make up the basic fabric of American technology. You provide the power and water that move and lubricate the wheels of America—that light our way. You reach into every place throughout this land. And for this reason, you and your industries must look into the future and plan most carefully for this millenium that starts in the year 2000. You must plan to provide what we need in the decades ahead. But this planning must be carefully balanced with protection of the environment.

Speaking of planning here, I think it is truly remarkable that the United States is the only industrialized nation in the world that does not have some sort of national planning and setting of priorities. The closest agency the United States has to a comprehensive planning body is the Bureau of Management and Budget. They are fine professionals. But they are not forecasters and they are not planners. Planning should not be a dirty word in government. We need it and we must have it, if we are to allocate our resources properly, control technology, and channel it properly and provide this total wholesome environment that is every American's right.

What about power and its generation sources? By the year 1975 we will be using 1,400,000,000,000 (one trillion, four hundred billion) killowatt-hours a year. In just the next ten years, we will have used 18,000,000,000,000 (trillion) killowatt-hours—the same amount of energy we used in the last 90 years. By the year 2000, it has been estimated that over 50% of our power will come from nuclear power-plants. Transmission grids presently in use are clearly inadequate—in fact, they are dangerously, even, fatally inadequate.

This is your industries' challenge—to plan and provide these essentials without violating this right to a decent environment.

Every American has the right to a feeling of physical and mental well-being. America must build, and build soon, a health-care system that guarantees us the right to be healthy; not the right to be treated when we become sick. We must have effective preventive medicine in this country. And we must have the doctors, and nurses, and paramedical, technical and support personnel to make this system work. We have the world's greatest medical scientists. They develop miraculous cures year after year. I think that it is about time our medical practitioners and administrators gave us all access to these miracles. The richest nation on the face of the earth should also be the healthiest nation.

There are other rights in these new amendments of freedom. Rights, and responsibilities that fit new times and new circumstances.

We have a right to justice—so that man may stand before his peers and his society on a truly just and equal basis with his neighbor.

The right to free expression—so that man may speak and be heard, despite the decisions and beliefs of any temporary compact majority.

The right to search for knowledge—so that no man may remain another's slave through the denial of skill or education.

The right to public accountability—so that man may remain the master of the state, rather than the state the master of man.

The right to a meaningful role in society—so that man may follow his own cadence and live with self-respect and dignity among his fellow citizens.

The right to full opportunity—so that man may lift himself to the limits of his ability, no matter what the color of his skin, the tenets of his religion, or his so-called social status.

The right to public compassion—so that man may live with the knowledge that his health, his well-being, his old-age and loneliness are the concern of his society.

The right to movement and free association—so that man may freely move and choose his friends without coercive restraints.

The right to privacy—so that man may be free of the heavy hand of the watchers and listeners.

The right to rest and recreation—so that the necessity of labor not be permitted to cripple human development.

These are the rights we seek and must realize. We must make them real for ourselves and for others.

But we must also realize that the best way to insure these rights for ourselves is to work for their enjoyment by everyone. Every right we have discussed today has its accompanying responsibility.

I want to emphasize that these rights are not outlined only in the context of helping the disadvantaged, the minority and the forgotten. These are rights that we all have in common. Adequate security, jobs, housing, health care, environment, dignity are things we all have a right to. Every American shares these rights and the responsibility to see that they are assured to all.

We have the vision to seek these rights and to make them real. We have the resources to attain and guarantee these rights. And we have the perseverance to continue the struggle to safeguard these rights from any and all who would weaken or threaten them or us.

I have faith that the year 2000 will dawn on a world not torn by dissension nor devastated by nuclear conflagration. It must and will be a world in which wisdom, humaneness, dignity, and progress for mankind prevail.

The glory of planet earth is man. Let the growth and evolution of man continue—an evolution of the spirit of man, ever devising, ever seeking a higher perfection.

OPPOSITION TO PIPELINE ACROSS ALASKA

Mr. MUSKIE. Mr. President, on Monday I wrote to President Nixon calling on him to instruct the Secretary of Interior to deny immediately the application for a permit to construct a pipeline across Alaska from the North Slope oil fields to the port of Valdez.

My decision was not reached lightly. I have studied carefully the environmental implication of the proposed pipeline route and have examined suggested alternatives.

On the basis of reasons listed in my letter to the President and the specific information included in this more detailed discussion, I am convinced that unacceptable risks are posed by the pipeline and the tanker transport which would move the oil from Alaska to the west coast.

Unless the oil companies are able to satisfy the President and the Congress that a safe alternative is available, no pipeline should be built. Fortunately, it appears that a trans-Canada route may present greatly reduced risks while providing oil and gas to the fuel-short Midwestern United States and protecting our national security from the risks of ocean transport.

If the permit application is denied, this and other alternatives will be explored. No other course is acceptable. Deferral of action will only encourage the applicants. The President should insist on decisive rejection now.

I ask unanimous consent to include in the RECORD at the conclusion of my statement the text of my letter to the President and supplemental information which identifies the reasons for my concern.

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

U.S. SENATE,
Washington, D.C.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am deeply concerned by the continuous delay to take action on the permit application by Alyeska Pipeline Company to construct a pipeline from Alaska's north slope oil fields to the Port of Valdez.

I believe you should instruct the Secretary of the Interior to deny their permit application at once. Such a decision is necessary, indeed essential, if we are to prevent grave environmental damage to the lands the pipeline would traverse, the fishing resources of Prince William Sound and the waters of the Northern Pacific on which the oil would inevitably spill. Such a decision is essential if serious consideration is to be given to alternatives of bringing the Alaska oil and gas to American markets via the pipeline route through Canada.

So long as there is prospect, in the future, of approval of the oil companies present plans we cannot really expect development of alternatives which would better serve the public interest.

A considerable amount of information with respect to the Alaskan oil pipeline has been made public. In that regard, the Interior Department's draft, "Environmental Impact Statement" has served a most useful function. It's weakness in attempting to justify the project has dramatically underscored the reasons why the permit application should be denied immediately. More significantly, when the Corps of Engineers, the Department of Agriculture and the Environmental Protection Agency reject the pipeline for environmental reasons it is time to call a halt.

Furthermore, available information indicates that the proposed trans-Alaska route will not optimize our national security, that it will not provide the cheapest source of clean fuel, that it would not assure a supply of natural gas which is in greater demand, and that it will not minimize environmental damage. I believe, on the basis of the outstanding questions listed below as well as other available information, we must conclude that construction of the proposed Trans-Alaska Pipeline would violate many of the most fundamental interests of the American public and must not be permitted.

In the three years since oil was discovered on the North Slope, has there been a searching examination of the best way to develop Alaskan oil resources, in the context of long-range national needs for balanced use of our energy resources, and in harmony with a clean environment?

Are not the needs for fuel greatest in the Midwest and Eastern Markets?

Would not the Canadian route provide greater volumes of oil and gas to the United States in years ahead?

What are the real alternatives to the present pipeline route?

Are there others that the Administration has failed to examine?

How is it that after three years, the Interior Department is apparently still willing to consider a permit, and a construction of a pipeline crossing some of the worst earthquake areas in North America when an alternative through Canada could avoid this central fault area?

How is it that after three years, the Interior Department is apparently still willing to approve a plan that crosses an unusually large number of virgin arctic rivers and streams, when a Canadian alternative could utilize a route where a pipeline is already planned (the MacKenzie River), and where the potential for catastrophy of pollution and environmental disruption could be greatly reduced.

Why has the potential for catastrophic oil spill along the western coast of Canada and United States been essentially ignored?

How is it that neither the present pipeline nor its alternatives have been discussed in detail and in advance with the Canadian government?

Why did we wait for three years and a Canadian request for formal talks, which occurred on February 26, to discuss Canadian concern over potential oil pollution of the Western Coast of Canada?

Why, indeed, has the Administration not considered carefully the security risk of a water-based route for oil transport, when an overland route through Canada would be more difficult to attack, would bring natural gas and oil directly to the Midwest where need is greatest, would make best multiple use of a single-river corridor, and would entirely avoid the hazards of ocean spills and earthquakes? Such an alternative, which the Canadian government appears interested in considering, would provide an opportunity to join with our northern neighbor in a sensible energy plan, truly serving the interests of the inhabitants of North America

On the basis of these unresolved questions, the step which this government should take—and take at once—is to make clear that the oil companies have chosen the wrong route—that no permit is going to be issued for a pipeline across Alaska and that we intend to join with the Canadians in resolving any uncertainties which remain regarding a United States-Canadian route.

I urge you to make an early decision on this issue.

Sincerely,

EDMUND S. MUSKIE.

THE PROPOSED TRANS-ALASKA PIPELINE

(Supplementary statement of Senator EDMUND MUSKIE)

The proposal under discussion concerns constructing an 800 mile long oil pipeline across Alaska to harvest the deposits of Alaska's North Slope. Some 641 miles of the proposed pipeline route cross Federal lands whose first lien of ownership is retained by Alaska Natives and whose use falls squarely under the National Environmental Policy Act of 1970, and a number of other environmental laws.[1]

The route of the Trans-Alaska Pipeline, (as proposed by Alyeska, the consortium seeking a right-of-way permit) would go from Prudhoe Bay on Alaska's arctic coast south to Port Valdez on Prince William Sound. The potential for oil spills into coastal waters at either end is awesome. The port at Valdez is unusually narrow, with frequent fog and storms, making it unusually vulnerable to tanker collisions. The tankers now being built to carry oil from this port are 15 times larger than those that caused the recent San Farncisco spill, and would take up to one-half hour to bring to a full stop once danger is sighted. Along the Kenai peninsula just west of Valdez, there were close to 100

[1] Other laws include Water Quality Improvement Act of 1970, National Plan for Hazardous Materials, Mineral Leasing Act, Rivers and Harbors Act of 1899, Fish and Wildlife Coordination Act.

oil pollution incidents between 1966 and 1968, including a tanker accident which released 63,000 gallons of oil into the water.

Furthermore, because of the tremendous amount of oil to be transported by tanker, some 6–12 barrels worth of oil will be released into Prince William Sound daily as ballast discharge, even after the ballast is diluted to the level specified by the Interior Department and by State water quality standards. These oil fractions will contain the most toxic components of crude oil, and spread rapidly through the water. Fish and shellfish production in Prince William Sound will be gravely affected, which the Interior Department estimates has a potential wholesale value of $24 million a year.

The port at Valdez was the site of the serious Alaskan earthquake and subsequent tidal waves of 1964. In addition, the danger of tidal waves from landslides is an ever-present danger to the region: the 1720-foot high wave that struck the southeast coast of Alaska in 1958 was the fifth such wave to hit the region in 100 years. A University of Montana geologist considers the risk at Valdez to be comparable.

Earthquakes or tidal waves could cause the release of up to 20 million barrels of oil from storage tanks at the terminus as well as damaging or sinking tankers in the harbor. But Valdez is only the southern tip of a highly active seismic region which the pipeline must cross. About 20 earthquakes of a magnitude of 5 or more on the Richter scale are recorded in Alaska each year. The recent Los Angeles earthquake registered 6.8 on this scale. The Interior Department report states that the southern two-thirds of the proposed pipeline route is subject to large earthquakes of a magnitude of 7 or greater.

The amount of land displacement occurring during an earthquake is even more relevant to the danger of pipeline breakage than is the magnitude of the quake. Land was offset by as much as 40 feet by the Alaskan earthquakes of 1964, yet no stipulations are proposed to require pipeline design to take into account an earthquake of this magnitude.

If the pipeline break does occur, cut-off valves are designed to isolate the broken segment. But the oil which could be spilled from a single segment would amount to 100 times the amount of oil spilled off the coast of Santa Barbara in 1968.

Microwave stations are to be used to communicate breaks in the pipeline, yet microwave towers become useless if even slightly misaligned, as by minor earthquakes.

Furthermore, the planned aerial surveillance may prove unduly hazardous through much of the fierce arctic winter. It is important to know what plans Alyeska has to keep the pipeline area clear for aerial surveillance. The U. S. Army maintains aerial surveillance of its 625-mile Alaskan pipeline running from Haines to Fairbanks by spraying the right-of-way with herbicides and soil sterilizers. A number of selective and non-selective pesticides are used, including 2, 4, 5-T. This last pesticide was the subject of extensive hearings last year in the Commerce Committee in which evidence was presented for the role of fractions of this pesticide in causing birth defects. Quite apart from the Army's use of this chemical I am moved to ask what plans Alyeska has for clearing and maintaining a pipeline right-of-way free of vegetation during its 25 years of operation. Will chemical defoliants be used? What will their long-term effects be?

The Haines-Fairbanks pipeline provides some interesting insights into problems encountered with cold-region pipelines. Because of the nature of Arctic soil, buried portions of the Haines pipeline have been plagued with corrosion problems, having caused at least six spills since 1964. A spill due to corrosion of the pipe in 1968 caused significant damage to Dezadeash Lake in Canada. Cathodic protection against corrosion is proposed by Alyeska. Yet, I will submit for the Record at the conclusion of these remarks an article reporting an Army Corps of Engineers study challenging the reliability of current technology to protect against corrosion.

Inadequate attention has been paid to potentially catastrophic oil spills along the northwest coast of Canada and the United States, after tankers leave Port Valdez. Apparently some oil will be taken to Puget Sound for refining, and then transported by tanker southward, exposing thousands of miles of coastline, and our major harbors, to the risk of tanker collisions and oil spills of disastrous proportions. Oil spilled in cold Alaskan waters is particularly slow to degrade. Furthermore, the Canadian government has indicated concern with the risk of increased oil spills along their coast. Proceeding in opposition to Canadian interests will certainly strain relations between the United States and Canada.

There is little concrete information on Alyeska's members plans, if any, for transporting the oil from the West coast to major markets where the need is greatest. It has been reported that oil may be transported east from Puget Sound by still another pipeline across North Cascades of Washington, and wilderness areas of the Idaho and Montana Rockies.

The proposed pipeline is expected to cross five major rivers and 350 streams in Alaska. The Yukon River which drains hundreds of thousands of square miles in Alaska is crossed several times by the pipeline near its sources. An oil spill into these rivers will be spread rapidly and widely through the vast waterways of Alaska, endangering wildlife, fish resources and spawning grounds. The increased siltation of rivers by construction run-off is expected to interfere with breeding by salmon and other fishes, which are sensitive to minute changes in the chemical composition of the water.

Slight changes in the delicate balance of the tundra will compound ecological effects rapidly. Melting of the permanently frozen soil by hot oil spilling over the ground, will release substantial amounts of water and extensive areas will become muddy swampland, killing the lichens upon which Alaska's caribou and other game feed. Nesting sites of birds may be disturbed. Bird species from all over the Western Hemisphere nest in the Arctic during the summer season, so that the impact on bird life would be felt far beyond the borders of Alaska.

The pipeline project will, of course, disturb the soil and vegetation during turmoil of construction. The Alyeska company has proposed to plant non-native grass species on the disturbed ground to prevent further erosion. Admirable as this may be, no long-term experimental data are available to test whether these introduced plants will spread and overtake the native vegetation. No information on the ecological effects of these studies are available lasting more than two growing seasons. Without adequate ecological study the full impact on birds, caribou, and other wildlife will not be known and this lack of information can be disastrous. It took the introduction of but one prickly-pear cactus to Australia to cause the vast spread of this cactus across that continent, decimating thousands of square miles of sheep pasture. Alaska cannot afford this lack of foresight.

The construction road from the Yukon River north to Prudhoe Bay will invite the addition of a crisscrossed pattern of roads and land development subjecting northern Alaska to unplanned development, disregarding the best uses of this land for national parks, homes, industry, ore mining, and other uses. To open up this unspoiled wilderness to unplanned hodge-podge development could be among the gravest and surest consequences of the project.

An extensive land-use plan for Alaska is needed. Extraction of North Slope oil reserves should be considered in the context of the broader long range needs of Alaska, of its native citizens and of visitors to this state, so that wise judgment on the best land-use policy for this valuable wilderness will be rendered. We must ask ourselves carefully and patiently whether the unplanned destruction of this last great wilderness can be avoided in favor of a sounder alternative.

Although the Interior Department's impact statement recognized some of the environmental hazards I have listed, it concluded that the Alaskan oil is needed to decrease our dependence on foreign oil. Assuming that it is important to market the Alaskan oil in due time, it appears to me that an overland route through Canada would be a much more secure route than tankers plying the waters from Alaska to California. Furthermore, it would open a route to market for the vast oil resources in the Canadian north and thus make a far greater contribution to our secure sources of oil in the future.

If national security is to be the basis for final judgment, leaving certain of the nation's oil wells in untapped readiness would best serve our country's interests. There are often times when the cost of imported oil would offset the price of maintaining our own supplies in strategic untapped reserves. We should give this alternative close attention in planning for long-range oil consumption.

If the Administration were really serious about enlarging our supply of secure energy sources we would have been pursuing the Canadian alternative because it holds such great promise for unlocking oil resources in the Canadian north estimated to equal the vast discoveries on the American North Slope. Actually the more pressing energy need is for natural gas, not oil.

The United States need for natural gas is greater than the need for oil, both because gas is a far cleaner fuel and because gas is in short supply. The natural gas from Prudhoe Bay can be transported by pipeline down the MacKenzie Valley of Canada, and companies are planning such a project; yet there has been little public discussion of the possibility that the oil pipeline might follow the same route, permitting multiple use of rights-of-way, and minimizing construction damage. There is no adequate discussion in the Interior Department's report of the mode of transport of natural gas.

These considerations illustrate a major weakness in the approach followed by the Nixon Administration in considering a permit for the oil pipeline. It appears that the Administration has looked only at the problem of building a pipeline as designed by the oil companies. It has not addressed the question of what route could best serve the public interest.

There is no reason to make a fundamentally unsound decision just because the oil companies have already amassed $100 million worth of pipeline at Valdez. The construction of this pipeline is too great an environmental and energy issue, with too many implications for the nation's future economic and environmental well-being, for impetuous decisions.

The argument that we must build the Alaskan pipeline at once cannot withstand intelligent scrutiny. Alberta alone has the capacity to produce 1½–2 million barrels of surplus oil per year; this is 3–4 times the amount of oil that we may expect to be extracting from Alaska by 1975.

Along with denying the permit for Alaskan pipeline the President could take no better step than removing the quotas he imposed in

the import of Canadian oil. This would give the American consumer a break and make it clear that we are seriously interested in working with Canada for the common good of the people of both nations. It would also be the beginning of the establishment of energy policies with the consumer in mind—a policy which the U.S.-Canadian oil and gas pipeline corridor could go far towards making a reality.

It is worth noting some of the economic considerations pertinent to the State of Alaska. Pipeline construction would require about 9000 people during the 3-year building period, but only about 300 for later maintenance. Many of these jobs will require skilled labor, brought from the lower 48. An economist in the Alaska Department of Labor has predicted that the pipeline will, in fact, increase the unemployment problem in Alaska by attracting large numbers of immigrants to the State for temporary jobs.

The State of Alaska receives a tax revenue from the extracted oil based on the value of the oil after transportation costs. A University of Alaska economist has suggested that overland transport of oil by a Canadian route would be cheaper, thus increasing oil revenues to the State of Alaska by as much as $70 million. This assertion deserves much more attention than it has received to date.

To these considerations must be added the very real problem of the disruption of the traditional hunting and fishing grounds upon which many Alaskan natives depend for their daily existence. The pipeline could do irreparable damage to the economy in Alaska. Beyond this, the claims of Alaskan natives to much of the land along the pipeline right-of-way requires the detailed attention of Congress, and should not be decided under pressure of this decision.

When the economic benefits, the social costs, the environmental hazards, and the available alternatives are considered together, I am led to the inescapable conclusion that the present Trans-Alaska Pipeline route must be opposed—that we must insist that no permit be granted for its construction—that we consider alternatives which are not simply profitable, but which respect the genuine public interest—and that we must take a long look at development of the North Slope in the context of national plans for the use of energy, for the development of land and wilderness resources, for maintenance of national security, and for the promotion of harmonious cooperation with our neighbors.

Evaluation of the Environmental Impact for the Trans-Alaska Pipeline

(By F. Stuart Chapin III, Institute of Arctic Biology, University of Alaska, and Department of Biology, Stanford University)

The draft of the Environmental Impact Statement recently prepared by the Department of the Interior attempts to consider and evaluate the various ways in which the proposed pipeline would affect the environment. The task is difficult in that comparatively little is known about how these would be influenced by oil leakage and disturbance. The report considers most of the environmental problems likely to be encountered by oil transport in Alaska. However, it is deficient in several important respects: 1) It is extremely vague and generalized in its consideration of environmental effects and stipulations for construction; 2) Complexities of ecological systems are ignored or superficially treated; 3) Many important pieces of relevant research were not used in the preparation of the report; 4) Critical environmental problems are not pinpointed and made explicit.

Impact on Natural Environments

Assuming that there are no pipeline breaks, the major ecological impact of the pipeline is likely to occur in the marine environment, especially in Valdez Arm and the rest of Prince William Sound:

Oil loading operations at Valdez and the large volume of oil transport traffic through Prince William Sound, the Gulf of Alaska and other waters en route to West Coast and foreign ports would result in biologically significant losses of oil to the marine mammals of the Sound, and the biologically productive littoral and intertidal zones of Prince William Sound would be vulnerable to chronic low level oil-pollution and to effects of major spills, although effects of the latter should be minimized by the rigorous pollution control measures to be required of the operator. (p. 145 of report)

The report could be much more specific concerning the possible causes and effects of "chronic low-level oil pollution." No oil port in present operation has been able to avoid significant spillage in the daily routine of loading and unloading tankers, no matter how rigorous the precautions taken have been. The report calls for treatment of ballast such that no more than 10 ppm of oil can be present in water returned to the Sound. (There appears to be some doubt as to whether or not it will be feasible to clean ballast water to this extent.) When the pipeline reaches maximum capacity, some 12 barrels of oil contaminants will be released into the Valdez Arm daily in the treated ballast. These oil fractions will be those which are most soluble in water and hence most difficult to remove. Being the most water-soluble, these oil products will also spread most rapidly through the marine environment rather than staying on the surface or sinking to the bottom. The soluble fraction tends to contain the more toxic components of crude oil. It is difficult to predict how the soluble contaminants will affect the marine organisms of Valdez Arm, but these generalizations combined with past experience leave little room for optimism

In oil ports presently in operation, oil from spillage sinks to the bottom. All these organic deposits provide food for bacteria which then deplete the available oxygen so that larvae which land on the bottom to metamorphose into crabs or clams or whatever cannot get enough oxygen to survive. This situation occurs more readily where fine sediments occur (as in Valdez Arm) because the anaerobic layer is closer to the surface of the sediments.

Studies have been made on the effect of pollutants such as oil on behavior of shellfish larvae. There is considerable information available on the effects of low-level and high-level oil pollution. Studies have been made of behavior and reproduction of fish and shellfish; some studies have been made of the physical and biological characteristics of Prince William Sound and Valdez Arm. It is appropriate that a report on environmental impact discuss the implications of such studies. These are but two examples of the probable ecological impacts of oil pollution on Valdez Arm. Both of these examples could be discussed in greater detail; if it is possible to reach a conclusion concerning probable impact, references should be given to back up the conclusion; if it is not possible to draw a conclusion, the gaps in our knowledge should be pinpointed. There are a large variety of organisms inhabiting Valdez Arm which would be affected in very different ways. For example, 90% of the pink salmon (the principal salmon of the area) spawn in intertidal zones; oil pollution would probably affect them quite differently than it would phytoplankton or marine mammals. The paragraph from the report which is quoted on page 1 of this evaluation appears to me to be much too superficial in its treatment of the effects of oil pollution on different marine organisms.

The environmental impact of tankers navigating through Valdez Arm, Prince William Sound and the Pacific Coast of the U.S. and Canada clearly falls within the realm of the impact report in that 1) the impact is likely to be considerable and 2) it is a result of the specific pipeline route proposed. Some facts which the report might have considered are the following: 1) Navigation within the Valdez Arm is difficult even for experienced pilots. Storms and frequent heavy fog add to navigation difficulties. The shores are extremely rocky, and the navigable channel is narrow—in places as narrow as 400–500 yards. 2) There are few pilots experienced in navigating these waters. 3) Oil tankers currently in operation sometimes carry marginal navigation equipment and have no extra propeller, power source, etc. The results of this can be seen in the relatively frequent wrecks and collisions undergone by tankers. 4) Tanker traffic would be relatively heavy once the pipeline is working at capacity.

The effect of the pipeline on rivers and streams—if no breaks occur—is likely to be limited to effects of construction: removal of gravel and siltation. Both these factors and their effect on fish spawning are considered in the report. One possible danger which the report could have mentioned and even emphasized is that salmon normally migrate upriver to spawn four years or less after hatching. It appears that they find their home stream by the chemicals normally leached from the banks. Heavy siltation might eliminate effective spawning in that season by swamping the stream with material from one site and making it difficult for fish to detect chemicals characteristic of their home stream. Construction or heavy erosion occurring in three of four consecutive seasons might permanently endanger a stream as a spawning ground.

If a pipeline leak or break occurs, the river systems are likely to suffer heavily. Points which the report could well have emphasized include: 1) The necessity of avoiding permafrost with high ice content has resulted in placing the pipeline in well-drained river gravels such that the route follows river valleys and is close to rivers for most of its length. Hence, if a break occurs, it is almost inevitable that the river systems will be contaminated. 2) The Copper, Gulkana, Tanana, Koyukuk, and Sagavanirktok River Valleys form the major part of the route. These are rapidly flowing rivers which would spread the oil quickly and be difficult or impossible to clean. 3) As the report notes, the Yukon drainage system is quite large, and includes a large portion of the pipeline route. A major spill within this drainage would have a widespread environmental impact. 4) the nesting grounds of birds which would be damaged by oil spill are discussed in the report. Birds nesting in these areas include many migratory species such that the ecological impact of a major oil spill could well extend beyond Alaska.

The environmental impact of the pipeline per se upon terrestrial ecology is likely to be minimal, even in the event of minor spills. The major difficulties are likely to result from construction in areas of high ice content permafrost such as the area between the Sagavanirktok River and Prudhoe Bay. These difficulties are treated in a general way in the report. The problems of revegetation could have been dealt with in greater detail. Neither the studies by ARCO at Prudhoe Bay nor the revegetation studies conducted by the University of Alaska have entirely resolved the problems. The success of introduced species over more than 2 growing seasons has not been tested. The ability of apparently successful species to prevent erosion by extensive root growth has not been checked. The ability of apparently successful species to reproduce vegetatively or by seed has not been thoroughly investigated. In the event that an introduced species does successfully reproduce, its ability to compete with native vegetation (i.e. ability to dis-

place or be displaced) should be known before vast quantities of seed are distributed. The impact of an oil spill is not likely to be as serious as in aquatic environments, although the report could well have discussed such problems as greater absorbance of heat by a black oily surface with subsequent melting of permafrost. Such an area would be quite prone to erosion and the presence of oil might make revegetation more difficult.

The impact of a hot pipe on high ice content permafrost is the major unknown in the issue of impact on terrestrial ecosystems. This is dealt with in the report and in greater detail in Geological Survey Circular #632 (see enclosed xerox). This circular should be consulted in evaluating terrestrial impact. The physical processes which are discussed in the circular have obvious and important implication which should be discussed at length with reference to environmental impact.

The report considers the potentials of seismic activity and specifies that "the pipeline shall be designed, where technically feasible. . . . to prevent failure from the effects of earthquakes . . ." (p 7 of technical stipulations). The report does not consider the possibilities where earthquake-proof design is not "technically feasible". Certain points which are not mentioned but deserve consideration are that the communication center for pipeline surveillance is at Valdez, which is perhaps the least seismically stable site along the pipeline route. Communication and monitoring is by microwave; slight misalignment of a micro-wave tower by an earthquake would make communication impossible. In this respect microwave equipment is extremely vulnerable. Emergency monitoring and communication systems might be advisable.

Summary. The report discusses most aspects of environmental impact but does not in many cases draw relevant information together. It is difficult to evaluate many of the statements made because no reference is made to the source of information. It appears likely that many relevant sources of information were overlooked and that many knowledgable people could have offered additional information and well-founded predictions and (in cases where doubt exists) alternative predictions which could in part be tested.

ALTERNATE ROUTES

The report discusses various alternate routes. Pipeline routes east to Canada and south to Edmonton are perhaps worthy of further study (as is currently being suggested by some members of the Alaska State Senate). The route along the coast from Prudhoe Bay to the mouth of the MacKenzie River would necessitate crossing the Arctic Wildlife Range. This route is viewed as incompatible with the purpose of the Wildlife Range: the preservation of an intact sample of Arctic Alaska. Perhaps the wilderness quality saved by avoiding of fault zones of southern Alaska and the navigational difficulties of Prince William Sound would offset this loss within the Wildlife Range. It should be noted that seismic studies of potential oil formations are currently being conducted within the Range.

The other major alternative to the proposed pipeline route would go south of the Arctic Wildlife Range of the MacKenzie Valley. This route is discarded in the report because "the distance through continuous permafrost would be substantially greater for the Canadian-oriented route than for the Valdez line. This being the case, the problem area would be merely enlarged." This may not be entirely the case. The three major problems involved in the proposed Prudhoe-Valdez route are 1) Chronic low-level (and potential high-level) pollution of Prince William Sound and the Pacific Coast, 2) danger of a pipeline break due to earthquakes, and 3) danger of a pipeline break in areas of high-ice content permafrost due to thawing around the pipe and subsequent erosion. It is proposed to minimize dangers of erosion by putting the pipeline above ground where the ice content of the permafrost is high. If the pipeline is elevated in all potential problem areas, the problems of thawing (as discussed in Geological Survey Circular 632) should be minimal. The question then becomes whether potential problem areas can be located and whether the additional cost of building the pipeline above ground is "justified". The route south of the Arctic Wildlife Range may also avoid a marine terminus in that Edmonton is already connected by pipeline to the American mid-west which is in turn connected by pipeline to other parts of the country. The dangers of seismic activity are completely avoided.

In mid-February, 1971, the Alaska State Senate held hearings on a resolution proposed by Senators Bob Palmer and Jay Hammond on the question of whether the alternative route through Canada should be studied. The essence of the hearings was that no serious study of the Canadian alternative has been made. The decision was made in favor of a pipeline from Prudhoe Bay to a suitable Alaskan marine port. Given these prerequisites, the proposed Prudhoe-Valdez route is probably the best alternative. However, the Canadian route certainly deserves study since it avoids the two major disadvantages of the Alaskan route: i.e. the marine terminus and the crossing of major fault zones.

IMPACT ON HUMAN RESOURCES

Recreation: The immediate impact of the pipeline upon hunting and fishing along the route due to increased accessibility and increased pollution is considered in the report. The effect upon recreation in the event of a major spill is not adequately considered. Recreation by Alaskans and by people outside the state has become more important at an ever-increasing rate, as population in- and out-of-state increases and as recreational facilities outside the state become more crowded. The report does not take into account the economic value of recreation which is considered by many to be Alaska's most important resource.

Impact on Natives. During the 1950's two large lumber mills were built in Southeastern Alaska in Sitka and Ketchikan. There was great optimism that this influx of relatively high-paying jobs would partially relieve the grinding poverty of the natives of the region. However, the natives, who were normally fishermen and were free to work whenever they wanted, considered the loss of freedom associated with a regular job more degrading than welfare. As a result, the natives continued in their previous state of poverty and the mills had to import labor from the lower '48 at considerable extra cost. The situation is likely to be different with the Trans-Alaska Pipeline in that the natives of the Interior hold somewhat different values and in that a training program for natives is planned. Nonetheless, natives of Interior Alaska have a history of unemployment in part because they often prefer to stick with a job only long enough to provide for the immediate future; then they quit. This makes employers reluctant to hire them, especially if a long expensive training program is involved as would be the case with pipeline construction and maintenance.

Another potential impact upon Alaskan natives which could have been considered in greater detail by the report is that once natives are lured into the city by the prospect of high-paying jobs, they are reluctant to return to the native way of life upon termination of the job. For example, in Barrow, the Navy was very conscientious about training and hiring natives in the construction of facilities there. Once the construction was complete, the natives preferred to go on welfare than to return to their former livelihoods. Whether the training of natives for high-paying *temporary* jobs will increase their standard of living in the long run is difficult to conclude.

Economics and Employment. One of the major arguments in favor of the proposed pipeline has been economic necessity. The relevance of this question to environmental impact was apparently considered important by those who wrote the report. The pipeline during construction will require some 9,000 workers and maintenance will require only 300. As the report notes, many of these jobs will require only skilled workers who will be brought in from outside. A manpower economist in the Alaska Department of Labor predicts that pipeline construction would cause unemployment to rise during construction due to immigration of people looking for jobs. This is what happened in 1969 during the intense phase of oil exploration.

Revenue to the state from oil is based on the well-head value of the oil, which is largely determined by transportation costs. It has recently been suggested that transportation costs (economic and environmental) might be lower if an alternate pipeline route through Canada were chosen. This would increase revenues to the state of Alaska.

The primary economic argument has been that the United States needs the oil to lower balance of payments deficits and because the political upheavals in the Mid-East threaten our supply of oil from this area. The figures on page 185 of the report indicate that the utilization of Alaskan oil would delay by only about 2½ years the time when the U.S. must obtain a given amount of its oil from the eastern hemisphere. In other words, immediate utilization of Alaskan oil delays by only 2½ years the time when the U.S. must come to grips with the same problems of balance of payments deficits, national security and oil shortage. These problems cannot be alleviated by an immediate supply of Alaskan oil; they can be treated only by drastically reducing the dependence of American society upon large amounts of petroleum products.

[From Geological Survey Circular No. 632]

SOME ESTIMATES OF THE THERMAL EFFECTS OF A HEATED PIPELINE IN PERMAFROST

(By Arthur H. Lachenbruch)

ABSTRACT

As one means of transporting crude oil from oil fields on the Alaskan Arctic coast to a year-round ice-free port, a large pipeline traversing most of the state of Alaska from north to south has been proposed. Plans call for a pipe 4 feet in diameter, which will be buried along most of the route in permafrost. According to preliminary estimates the initial heat in the oil plus frictional heating in the pipe are expected to maintain oil temperatures in the neighborhood of 70° to 80° C (*158° to 176° F*) along the route when full production is achieved. Such an installation would thaw the surrounding permafrost. Where the ice content of permafrost is not high, and other conditions are favorable, thawing by the buried pipe might cause no special problems. Under adverse local conditions, however, this thawing could have significant effects on the environment, and possibly upon the security of the pipeline. It is important that any potential problem be identified prior to its occurrence so that it can be accommodated by proper pipeline design. Identifying a problem in advance depends upon an understanding of the conditions under which the problem will occur. For that reason much of this report is concerned with problems. If the pipeline system is properly designed, and if it is constructed and maintained in compliance with the design, they will not occur. Perhaps "proper design" in some areas will involve abandoning plans for burial or changing the route; in others it might involve

burying the pipe and invoking special engineering designs or monitoring procedures. These are matters to be determined by much additional study and an intensive program of field and laboratory measurements of conditions along the route.

In this report a few basic principles are applied to simplified models of permafrost regimes to identify some effects of a heated pipe, the conditions that control them, and the approximate ranges of physical properties for which these effects are likely to result in problems. The computations are approximate, and the problems discussed are only illustrative examples. Comprehensive discussions of these and related effects, taking account of physical and theoretical refinements, are beyond the scope of the report. Refined studies will probably be needed, however, to form an adequate basis for engineering design.

It is difficult to summarize these effects briefly, but a few will be mentioned. The reader is urged to consult the full text for a more complete statement of the conditions under which they are likely to occur. It should be emphasized that whether or not such conditions exist is a matter yet to be determined by measurements on permafrost materials along the pipeline route. Such measurements are essential for predictions of the interaction between the pipeline and its environment.

A 4-foot pipeline buried 6 feet in permafrost and heated to 80° C (176° F) will thaw a cylindrical region 20 to 30 feet in diameter in a few years in typical permafrost materials. At the end of the second decade of operation, typical thawing depths would be 40 to 50 feet near the southern limit of permafrost and 35 to 40 feet in northern Alaska where permafrost is colder. Except for special materials near the northern end, equilibrium conditions will not be reached and thawing will continue throughout the life of the pipeline, but at a progressively decreasing rate. If the thawed material or the water within it flows, these amounts of thawing can be increased several fold. If the pipeline temperature were only 30° C (instead of 80° C), the depth of thawing would probably be reduced by only 30 or 40 percent. The principal effect of insulating the pipe would be to increase oil temperatures rather than to decrease thawing.

If permafrost sediments have excess ice and a very low permeability when thawed, melting below the pipe could generate free water faster than it could filter to the surface. As a result the material in the thawed cylinder could persist as a semiliquid slurry. Where permeabilities are very low and excess ice contents are moderate, thawing rates could be sufficient to maintain this state for decades.

If the strength of these slurries is less than 1 pound per square foot, they will flow with substantial velocities on such imperceptible slopes as are characteristic of "flat" basins. The entire thawed cylinder would tend to flow like a viscous river and seek a level. As an extreme example, if these slurries occured over distances of several miles on almost imperceptible slopes, the uphill end of the pipe could, in a few years, be lying at the bottom of a slumping trench tens of feet deep, while at the downhill end, millions of cubic feet of mud (containing the pipe) could be extruded out over the surface. Where the pipe settled to the bottom of the trench it would accelerate thawing and flow, and the process could be self-perpetuating. The pipeline could be jeopardized by loss of support in the trench and by displacement in the mudflow, and the disruption to the landscape could be substantial. Where such extreme conditions might occur, these problems could normally be anticipated by observations prior to or during construction. Less extreme conditions leading to partial liquefaction might be more difficult to identify in advance.

Where the pipe passed from strong material into a liquefied region, it would tend to float or sink, depending on the density of the slurry. It could be severely stressed by the resulting forces.

Almost imperceptible systematic movements of the thawed material can accelerate the thawing process locally by as much as a thousand times. Hence if flow occurs the ultimate amount of thawing can be very great and difficult to predict.

Seismic vibrations can cause loosely packed saturated sands and silts to liquefy. Hence where such material occupied the thawed zone around the pipe, the flow, buoyancy, and convective effects just discussed could also be caused by an earthquake. The southern part of the pipeline route lines in an active seismic zone.

Differential settlement causing shearing stresses in a pipe can result from a variety of processes—the most conspicuous of which is probably the thawing of ice wedges. These massive vertical veins of ice form tight polygonal networks, commonly invisible from the surface and difficult to delineate with borings. They are widely distributed in northern Alaska. A pipeline crossing ice-wedge networks at random angles would thaw the wedges quickly and could thereby lose support over considerable spans. A statistical calculation suggests that in typical ice-wedge terrain, conditions which might exceed the design stress of the pipeline could occur on the average of once every mile. Most of these conditions could be anticipated by observations made during trenching.

Settlement of the pipe due to thawing is a cumulative effect of all of the thawed material beneath it. Only a negligibly small fraction of this material will be directly observed in separated bore holes. Rather small and subtle changes in porosities, moisture content, and other properties occurring over lateral distances of tens of feet could cause differential settlement resulting in excessive stress on the pipe. Such changes may be difficult or impossible to detect in advance by trenching and boring, even if holes were drilled every 1,000 feet along the route.

Where the sediments are saturated or oversaturated, a trench one or more feet deep and tens of feet wide will probably develop over the pipeline in a few years; it will deepen and widen somewhat as time progresses. Where the trench is discontinuous it could create a series of ponds which could enlarge by thermal processes under certain conditions. Indiscriminate drainage of these ponds could create excessive stress on the pipe by removing buoyant forces that might be partially supporting it in these differentially settled zones.

Where the trench above the pipeline is continuous, it could become a stream channel, altering drainage patterns and creating erosion problems along the pipeline.

Heat conducted from the pipe to the surface will have a significant effect on surface temperatures and plant-root temperatures over a band not more than about 60 feet wide. Directly over the pipe snow will probably remain on the ground only after the heavier storms.

The inflow of water into the depression likely to develop over the pipe will probably more than supply the heat requirements for excess evaporation, and in general conditions will probably remain wet. However, if the material overlying the pipe should be very permeable, thermal convection of water in the sediments could probably increase heat loss from the pipe to the surface one-hundred fold. Under these conditions evaporation would probably exceed the rate of local water supply and the region above the pipe could eventually become desiccated. Heat and moisture transfer above the pipe could have a significant effect on the formation of local ground fog.

This study was not exhaustive. Potential problems certainly exist that have not been considered, and some that have been considered may be shown not to exist by further studies. The report represents one perspective on an overall problem that transcends many disciplines and requires the perspectives of many for an optimal solution. It is hoped that the report will provide one reference point for objective discussion between the people of many backgrounds who must communicate effectively on this issue.

[From the New York Times, Feb. 27, 1971]

THE CONSERVATION OF OIL—INDUSTRY CRITICS WOULD INCREASE IMPORTS AND TAP NEW FIELDS ONLY IN EMERGENCY

(By Gladwin Hill)

SANTA BARBARA, CALIF.—Another major oil production problem, thornier in some respects than the Alaska pipeline case, is lying on the desk of Interior Secretary Rogers C. B. Morton, awaiting action. It is the question of expanded oil development in the Santa Barbara Channel, where production already is in progress, and where the attendant environmental hazards were dramatically manifested in the off-shore well blowout of January, 1969.

Five drilling platforms are now operating on Federal leases, and applications for two more are pending. Hearings on the advisability of proceeding were conducted by the Interior Department here in December.

After all the argumentation, however, there are some expert observers who regard the environmental questions, in both the Alaska and Santa Barbara cases, as quite secondary to a larger question of national policy.

Foremost among these observers are economists, and their question in effect is: "Why are we pumping the oil out of the ground anyway?"

The petroleum industry has a ready answer to this: "We need the oil."

This seemingly simple statement has long been a subject of contention.

The industry argues that oil deposits must be discovered and extracted as a matter of national defense, so the United States will not become too dependent on foreign oil.

But critics of this rationale say that as soon as deposits are discovered, as in Alaska and Santa Barbara, the standard industry practice is to exhaust them—and then go hunting for more oil.

In only four instances, among the thousands of oil discoveries in the United States in the last century, has a figurative padlock been placed on oil deposits in the interests of national defense. These are the naval reserves at Elk Hills and Buena Vista Hills near Bakersfield, Calif., Teapot Dome in Wyoming (which Harding Administration aides were caught trying to give away to oil companies), and a field in Alaska adjacent to the Prudhoe Bay deposit now the subject of so much debate.

How can the dichotomy of oil exploitation versus oil conservation be resolved?

Overlooking the Santa Barbara Channel rigs, on the local campus of the University of California, is the office of a leading petroleum economist, Dr. Walter J. Mead, a frequent witness at Congressional oil hearings.

In concert with a number of other economists, his answer to the oil dilemma in effect is that a number of the recent controversial discoveries could be sealed for national defense, with due compensation to the oil companies involved, at a great saving to the nation's taxpayers, and at great satisfaction to the environmentally concerned.

Dr. Mead starts with the figure that the oil industry's present policy of stringently limiting oil imports (in the name of national defense) costs American consumers $4-billion a year in higher prices.

Citing Interior Department analyses, he says that the import quotas have the effect of stimulating domestic production of 2.17 billion barrels of oil a year, at a "social cost" to the nation (because of the higher prices) of $1.04 a barrel.

WOULD INCREASE IMPORTS

Against this, he has concluded through reams of calculations, that the cost of conserving oil in the ground with facilities for quick use in an emergency, is only eight cents a barrel per year. The impounded oil would be offset by lifting the existing import quotas.

"The difference in social cost between these two methods of providing some degree of national security against the interruption of the flow of oil is very large," Dr. Mead and a colleague, Dr. Phillip Sorenson, said in a recent analysis, "and is clearly favorable to the petroleum reserve proposal. Whereas shut-in petroleum reserves can be maintained indefinitely at the relatively low cost, domestic production of a nonrenewable resource cannot be perpetual."

"The major shortcoming of an oil import restriction program," they continued, "is that it sacrifices future national security in order to obtain a higher degree of self-sufficiency now."

The oil industry's reaction to any such proposals is implicit in its long-term course of action. It contends that the national interest is best served by the present mix of domestic production and limited importation. Oil men also take a dim view in principle of sealing new discoveries, maintaining that the oil must produce revenue to finance the industry's constant costly exploratory activities.

Nevertheless, the idea of sidetracking controversial environmental imponderables by simply sealing the Alaska and Santa Barbara deposits as national defense reserves is in the forefront of proposals being advanced by both conservationists and some members of Congress.

And it could figure critically in Secretary Morton's resolution of the Great Oil Hassle.

CRITICAL REVIEW OF THE ENVIRONMENTAL IMPACT STATEMENT FOR THE TRANS ALASKA PIPELINE

(By Robert R. Curry, professor of environmental geology, Department of Geology, University of Montana)

MAJOR AREAS OF OMISSION OR WEAKNESS

A. *Stipulation Q* (1st Attachment, p. 50 ff) must be reinstated or similar stipulation should be included to provide for procedures to apply for segment-by-segment authorization for the pipeline. I understand such a stipulation was included in earlier draft(s) of the stipulations. Such a stipulation, or another stipulation, should additionally state that all materials upon which the authorizing officer bases his decisions for each segment of the pipeline are to be within the public domain and are to be released at least 30 days before the authorization is to take place. Space must be provided by the authorizing officer for review of these documents by any interested persons. All data collected by the authorizing officer from the permittee under Stipulation B(2), shall be also made available to the public.

Adequacy of data available to the Authorized Officer and reviewed by the public with respect to decisions to be made by the authorizing officer based upon that data must be able to be challenged by the public—for decisions for each segment of the pipeline, segment by segment. Appeals based upon premise of inadequacy of the data for appropriate decisions should, in my opinion, be made to EPA or a reasonable body of the National Academy of Science and should most certainly not be made to the Department of the Interior who will be supplying some of the data. Thus the appeal procedure outlined in Stipulation B(2) (p. 4 of Stipulations) authorizing appeal only to the Secretary of the Interior is wholly unsatisfactory.

The makeup of a reasonable appeals body should be carefully stipulated to avoid conflicts that may arise from use of personnel from Interior or any of the power/energy/petroleum-company scientists. This will be difficult but entirely possible.

B. *No mention* at all is given in the Impact Statement to the *most serious environmental hazard* of the proposed pipeline: that of the marine and coastal hazards to that portion of the shipment route south of Valdez, Alaska. The NEPA requires that alternatives be considered and that the environmental impact of those alternatives be outlined. This is not done for the pipeline route through Canada—which is virtually a reality rather than a merely "proposed alternative". Mention is made of the route alternative via Canada (p. 152) but this completely fails to mention the great difference in environmental impact of such a route on the world's marine resources. The alternative is considered as if all the oil transshipped through the proposed pipeline were to be consumed in Valdez.

Without question, and with a wealth of factual basis, the most serious environmental risk of the present proposed routing as compared with the MacKenzie River Valley route is the combined effects of oil spillage at sea; risk of tanker accident in the dangerous passage between Valdez and Blaine, Washington, and Los Angeles, California; and problems of spillage at offloading and onloading facilities at the shores. Threat to the fishery resource of Puget Sound alone should fully justify selection of the Mackenzie route to Canadian and U.S. pipeheads in the Edmonton area rather than delivery of one or more tankers per day at the two major west coast refining ports.

The thesis that the greatest pollution will occur from the oceanic shipment of the North Slope Alaskan oil can be developed easily. Within the proposed lifetime of the pipeline and under present restrictions of liability of the tanker operators, it can be demonstrated with statistical assurity that accident and considerable spillage *will* occur with the present Prudhoe-Valdex-Blaine and Los Angeles routing. There is certainly less probability of significant ecological damage from expected spill via overground pipe along the northern boundary of the Arctic National Wildlife Range to Innuvik, Northwest Territories, and up the Mackenzie parallel to the Canadian gas pipeline to Edmonton. The route goes thence via existing or new pipelines to central, eastern, and western U.S. markets.

Omission of this alternative consideration is perhaps the very most serious flaw in the draft impact statement. That an eventual coastal Alaskan terminal will be needed for export of petroleum to Japan and other Asian markets before the Southeast Asian oil becomes marketable seems realistic, but we must have time to meet the engineering and geologic inadequacies of knowledge for the proposed crossing of the Alaskan Range tectonic area and we must have time to remove limits of liability by legislation for controlling oil spills at sea. Tanker design technology and navigation systems are approximately 50 years out-of-date but could, through crash programs and incentive, perhaps be brought into reasonable line within 10–15 years. We must exclusively use the Canadian route-alternatives until that time and should indeed consider direct purchase of Canadian oil from the MacKenzie River reserves for that first decade to preserve our own reserves while breaking import quota restrictions.

C. *Tectonic hazards* are very inadequately covered or considered. Mapping of individual faults and detailed seismicity simply has not been done. By removing Stipulation Q, the public is being forced to accept a broad-brush approach to route selection without even the most rudimentary data on location of zones of greatest hazard. Thus, design stipulations for the pipeline at fault crossing or suspected fault crossing cannot be formulated.

1. *Seismicity data* as given on page 19 of the Impact Statement, is of the most gross and dangerously inadequate kind. Prior to 1965 only seismograph stations at College and Sitka operated in Alaska, and the Sitka station had poor instrumentation. Prior to about the mid-1950's worldwide distribution of seismographic instruments was such that errors in epicenter locations for Alaska were as large as 100 klm (62 miles). In 1965 a larger aperture system, including 6 stations, was installed and operated by the Geophysical Institute at the University of Alaska. Now epicenter locations to ±10 Klm or less, and magnitudes down to noise level are recorded, as opposed to an earlier pre-1965 discrimination ability such that earthquakes of less than Richter magnitude 4.5 could not be recorded (except in the vicinity of College).

Although historical records of Alaskan earthquakes go back to 1788, those with magnitudes greater than 5 were felt and noted at the rate of 1 each 5 years from 1788 to 1888. With recent instrumentation (since 1965) about 20 earthquakes are recorded per year with magnitudes of equal-to- or greater-than 5.

Thus the available seismic data is grossly inadequate upon which to base the extrapolation given on p. 19. Only six years of data sufficiently accurate to locate potentially damaging epicenters is inadequate for both the location of zones of weakness and for the determination of magnitudes of "maximum probable earthquakes". Indeed, the maxima shown (5.5 to 8.5 for various parts of the route) seem conservative to a degree that would be totally unacceptable for site engineering for location of public buildings or power generation equipment and should, in my opinion, be considered conservative for location of facilities such as pipelines and pumping stations where potential for environmental damage exists.

Solutions are available. We need not await the accumulation of 20 years of seismic record to gain an idea of the seismicity and potential hazard of the region. Microseismic networks could be established and, in a period of several years, one could learn a good deal about where smaller amounts of energy were being released along the southern portion of the pipeline route, and from this we could better locate potential fault zones and predict their activity.

2. *Faulting:* In addition, we would need a crash geologic mapping program to locate the obvious faults and fault zones. The total disregard for known faults in the present routing seems inexplicable and there are no doubt many lesser or equal faults along the route that are unmapped at present. Review reconnaissance geology, like that of Clyde Wahrhaftig whose work is quoted heavily in the impact statement, is not geology of the kind that can be used for engineering site studies. It was never intended for that sort of work and does not address itself to the many geologic problems necessary to predict and evaluate potential environmental impact of human activities. The authors of the impact statement would have us believe that the geology is mapped and known over the pipeline route, but this is so far from the truth as to possibly qualify as a complete falsehood. I know for a fact that some of the authors of geologic reports quoted in the impact statement are sincerely disturbed by the implications and contextual framework of their work.

A serious failing of the technical stipulations (Tech. Stips. p. 7) is the stipulation of "seismic design procedures" related to mag-

nitude of expected earthquakes. It is not so much the magnitude of the earthquake that breaks pipes, but it is the amount of offset along the faults that is the real hazard. There seems to me to be no real stipulations that the pipe must withstand instantaneous offsets of on the order of 40 feet which would, in my opinion, be a reasonable design offset. To equate earthquake magnitude with potential for damage to a pipeline is similar to equating horsepower of an automobile with probability of fatality to the driver. Richter magnitude is essentially a measure of acceleration of the earth's crust but says nothing about where, if anywhere, it may slip or break. It is a measure of the amount of energy released, but not how it is released or concentrated. Even the AEC could never write such a meaningless stipulation for a reactor contractor.

The Richter magnitude should be considered but more important is the potential offset expected. In the Copper River valley near Glenallen, for instance, the proposed pipeline route lies nearly parallel to a fault zone and completely within it, thus greatly increasing chance of failure if the fault should move anywhere along that 50–60 mile long section. Much more sensible would be to cross the fault, if one must, in the shortest possible route with specially designed pipe with pre-built bends and only very limited coupling to its above-ground foundation. This technical stipulation for construction mode for seismic hazard takes no account of the related hazards indirectly coupled with earthquakes. These are seismic sea waves; Lituya Bay, Alaska type "giant" sea waves released by landslide; direct landslide: liquefaction of ground; and glacier surges. All the technical stipulation say, in essence, is that, "where technically feasible" it shall be engineered to prevent failure, and "where not technically feasible" the pipeline shall be designed to provide for "accommodation." What we should ask, is, "accommodation" to a glacier surge on the Black Rapids glacier when the pipe has been shut-off due to failures both north and south of Black Rapids and there is no place to drain the oil from the pipe? Does this mean there are temporary storage facilities adequate to handle all oil in the pipe at any point in time between each shut-off valve? If so, it should say so. If not, what is accommodation? How do you "accommodate" a landslide at a time of earthquake?

As was noted in the impact statement, the largest offset from the 1964 earthquake occurred on a buried or obscured fault. From this and other reconnaissance information, it can be implied that we will never locate all the faults in an area until we begin the actual pipeline construction, and even then we may miss some. However, this does not imply that we cannot learn to predict the approximate location of faults as for instance along valley bottoms, by mapping the bedrock units exposed on the valley sidewalls. For this reason, time must be allowed to conduct the necessary detailed geologic mapping and provision must be made for segment by segment public approval of the route as this information is learned.

D. *Hydrologic Data.* General data on hydrology of Alaskan streams is almost as inadequate as that on seismicity. The technical stipulations (4. a, b) specify that the design flood shall be "based upon the concept of the 'standard project flood' as described in Corps of Engineers Bulletin 52–8." and that design for culverts and bridges shall be "to accommodate the 50-year flood or greatest flood of record, whichever is greater." The standard flood project concept was developed in temperate latitudes in areas without permafrost or glacier dammed lakes and such a concept is wholly inadequate to protect the Alaskan river systems. Clearly with little or no hydrologic data, the term "50-year flood" or largest flood of record is meaningless also. There are, indeed, potential methods to determine the maximum flood of the last 50 years where flood plains are vegetated with greather-than 50-year old vegetation. However the last 50 years may not be very representative of the next fifty years where glaciers exist in the river headwaters, due to the effect of potential formation and release of glacier-dammed lakes. M. A. Kuentzel produced a document for TAPS on the flood hydrology of glacier dammed lakes in which he states that "The magnitude of each flood from a glacier-dammed lake release may exceed the predicted 50-year flood for an equivalent drainage area by many times and must be considered in any development." (p. 1). Kuentzel further stated that the only semi-reliable way to predict the frequency of glacier-dammed lake releases is by using historical records—much of which is unavailable at present. This is not the whole story since historical records tell us nothing about the frequency and magnitude of discharge of yet-to-form glacier-dammed lakes. Some of these could form in a single melting season in a valley blocked by a receding glacier or in a glacier-free valley blocked by an advancing side-valley glacier. There seems little hope of being honestly able to predict the location and magnitude of such glacier dam bursts—which have accounted repeatedly for the largest known floods on earth.

The Alaskan river beds are adapted to these non-cyclic kinds of flooding as well as the seasonal flood. However, the idea of a 50-year flood is entirely a seasonal flood concept which attempts to derive, from the morphology of the channel or from analysis of a few years of seasonal data, the height of water expected in the 50-year flood. In Alaska, the flood height and instantaneous river discharge is based upon the formation of river-ice dams temporarily imponding waters when the river breaks up, and upon the vicissitudes of glaciers imponding meltwaters in the mountains. Thus, on the North Slope, the ice dam problem is nearly as serious as the glacier-dam problem in the Alaska Range, and neither are predictable from Corps of Engineers manuals or short period of record.

E. *Valdez loading and storage facility:* Oil transfer facilities at the southern terminus of the pipeline need better protection than stipulated. Although not specified, I presume that the facilities, including all storage tanks, are to be located on bedrock, and not on the flatter marine muds and glacial outwash, both of which are subject to spontaneous liquefaction during earthquake. If the terminal facilities are located on bedrock, it is difficult for me to envision areas large enough at a high enough elevation to be clear of sea-wave hazard to permit construction of complete enclosing berms around the facility to catch all oil that could be spilled in the event of rupture of pipe and storage tanks. The difficulty is that, unlike the design seismic sea wave stipulated (Tech. Stip. 5.), the area is in fact subject to much higher wave slosh associated with landslide or other land failure into the narrow Valdez Arm. Such events have occurred in the region—the best known being that at Lituya Bay, Alaska, about 80 miles west of Juneau (see U.S.G.S. Prof. Pap. 354–C, 1960). On July 9th, 1958, the Lituya Bay wave reached a height 1,720 feet. The wave traveling up to 130 miles per hour surged up to 1,740 feet up the fjord-valley wall with great distructive force—cleaning everything off the valley wall down to bare bedrock. These are not freak occurrences, but happen repeatedly, this being the 5th in Lituya Bay since 1854. The height reached was 8 times the maximum known for a seismically induced sea wave. Geologic and physiographic conditions in Valdez Arm are similar to those in Lituya Bay in many respects. Evidence of past landslide-induced sea waves should be discernable in the Valdez Arm region if they have occurred there but even if they have not, they could occur in the future. Terminal facilities should take this hazard into account and I can find nowhere in the Statement any mention of precise location of south terminal facilities.

Similarly, the design stipulation for the southern terminal merely refer to the pipeline itself, not to the necessary tanks and transfer equipment. It is the transfer and storage tanks, not the pipe, that is in imminent danger of rupture in the event of earthquake. Partly filled tanks may rupture before full tanks due to the sloshing of the fluids in earthquake. Large tanks cannot be simply designed to withstand such sloshing and the usual contingency design is to place the tank within a sealed closed depression so that when it does rupture, its contents do not get away. Such must be stipulated for Alaska and the other west coast pipeline-tanker terminals.

F. *The National Security Argument:* The entire concept of development of Alaskan petroleum as a means of securing the nation is so patently fallacious that it seems shameful to have to waste time in rebuttal. I feel that the best and strongest rebuttal is to be found in the answers of the Cabinet Task Force on Oil Import Control's 1970 report on the Oil Import Question. If Melvin Laird and Maurice Stans, as well as David Kennedy, William Rogers, Walter Hickel, George Schultz, Hendrik Houthakker, and David Freeman claim the statement "We must be protected against any contingency that might impare the national security" is "overstated" (405 d, p. 123), and that, indeed, the nation's security may be enhanced if oil supplies are depleted abroad before at home, and that even if all Middle East supplies should become unavailable in time of international crisis, the U.S. could increase domestic production by 21% after three years and for even a 1-year interruption we would actually have a surplus of supply over demand (Table K, p. 65, The Oil Import Question), then who can Interior find that claims there will be weakening of national security?

Of critical import here is the question of volumes of petroleum reserves left in North America. I estimate that, including the offshore Arctic Ocean, the North Slope of the Brooks Range in Alaska has about 40 billion barrels of petroleum. We may add to this perhaps 40 more billion bbls that I estimate may exist in the Mackenzie Delta region and the offshore and Arctic Archepelago Island regions of Canada, to arrive at the total potential reserve in the Arctic of North America of 80 billion bbls (compared with a proved U.S. reserve of 30 billion bbls). Thus, the Arctic is where our petroleum will come from for most of our petroleum-based future. Use of Canadian crude and transshipment of north slope U.S. crude to markets via Mackenzie transportation corridor routings cannot be construed as not being in the interests of national security except for the fact that we will be depleting our own reserves faster than world reserves. Certainly we are more vulnerable to attack by submarine with Valdez-terminated oil than an interior pipeline.

The real reason behind the security spectre is, of course, that the administration considers it not in the nation's interests to let other countries have our funds for petroleum while our own oil companies suffer. This also is untrue because our own companies own rights or interests in much of the world's oil and to use Canadian oil rather than Alaskan oil for 10 years is merely a shift of funds from one pocket to another, not a transfer of funds out of the country.

PART II. SUMMARY OF SCIENTIFIC CRITICISMS AND RECOMMENDATIONS

A. In my professional opinion geologic hazards along the southern one-third of the proposed pipeline route are such that the

pipe should not be laid and operated until adequate geologic mapping has been done to delimit the active and inactive faults in the area and until adequate geophysical instrumentation and research has been done to establish the potential seismicity of the region so that the pipeline can be designed to withstand expectable fault offsets of expectable magnitudes during times of expectable earthquakes.

B. In my opinion, the proposed stipulations do not adequately protect the entire route of the proposed pipeline from damage due to erosion associated with pipeline construction and from thermal erosion in areas of permafrost. Neither the indices of soil erodability nor the presence of permafrost have been mapped along the proposed route and I would feel that this was mandatory before approving any construction plan designed to minimize these conditions.

C. In my opinion, the proposed stipulations do not afford the scientific community or the public an opportunity to revise or suggest revision of design criteria or stipulations as work on the pipeline progresses and excavation reveals new un-mapped hazards or potential hazards. I feel that provision must be made for this action by persons other than the authorizing officer.

D. In my opinion, the potential environmental effects of oil spills associated with transfer and refining of Alaskan oil en route to and within the sea coast ports of the states of Washington and California have not been adequately considered in the Impact Statement under "alternative route" sections. It is my belief that the most serious potential environmental and economic hazards of the proposed pipeline route are in that portion of the route from Valdez to Los Angeles. I believe that environmental impact hearings should be held in Puget Sound (at Seattle or Bellingham) and at Los Angeles so that we may present the scientific data to back this contention. Proposed refinery effluents from pending Corps of Engineers applications for permits to dump byproducts of the Alaskan pipeline oil made by ARCO (Public Notice NPS–71–18, Seattle District, Corps of Engineers, 15 January, 1971), are alone adequate, in my opinion, to favor the Mackenzie corridor route over the proposed route.

E. I believe that the proposed transfer facility site at the southern terminus of the proposed pipeline in Valdez is very poorly protected from seismic risk and from risk of landslide-generated sea wave. Much geologic evidence is available to indicate that this is an exceptionally poor choice of locations for the transfer facility.

F. Hydrologic data and glaciologic data are wholly inadequate upon which to base reasonable stipulations to protect the pipeline from accidental failure or breakage during flood or glacier surges in the southern one third and the northern one third of the proposed route.

In direct summary, it is my opinion that many fewer environmental hazards are to be encountered by construction of a pipeline along the northern border of the Arctic Wildlife refuge to connect with Canadian pipelines running up the relatively permafrost-free Mackenzie River corridor and eventually to U.S. markets at pipeheads in the midwest and throughout the country. The present proposed route is scientifically indefensable from an environmental standpoint in view of viable economically feasible alternatives.

Special Problems in Underground Pipe Corrosion Control

(By Betzi Woodman)

Recent and pending legislation regarding steel pipelines emphasizes that such facilities will be structurally sound and will remain so indefinitely.

"The problem of building a structurally sound facility is academic," says Will Knoppe of the Corps of Engineers in Alaska. "But problems of maintenance are something else. Much depends on corrosion control facilities installed during the construction of the line."

That's not as simple as it sounds, especially in Alaska. Unique aspects of intense winter cold, soil differentiation, fiord environment, changing patterns of erosion and stream flow, permafrost saturated with oxygen and the waters of breakup have a way of nullifying present methods of protecting against corrosion from electrolytic causes.

Pipeline people have long been aware that once a fuel oil transportation line (or any pipeline) is buried, the material constructed of steel generally tends to revert to its original state by the various corrosion processes involved.

A more involved explanation comes from the Corps relative to its recent and continuing survey of pitting on the 8" Haines–Fairbanks line which supplies fuel to the military bases in the Fairbanks area, the more recently constructed 8" line from Whittier to Anchorage, and the 92 miles of buried 12" line supplying Anchorage with natural gas.

"When a piece of metal, such as a pipeline, is placed in contact with the soil, there exist a multitude of differences between different areas on the pipe. Each of these differences—in surface condition, in soil contacted, in aeration, in many other factors—is capable of setting up an electrical potential difference which acts as the driving voltage of an active corrosion cell. Thus, the entire line is in a network of overlapping cells, of varying dimensions and potentials giving rise to a bewilderingly complex array of anodes (corroding) and cathodes (protected) on the surface of the pipe. With passage of time, polarization alters the potentials and the resistances of the circuit elements; changes in soil moisture and temperature alter conditions; and soil and pipe movements contributes to the confusion....

"Experience has taught that where the soil resistivity is low, pipe *can* corrode; and, in any given section lying in low resistivity soil, some of the pipe *is* corroding. Accordingly, where bare lines are concerned, our principal criterion of corrosivity is the resistivity of the soil.

"This can be justified by the observation that, regardless of the physical and chemical factors which may give rise to driving voltages, the actual current flow will be small when the circuit resistance is large; and, since metal dissolution, according to Faraday's Law, is proportional to current flow, corrosion cannot be severe in high resistivity media."

A soils resistance survey was taken by the Fluor Corporation along the Haines-Fairbanks line in 1957. Generally, results of the testing indicated that corrosion would not be a major problem and although occasional leaks might occur in select areas, such as Kluane Lake, the line would retain its structural integrity. Anode beds were installed in areas where it was felt loss of steel from the corrosion processes would occur.

Since that survey installation of anode beds, however, four leaks developed where the soils tests indicated corrosion should NOT occur. Initial resistivity readings, respectively, for the four leak locations were 45,000 to 180,000 ohms-cm; 100,000 ohms-cm; 130,000 ohms-cm; and 84,00 ohms-cm. All were high enough to substantiate the expectation of non-corrosion.

SOIL NOT ONLY FACTOR

The tests were made in the summer, but it is now determined that soil alone is not the only electrolyte that creates favorable corrosion conditions in cold climates. Soil resistance becomes very high during cold periods or when frozen, but flowing water high in oxygen and carbon dioxide but low in carbonates is capable of removing up to 15 mills of steel a year at a temperature of approximately 40° F. Two of the previously mentioned leaks were attributed to the chemical composition of spring run-off water following the buried pipe.

Backfilling adjacent to the steel structure with mixed moist soils can result in an unfavorable environment. In the Lake Dezadeash area of Canada, the fill adjacent to the pipe that failed was composed predominately of high resistant gravels (over 180,000 ohm-cm) and occasional lumps of low resistant clays (under 2,000 ohm-cm). Isolated anodes developed in the steel under the clay portion of the backfill with a resultant loss of metal.

Surface-laid pipes are not immune to the corrosive factors, either. Sometimes a pipe is self-buried because of the nature of the ground; erosion paths and stream bed changes can bring differing materials and fresh oxygen-laden water to cause trouble.

It is doubtful that any resistivity testing other than continuous testing for design throughout the various seasons will produce adequate data to install an effective cathodic protection system. And even this protection may be ineffectual during the winter months when the anode beds are frozen and a frozen cocoon develops around the cathodes, but the soils adjacent to the pipe are heated by the transportation of warm fuels and remain thawed.

GALVANIC METHOD

The galvanic method uses another substance, usually magnesium, as an auxiliary anode for the pipeline. When a deposit of magnesium, which has an inherent absolute potential of +2.123 volts, is connected electrically to a pipeline with an inherent iron potential of +0.067 volts, the pipeline will then be negative to the surrounding soil and cathodically protected in the vicinity of the anode. The auxiliary anode of magnesium becomes the source from which the current will flow causing the corrosion to take place in the anode instead of the pipeline. The weight and number of magnesium anodes required is dependent on the soil resistivity, the pipe surface area and the anode life desired.

Cathodic protection can only be effective on that part of the line which is in contact with the soil; it will not protect against atmospheric corrosion, nor against all of the attack on a structure which is subject to intermittent immersion.

These observations, of course, relate to bare pipe as was the case in 1954 when budgets were low and a leak now and then was a calculated risk. Now, as Knoppe observes, "it's a whole new ball game" and the Haines line survey in particular was directed for rehabilitation and protection to avoid any further leaks. It was in this process that intricacies and great variants of corrosion potential in Alaska were spelled out.

At one point in the report, a summary reads: "Resistivity and pipe-to-soil potential tests are accurate for general design use if moisture contained in the soil does not exhibit seasonal changes such as flowing water in a gravel bed during spring break up periods. Neither test will point directly to all existing elements that favor rapid loss of metal."

Knoppe then points out that obviously "in any given area in Alaska, all buried lines should be protected by wrapping. In addition, both buried lines and surface laid lines should receive a cathodic protection system to overcome corrosion from any electrical leaks that may develop."

At the same time it is stated that the "best corrosion protection is given by isolating the line from the ground." All the drawbacks connected with this procedure are readily noted, whether for an 8" short line or the 48" TAPS multi-hundred-mile line.

Thus, it is warned that adequate maintenance of the cathodic system is also a requisite. If not properly maintained, it gives the delusion of preservation, and within a few years there is no protection.

Problems exist also in the matter of wrapping. The Corps report indicates there is not any known chemical wrap which would do the job. Protective coatings normally used on POL lines deteriorate rapidly when exposed to sunlight. Polyurethane plastic and neoprene hypalon rubber, properly applied, will withstand considerable abrasion and are not subjected to deterioration when exposed to sunlight. Shopcoated line under controlled conditions is probably superior to field protected lines.

Inadvertent penetrations of the coating may occur during burial process and this invites a concentration of the corrosion process on the small amount of pipe exposed. Thus cathodic protection is indicated.

Problems likely to arise from permafrost melt as hot fuel passes through have been considered in every discussion regarding building of the TAPS line. But little has been said about corrosion potential from bare pipe in permafrost. Knoppe points out that the oxygen saturated permafrost which melted would have the same effect on unprotected pipe as melt water on any other pipe—it sets up the corrosion situation.

It is reported that TAPS is considering a wrap product recently developed by the Japanese. It would include an outer casing of polyvinyl chloride, glass reinforced. An inner insulating section of poly urethane would be against the pipe.

Abnormal corrosion conditions in Alaska are not confined to underground steel structures, Knoope points out. Take the Whittier pernament docking facility for example, completed in 1955 of unprotected steel piling.

Design testing of the salt water in Whittier harbor area indicated that the corrosion rate would not exceed the world-wide average loss rate of 15 mills per year; in fact, the low temperature of the water (40° F) indicated loss would be less. Available samples of steel exposed to the harbor waters examined during the design of the facility confirmed that excessive corrosion should not occur. To compensate for anticipated loss, additional structural steel was used in the design with the future installation of the cathodic protection, if required after the expected design life.

Inspection 4½ years after start of construction showed corrosion in some areas accounted for steel losses to the piling as high as 66.4 mills per year. It was also noted that cold water lines from the Whittier wells were rapidly deteriorating and that barnacle growth present on structures in the harbor had all but disappeared.

Loss of metal in both the water lines and steel piling was attributed to the high oxygen content contained in the melt water of adjacent glaciers flowing into the water table and the bay—the "fiord environment."

Ice formation in tidal regions can also contribute to excessive loss of metal. The ice forms on the piling as the tide recedes and as the weight of the ice increases, tidal action floats the ice and all protective oxides that form on the steel are removed, exposing white metal. This metal corrodes and the cycle is repeated. Such a situation has occurred at Kodiak.

In sea water installations north of the Brooks Range and in other areas where the water temperature is exceptionally low and the structure is not heated, corrosion is negligible. Steel piling in the Nome harbor where water hovers at the freezing level has shown no distress in over 50 years service.

Except for the tremendous scouring action of the Arctic ice pack, this fact augurs well for steel dock installation out of Prudhoe Bay where tidal action is slight. But if, as has been suggested for one method, heat is used to keep a dock area ice free and temperatures in the water rise to where ice melt and oxygen release occur, then the picture would change.

Meanwhile, methods to determine if and how much buried pipe has corroded—short of digging it up and looking at it—need much refinement to be of great use. An instrument pig called Linalog permits surveillance and to some degree of accuracy locates areas where extensive loss of steel has occurred. The system employs an instrumented pig capable of inducing a magnetic flux in the pipe and of recording variations in flux induced by the loss of metal. The pig is transported with the fuel being pumped and a tape recorded in the pig notes the variations. The tape is photographically transferred to a continuous log.

The instrument shows loss of metal in the pipe wall, but does not differentiate between deep pits, "BB" type pitting and breaks in the wall structure such as welded joints. Since the unit does show all welds, flanges, and valves, it is easy to differentiate between a weld and actual loss of metal. Marker magnets are used to indicate locations so that corrosion can be placed precisely according to charted distance of the buried line.

This dissertation merely touches on the basic matters involved in one type of corrosion of steel pipelines. Consider the problem which can arise in soils above 50° F. A bacteria exists whose metabolic byproduct includes sulfide compounds which serve as excellent electrolyte materials conducive to development of corrosion cells. One can merely speculate on whether heat transfer from a hot fuel flowing through a buried and uninsulated pipeline could create the conditions for this bacteria—and whether it exists dormant waiting for such conditions or would be introduced!

Engineers in Alaska are confining their investigations to the matters presented here for the nonce. Effectiveness of the various cathodic protection systems during the winter months in Alaskan and northern Canada are unknown, Knoppe says. Additional testing is required.

The Campbell Creek drainage system is presently protected with an over-designed imprest current system placed in operation during the spring of 1969. Additional testing was being done during the past winter to see if the system is indeed adequate. If freezing the anode beds reduces the effectiveness of the system, a research project using a plating system for winter protection will be initiated.

DUBIOUS WISDOM, TIMING, AND LEGALITY OF ACCELERATED DEPRECIATION PROPOSAL

Mr. HUMPHREY. Mr. President, I discussed the proposed administration accelerated depreciation plans during debate on the Bayh-Humphrey unemployment compensation amendment. During that debate I questioned the quality and merit of such a proposal.

The administration has stated that this move is to provide fiscal stimulus to the economy through an incentive for capital investment. I understand the theory of such a depreciation. I also understand the theory of an investment credit. They both can be effective tools in stimulating capital expansion of industry to meet increased and possibly inflationary consumer demand.

But, Mr. President, that is not the case at present. The bottleneck right now is lack of consumer demand. The American public, fearing that things will get worse rather than better, have been saving at record levels rather than spending and buying consumer goods. What we need to do is provide the consumer with an economic policy that instills confidence. This confidence is not about to be fostered by providing industry with an incentive to invest in plants and equipment, particularly when our industrial capacity is presently operating at approximately 72 percent of capacity.

Accelerated depreciation, in light of the present state of the economy, consumer demand and utilization of industrial plant capacity, is like giving a pair of track shoes to a cripple. He cannot possibly use them and they represent an expenditure of funds that could have been spent far more effectively and sensibly and humanely on economic cure and rehabilitation.

This is the wrong move at the wrong time, and possibly, for the wrong reason. It is for these reasons that I am pleased to cosponsor Senator BAYH'S sense-of-the-Senate resolution, reserving the final decision on such a substantial change in depreciation policy to the Congress.

Mr. President, Prof. Robert Eisner, of the Economics Department of Northwestern University has communicated his views to the Commissioner of Internal Revenue. It is Professor Eisner's position, and his position is extremely well documented, that the accelerated depreciation will cause permanent revenue loss. Professor Eisner is a recognized expert in the field of determinants of business investment and has published extensively in the field.

There has also been widespread comment on this proposed depreciation change in editorials and columns. Mr. President, I ask unanimous consent that Professor Eisner's statement, Don Oberdorfer's column from the April 1 Washington Post and an editorial from the Sunday, April 11, New York Times be printed in the RECORD.

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

THE ASSET DEPRECIATION RANGE SYSTEM

(By Prof. Robert Eisner, Department of Economics, Northwestern University)[1]

The comments set forth below relate to the proposed asset depreciation range regulations that were announced on January 11, 1971 and published in the Federal Register on March 13, 1971. I shall focus on several premises of the asset depreciation system which are either mathematically false or contrary to generally accepted economic principles and data.

1. The "Statement by the President" of January 11, 1971, announcing the ADR system declares, "A liberalization of depreciation allowances is essentially a change in the *timing* of a tax liability. The policy permits business firms to reduce tax payments now, when additional purchasing power is needed, and to make up these payments in later years." An accompanying statement by then Treasury Secretary David M. Kennedy declares, "It should be kept in mind that a liberalization of depreciation allowances primarily involves a postponement of the tax payment, and that this payment will eventually be added to government revenues."

Footnotes at end of article.

THE ADR SYSTEM WILL CAUSE PERMANENT REVENUE LOSSES

These statements are false. At the worst they represent a conscious effort on the part of some to deceive the public. At best they represent a confusion between the consequences of the "liberalization" in depreciation for a single asset or assets of a single year or even a limited number of years and the permanent "liberalization" envisaged in the proposed system.

The incorrectness of the Administration's claims regarding the ADR system is illustrated arithmetically by a succession of numerical examples set forth in Appendix A. The example relevant to the current issue is given in Table A–3, which indicates not only that the initial tax savings due to the ADR system are never paid back, but that they have added to them further savings as the years go on. Indeed, while there is a hump in tax savings (i.e., in the tax loss to the Treasury) during the transition to the ADR system, after this period the annual tax savings resume an upward path equal to the per cent rate of growth of equipment acquisitions.

The Statement of the Department of the Treasury of January 11 is thus grievously misleading in suggesting that "these changes will result in a reduction in Federal revenues of $0.8 billion in the fiscal year ending June 30, 1971, and of $2.7 billion in fiscal 1972, rising annually thereafter to a peak of $4.1 billion in fiscal 1976 and falling thereafter to $2.8 billion by fiscal 1980." For the sentence should have continued "and rising thereafter." I do not have available the detailed figures on which the Treasury made its estimates but it is easy to reconstruct their broad outlines. Ignoring the additional loss to the Treasury due to the new first-year convention, which acts as a further speed-up, we might reconstruct the Treasury figures roughly in Table 1 by assuming initial expenditures for equipment of $75,656 billion in 1971, growing at a 5 per cent per annum rate in money terms (which may well prove to be conservative if inflation persists) and further assuming for simplicity that all equipment previously had a depreciation life of ten years and will now have a depreciation life of eight years and all is subject to sum-of-the-years-digits depreciation. We can then note in Table 1 that tax savings are $0.7 billion in 1971, rise annually to a peak of $4.4 billion in 1976, fall thereafter to $1.5 billion by 1981, and do in fact rise thereafter. The annual tax savings finally stabilize at a 5 per cent growth rate and, year after year, amount to 1¼ per cent of annual equipment acquisitions.[2]

Thus, whatever one's view of the economic consequences of the Asset Depreciation Range system, there should be no mistake about its arithmetic. It is not a change in the timing of tax payments. It is not a matter of reducing tax payments now in return for tax liabilities in the future. It involves a permanent, repeating and accumulating loss in tax revenues year after year, a loss which will ultimately grow along with the general rate of growth of the economy and in particular the rate of growth in money terms of equipment subject to tax depreciation. The statement by the President issued on January 11, referring to the ADR system, declared, "The policy permits business firms to reduce tax payments now, when additional purchasing power is needed, and to make up these payments in later years." The concluding clause in that sentence, "and to make up these payments in later years," is false. There is no knowledgeable expert in the Treasury or out of it who can stand by this statement. It is unfortunate that such a flat contradiction of what is an ambiguous matter of arithmetic and mathematics was issued in the name of the President of the United States.[3]

Footnotes at end of article.

TABLE 1.—ANNUAL TAX SAVINGS RESULTING FROM SWITCH FROM 10 YEAR TO 8 YEAR LIFE FOR SUM-OF-YEARS-DIGITS DEPRECIATION CHARGES ON TREASURY ASSUMPTION OF $75,656,000,000 OF EQUIPMENT ACQUISITIONS IN 1971 AND 5 PERCENT PER ANNUM GROWTH THEREAFTER (HALF-YEAR CONVENTION)

[In millions of dollars]

(1)	(2)	(3)	(4)
	Depreciation charges		Tax saving (48 percent of (3) minus (2))
Year	10 year life	8 year life	
1—1971	6,878	8,406	733
2—1972	20,289	24,588	2,064
3—1973	32,996	39,478	3,111
4—1974	44,962	53,010	3,863
5—1975	56,152	65,118	4,304
6—1976	66,526	75,729	4,417
7—1977	76,042	84,769	4,189
8—1978	84,658	92,160	3,601
9—1979	92,330	97,819	2,635
10—1980	99,010	102,710	1,776
11—1981	104,648	107,845	1,535
12—1982	109,880	113,237	1,611
15—1985	127,201	131,087	1,865
20—1990	162,344	167,304	2,381
Sum to 1980	579,843	643,787	30,693
Sum to 1985	1,158,089	1,239,699	39,173
Sum to 1990	1,896,094	2,000,250	49,995

2. In the Department of the Treasury press conference of January 11, 1971, then Secretary of the Treasury Mr. David M. Kennedy declares, "The reform of depreciation policy will encourage business to increase its investment in new machinery and equipment, . . ." Dr. Paul W. McCracken, Chairman of the President's Council of Economic Advisers declares, "These basic changes would also have a favorable impact on the market for capital goods in 1971." In answer to a question by a reporter, ". . . can you quantify the impact this move will have on investment levels in the next few years? And the remainder of this year and '72?", Mr. Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy, declares, "We think this will have a substantial impact on investment in plant and equipment but I wouldn't make an effort to quantify it." Dr. McCracken said, "It's impossible, of course, to do anything more than form some kind of judgment about this. The impact here will build fairly slowly."

THE ADR SYSTEM IS UNLIKELY TO HAVE MUCH EFFECT ON CAPITAL INVESTMENT

The fact is that there is little evidence that "liberalization" of depreciation allowances of this type will have much effect on investment. There are strong arguments why it should not be expected to have much effect, and certainly almost no effect over the short period when a stimulus to investment is, according to some, considered desirable. There are essentially two justifications for the argument that increased depreciation allowances for tax purposes will increase investment. As Dr. McCracken put it himself, these are that the increased depreciation allowances will increase "the cash flow and the rate of return."

The first of these justifications is in considerable contradiction, at the level of the economy as a whole, to fundamental economic theory and analysis of a free enterprise, profit-oriented system. For under such a system, business decision-makers, unlike bureaucrats in some managed economies, are expected to spend not on the basis of the money that they get or are allotted but on the basis of what will increase profits (or reduce losses). There is little point to investment by a firm faced with excess demand and falling utilization of capacity. To argue that American business would increase expenditures for plant and equipment on the basis of cash flow rather than profit expectations suggests a surprising lack of faith in and understanding of the nature of a profit economy. To suggest that a firm with expectations that additional plant and equipment would add to profits (or reduce losses) would not make such expenditures unless cash were in hand or "flowing in" is to argue that our prided capital markets have ceased to function.

It is of course true that certain firms, particularly small ones, are forced to allow their investment to be limited by cash flow and sources of credit which are closely tied to such cash flow or to profits. It may properly be the concern of government to remove and reduce imperfections in capital markets that cause these constraints to be felt by small firms. But this is hardly true of the bulk of large American industry which accounts for the bulk of plant and equipment spending. I have devoted a major part of my career to study of the determinants of business investment and have written extensively on studies involving both interviews of business executives and fairly elaborate statistical or econometric investigation of the actual relations between business spending and the variables which might affect them. There is little or no sound evidence, I can assure you, that cash flow as such affects the long run rate of investment. What influence it or past profits have is related largely to smaller firms and perhaps, in the case of fluctuating profits, to the timing of investment. But in regard to the timing, as Dr. McCracken acknowledges, "The impact here will build fairly slowly. It takes time for these decisions of course to be changed."

The second justification for the argument that increased depreciation allowances will stimulate investment relates to the "incentive" effect or the influence or expected rate or return on investment. This argument is in principle a stronger one but the magnitude of the effect may readily be exaggerated. I have no independent calculations at this time, but we may note Dr. McCracken's estimate that the new measures "will mean roughly a percentage point increase in rate of return." However, the fact is that business investment has shown itself to be relatively uninfluenced by analogous changes in the cost of capital as measured by the rate of interest and this, as is well understood in modern economics, involves the relative magnitudes of fluctuations of expected rates of return and costs of capital. The question of how much any given change in the expected aftertax return on capital will induce a substitution to more capital intensive production is a matter of what we call the elasticity of substitution, influenced by technological as well as other considerations. The evidence is accumulating that long run substitution possibilities are significant, but far from unlimited, and that short run substitution is decidedly smaller. While in all fairness, it must be stated that the elasticity of substitution, or the expected effect from any given percentage change in expected rate of return, remains uncertain in current economic analysis, there is no agreement that the effect is likely to be large and it is interesting that, on a matter that is critical, Dr. McCracken was not prepared publicly to offer any estimates of what the effect would be. I would suggest that the best estimates would indicate that the effects, particularly in the short run, would be small, involving a considerably smaller increase in capital expenditures than the loss in tax revenues associated with the increased tax depreciation, and there are a number of studies[4] which have indicated as much.

There Are Better Ways To Stimulate Capital Investment

But what must be stated most directly is that, if the objective were to increase investment spending, economic analysis makes clear that a far more effective device, dollar for dollar of tax loss to the Treasury, would be some form of direct investment subsidy

or tax credit. And here, I might add, the subsidy should be structured in such a way as to offer a maximum incentive effect rather than maximum cash flow to firms and tax loss to the Treasury. Thus, far better than the general 7 per cent tax credit for equipment spending in previous law would be a much higher tax credit, say 14 per cent or 28 per cent or even 56 per cent, restricted as far as possible to equipment spending that would not have been undertaken in the absence of the tax credit or subsidy. This might be done by applying the credit, for example, only to investment in excess of some average of previous investment (with appropriate adjustments for new firms) or to investment in excess of some per cent (probably more than 100 per cent) of depreciation charges, which are themselves as weighted average of past investment. Such a system would have the advantage, if more business investment were desired, of concentrating the rewards or tax benefits where they would really count rather than squandering the bulk of the lost tax revenues for investment which would have been undertaken anyway.

In this connection it should be stated, however, that the proposition that business investment should secure tax benefits and special encouragement is exceedingly dubious. While our tax structure is far from neutral as it stands, it is not at all clear that the whole structure of taxes, including in particular preferential treatment to capital gains, has not already distorted the free market in the direction of greater business spending for plant and equipment. Is there really a considered judgment that more spending for business equipment is desirable rather than spending in, for example, research and development, on-the-job training, or improvement of management efficiency (or even business structures)?

ADR IN EFFECT DISCRIMINATES AGAINST IMPORTANT TYPES OF INVESTMENT

But beyond this, why stimulate business equipment spending rather than investment in human capital, in education, in health, in basic research? Is it even clear that we want more plant and equipment spending, that is, accumulation of capital for the future, rather than greater private consumption or greater enjoyment of leisure or greater government investment in public goods and the general welfare? I am not one that believes that the free market, or the imperfectly free markets that we have in our economy, should never be influenced by government. But I am a firm believer in the view that government should be restrained in its intervention and should only interfere with private markets when there is a clear indication that they are not functioning appropriately and that interference in the public interest is called for. This might apply to those economic activities that involve what economists call external diseconomies, such as air and water pollution. This may also apply where capital markets are notoriously imperfect, as in the market for human capital; investment in the potential of individual human beings is frequently beyond their own means and too risky for an individual outsider. But one of the last places where I would think that government intervention, help or subsidy is called for is in the private investment decisions of the great bulk of American industry. There is no need for a handout to American industry to persuade them to do what should be in their own interest, that is have the optimal capital and investment policies for their own efficiency and profits.

BALANCE OF PAYMENTS CONSIDERATIONS DO NOT SUPPORT THE ADR SYSTEM

It is broadly hinted, although rarely systematically argued, that increased or liberalized depreciation allowances are somehow necessary to make American firms competitive with foreign firms that receive such subsidies from the public purse. This argument, I must insist is based upon a profound misunderstanding of the nature of international trade and international economic relations. In the first place, American industry is generally able to compete very well abroad. The United States has had positive net exports, that is, has exported more than it has imported in goods and services (on National Income Account) for every one of the last twenty-five years from 1946 to the present. Preliminary figures for 1970 put that surplus at $3.6 billion. In fact, despite the drain of government spending for military activities in Southeast Asia and for the support of large armed forces in foreign countries, the United States has been tending over the years to be a net investor abroad and acquirer of long term foreign assets. And if there were a problem in our balance of payments, particularly of foreign countries acquiring more in the way of American currency than they wish, the clear economic answer would be changes in the relative prices of American and foreign currencies rather than distortion of our own economy.

Inasmuch as the dollar has become the reserve currency of the world, such adjustments would essentially be undertaken by foreign countries concerned with their excessive (or deficient) accumulation of dollars. But for the economy as a whole it must always be true that as long as exchange rates are reasonably appropriate, a nation will find itself exporting those goods in which it has a *comparative* cost advantage and importing those goods at which it is at a *comparative* cost disadvantage. A tax subsidy to capital-intensive industries can only give them a comparative advantage over less capital-intensive industries. We then find ourselves not increasing total exports but exporting more of those products that receive the greatest tax subsidies, particularly capital-intensive manufacturing, and exporting less (or importing more) of less capital-intensive output such as, for example, agricultural products. The American people should not be deceived. Measures of this kind cannot help the American economy as a whole by forcing foreigners to buy an even greater excess of products from us over what they in turn send to us, for we are not likely to be able to impose this, even if it were desirable. They result ultimately in more sales by some American producers at the expense of sales by other American producers.

POSSIBLE ADVANTAGES OF ADR IN THE PUBLIC UTILITY AREA ARE LIMITED BY ACCOUNTING AND RATE-MAKING RESTRICTIONS

I might close this particular discussion by calling attention to a curious irony as well as inconsistency in Administration proposals to date. There s something to be said, where we are concerned with combating inflation as well as stimulating the economy, for tax subsidies that tend to lower costs and hence lower prices in a reasonably free market. Liberalized depreciation allowances might ultimately have some slight beneficial effect in this direction by lowerng capital costs after taxes and hence bringing down prices. Yet in the one area where this might be most likely to occur, that is in the area of public utility investment, there are restrictions on accounting and rate regulation which operate to prevent regulated utilities from passing the tax savings from liberalized depreciation on to ultimate consumers. Such restrictions prevent the operation of this price-reducing effect. Ironically such restrictions also tend to reduce the presumably desired impact on investment. For one way in which liberalized tax depreciation would encourage investment is precisely by what is called in economic theory an "output effect," that is, bringing about an increased demand and expansion as a consequence of the lower prices of final product, thus stimulating investors to acquire the increased capital to produce the increased output.

THE ADR SYSTEM IS DESTABILIZING

Finally, it may be noted that faster depreciation tends to be pro-cyclical rather than counter-cyclical. For the faster is depreciation, the greater the tax savings attributable to current and recent investment. That means that with faster depreciation, the tax savings will be greatest in boom times when investment has been high and least in recessions or depressions when investment has been low. A correct, automatic stabilizing policy would give more tax relief in recessions and less tax relief in booms. "Liberalized" or faster depreciation then has exactly the opposite effect, giving more tax relief in booms when it is not needed and less tax relief in recessions when it is needed.

CONCLUSION

It should be clear then that the current "liberalizations" of tax depreciation—coming on top of a long series of liberalizations of which the most notable were in the Revenue Act of 1954 introducing sum-of-the-years-digits and double-rate declining balance tax depreciation, in 1962 with the major revisions of estimated lives, and in subsequent years with the failure to enforce the reserve ratio test—are not in the public interest. First, they have been falsely presented as involving only a change in timing of tax payments, thus suggesting that the Treasury would lose tax revenues now but gain them back later from the affected taxpayers. Second, as a measure to increase business investment it is dubious at best, slow in its effects, and particularly costly to the Treasury in terms of the amount of increased investment which may result for each dollar of tax loss. Third, it represents a distortion in existing markets and an alteration of the distribution of income and command over resources which is particularly unjustified in view of all of the competing needs for investment in human capital, public goods, and the atmosphere in which we live. Fourth, its presumed value in terms of competition with foreign producers is fallacious; it can at best help some American producers at the expense of other American producers. Fifth, it will contribute to rather than counteract cyclical fluctuations, stimulating booms and deepening depressions.

For these reasons, the Asset Depreciation Range proposals should be withdrawn. I question whether any special equipment investment incentive is socially desirable but, if the objective is to increase investment spending, some form of direct investment subsidy or tax credit is a far more effective device, dollar for dollar of tax loss, than is the ADR proposal.

FOOTNOTES

[1] Mr. Eisner is a Professor of Economics at Northwestern University, and a Research Associate of the National Bureau of Economic Research, neither of which institutions are of course in any way responsible for the views expressed herein.

[2] The exact calculations are based upon equation (4.26) and (4.27) in the mathematical supplement to my article, "Depreciation and the New Tax Law," *Harvard Business Review*, January-February 1955. This does not take into account the change in the first year convention, the new salvage provision and the fact that equipment lives are varied rather than all equal to the assumed mean. All of these factors, as well as the fact that some firms still apply straightline depreciation, produce further tax savings, beyond our estimates.

[3] Administration spokesmen have made another logically distinct argument, however blurred in rhetoric, that the tax loss to the Treasury now will ultimately be recouped as a consequence of higher income in the

future. This is an argument that could be made for any tax cut. Its applicability here is particularly dubious because of the limited and questionable stimulatory effect of this liberalized depreciation as discussed below. To the extent that this proposal proves a substitute for other, more effective stimulatory and growth-inducing measures, it may actually still further lower future tax payments along with future incomes.

[4] See, for example, papers by R. M. Coen and by R. Eisner, "Tax Policy and Investment Behavior: Comment," *American Economic Review*, June 1969, pp. 370–379 and 379–388.

APPENDIX

The effect of the permitted speed-up in depreciation by 20 per cent (aside from the new initial year convention which represents an additional speed-up) may be more readily illustrated arithmetically by considering a switch from a five-year life to a four-year life. To do so we shall construct several numerical examples involving the very simple straight-line method as well as the more liberal and realistic sum-of-the-years digits depreciation.

Let us first assume a firm that acquires $180 of equipment early in 1971 and none in subsequent years. It should be noted readily that with regard to such acquisitions of a single year, as shown in Table A-1, four-year-life, straight-line depreciation is higher and taxes are saved for each of the first four years, but this is all cancelled out in the fifth year. With sum-of-the-years digits depreciation, tax saving occurs in only the first two years, 1971 and 1972, and there is a payback in 1974 and 1975, the last two years of the original five-year period. In both cases there is what amounts to an interest-free loan, a far from insignificant matter, but the "loan" is paid back by the end of the originally estimated period of life of equipment.

There are very few substantial firms, however, that acquire equipment in one year and then never again. Indeed such a firm could obviously not last very long. And for the economy as a whole as well as for the substantial firms that account for the bulk of spending, equipment purchase is a repeated process, perhaps fluctuating but generally considerable and, in the long run, growing. In Table A-2 we assume, however, a firm whose acquisitions are still not growing but are merely constant, year after year, at $180. With straight-line depreciation we then see tax savings, as a consequence of the speed-up of depreciation permitted in the ADR system, of $4.32 in 1971, $8.64 in 1972, $12.96 in 1973 and $17.28 in 1974. In 1975 the tax savings come to an end, in the sense that they are not repeated, but there is never any "payback," as long as equipment purchases stay constant, which implies that the firm replaces its expiring equipment. The firm has thus received tax savings of $43.20 which it keeps. There is apparently some disposition to refer to these tax savings as interest-free loans. They are indeed the most desirable kind, interest-free loans which are never to be paid back. Semantics aside, a mathematician would be hard-pressed to distinguish a permanent, interest-free loan and a pure gift.

TABLE A–1.—DEPRECIATION CHARGES FROM A SINGLE YEAR'S ACQUISITIONS, EFFECTS OF 20 PERCENT "LIBERALIZATION" OR CHANGE FROM 5 YEAR LIFE TO 4 YEAR LIFE, STRAIGHT-LINE AND SUM-OF-THE-YEARS-DIGITS DEPRECIATION. $180 OF EQUIPMENT PURCHASED EARLY IN 1971

(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Straight-line depreciation			Sum-of-the-years-digits depreciation		
Year	5 year life	4 year life	Tax saving (48 percent of (3) minus (2))	5 year life	4 year life	Tax saving (48 percent of (6) minus (5))
1—1971	$36	$45	$4.32	$60	$72	$5.76
2—1972	36	45	4.32	48	54	2.88
3—1973	36	45	4.32	36	36	0
4—1974	36	45	4.32	24	18	−2.88
5—1975	36	0	−17.28	12	0	−5.76
6—1976	0	0	0	0	0	0
Sum	180	180	0	180	180	0

TABLE A–2.—DEPRECIATION CHARGES FROM A STEADY STREAM OF ACQUISITION, EFFECTS OF 20 PERCENT "LIBERALIZATION" OF CHANGE FROM 5 YEAR LIFE TO 4 YEAR LIFE, STRAIGHT-LINE AND SUM-OF-THE-YEARS-DIGITS DEPRECIATION. $180 OF EQUIPMENT PURCHASED EARLY IN EACH YEAR BEGINNING IN 1971

(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Straight-line depreciation			Sum-of-the-years-digits depreciation		
Year	5 year life	4 year life	Tax saving (48 percent of (3) minus (2))	5 year life	4 eyar life	Tax saving (48 percent of (6) minus (5))
1—1971	$36	$45	$4.32	$60	$72	$5.76
2—1972	72	90	8.64	108	126	8.64
3—1973	108	135	12.96	144	162	8.64
4—1974	144	180	17.28	168	180	5.76
5—1975	180	180	0	180	180	0
6—1976	180	180	0	180	180	0
Sum			43.20			28.80

The situation is, of course, analogous for sum-of-the-years digits depreciation, although the tax loss to the Treasury totals only $28.80 for a firm buying $180 of equipment per year, the lesser amount being due to the fact that sum-of-the-years digits depreciation is already considerably more rapid, in terms of a weighted average of depreciation charges by period, than is straight-line depreciation, and hence there is less further saving available from a corresponding speed-up.

In Table A–3 we turn to a more realistic case. This is the one assumed by the Treasury analysts, in which equipment acquisitions are growing at a 5 per cent per annum rate in money terms. It is then apparent that the tax savings of the first four years are not only never paid back; they have added to them further savings in later years. Indeed, while there is a hump in tax savings (tax loss to the Treasury) during the period of transition, before any of the assets subject to ADR have exhausted their depreciation, after this period the annual tax savings resume an upward path equal to the per cent rate of growth of equipment acquisitions.

TABLE A–3.—DEPRECIATION CHARGES FROM A STREAM OF ACQUISITIONS GROWING AT A 5-PERCENT RATE; EFFECTS OF 20 PERCENT LIBERALIZATION OF CHANGE FROM 5-YEAR LIFE TO 4-YEAR LIFE; STRAIGHT LINE AND SUM-OF-THE-YEARS DIGITS DEPRECIATION

Year	Equipment acquisitions	Straight-line depreciation			Sum-of-the-years depreciation		
		5-year life	4-year life	Tax saving 48 percent of col. 4–col.3	5-year life	4-year life	Tax saving 48 percent of col. 7–col. 6)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
1971	$180.00	$36.00	$45.00	$4.32	$60.00	$72.00	$5.76
1972	189.00	73.80	92.35	8.86	111.00	129.60	8.93
1973	198.45	113.49	141.86	13.62	152.55	172.08	9.37
1974	208.37	155.16	193.96	18.62	184.18	198.68	6.96
1975	218.79	198.92	203.65	2.27	205.39	208.62	1.55
1976	229.73	208.87	213.84	2.39	215.66	219.05	1.63

[From the Washington (D.C.) Post, Apr. 1, 1971]

A CURIOUS TAX BREAK

(By Don Oberdorfer)

January 11 was a dreary morning in Laguna Beach, Calif., and it was not brightened by the word from the White House press staff that the daily news briefing would be held that afternoon instead of the customary 11 a.m.

Noon on the West Coast is 3 p.m. on the East Coast—the closing hour for the New York Stock Exchange—and thus the common expectation among the reporters was that some sort of economic news was in the making, timed for release after the closing of the Big Board.

The guess was correct. At 12:20 Presidential Press Secretary Ron Ziegler turned up with Under Secretary of the Treasury Charls Walker, Deputy Assistant Secretary John Nolan and a two-page presidential statement which began, "Today I have approved three important changes in the administration of the depreciation provisions of the tax laws . . ."

The news released and the briefing by the Treasury officials was dry-as-dust, and most reporters found themselves scratching their heads and wondering what the story was all about. Now, more than two months later, more information and perspective is available. It is quite a story.

As calculated by the Treasury Department, the new depreciation rules for taxing equipment will permit corporations to "defer" paying $3 billion in U.S. taxes in the coming fiscal year and even larger sums in years to come. Since millions and billions and trillions sound pretty much alike to most of us, it is difficult to grasp what an enormous sum this is. By comparison with the $3 billion corporate tax break:

The President's welfare reform proposal to bring every family of four in America up to a minimum income level of $1,600 a year would cost $2.1 billion. This has set off a big battle in Congress and the country.

Total U.S. aid to preschool, elementary and secondary education in the coming year is budgeted at $3.6 billion.

Last year, Mr Nixon vetoed the education bill because Congress exceeded his request by $453 million and the housing bill because it exceeded his request by $514 million.

Another surprising thing about the "de-

preciation" tax change is that congressional action was not requested. Assistant Treasury Secretary Nolan said in an interview last week that since Congress had authorized a "reasonable" tax rebate for the obsolescence of machinery, the costly change did not need further egislation.

There is doubt about the legal authority. A 1968 Treasury study quoted "leading experts" as indicating that legislation would be required for further changes in the depreciation rules. Moreover, President Nixon's Task Force on Business Taxation, headed by a partner of Mr. Nixon's former Wall Street law firm, "strongly" recommended last fall that depreciation changes be made by legislation.

A 26-year-old 1970 law school graduate named Tom Stanton, now working for Ralph Nader's Public Interest Research Group, filed suit in federal court to force the Treasury to at least hold a public hearing before making the $3 billion-per-year tax change. The Treasury replied that it had planned to hold a hearing all along—though the Jan. 11 announcement said nothing about hearings and presented the tax changes as presidential "actions."

The public hearing is scheduled for May 3, based on written opinions from the public, which are due April 12. Assistant Secretary Nolan told me "we will listen to everybody who has something to say—I will add that it is highly unlikely we will change the concept of what we recommended."

As the Treasury sees it, the $3 billion change in tax rules is necessary to encourage the modernization of American industry to compete with other nations. According to Nolan, it was not up to the Treasury to weight this need against the possible use of $3 billion for school aid, family assistance, anti-pollution efforts or other purposes.

"An expenditure decision is up to Congress," Nolan seaid—but in a world of limited resources, revenue decisions are crucial to expenditure decisions.

Despite the traditional jealousy about the power of the purse, hardly a voice has been raised in Congress about the substance, procedure or impact of the Treasury-White House decision of Jan. 11, Maybe the lawmakers agree with it. Then again, maybe they don't understand it either.

[From the New York Times, Sunday, Apr. 11, 1971]

A $36 BILLION TAX BREAK

Changed depreciation rules proposed by the Administration would represent a huge tax gift to business. By the Treasury's own estimate, the liberalized write-off of capital assets, coupled with special allowances for "repair, maintenance, rehabilitation, and improvement" of eligible property, would result in a revenue loss of $3 billion in fiscal 1972 alone. Between now and fiscal 1980, the total tax break to business would amount to an estimated $36 billion.

Despite the Administration's claim that it has a clear legal right to change depreciation "tolerances," Boris I. Bittker, Sterling Professor of Law at Yale University, has filed a statement with the Internal Revenue Service challenging the Treasury's statutory authority to let taxpayers depreciate assets over so wide a range. He contends that the Treasury requires explicit Congressional authority, and that the changes amount to setting new tax rates.

The Administration's rationale for the tax give-away is that it would stimulate business spending on new plant and equipment and thus speed up the sluggish economy. But the Administration has published no estimates of how big an investment bang it expects from all those lost tax bucks. Private economists forecast that the impact on investment will be far less than the tax losses. It is foolhardy, in any event, to justify a tax give-away stretching many years into the future on the ground that the economy needs an immediate shot in the arm.

If the economy does need extra stimulation to reduce unemployment, there are better way to achieve that objective, such as increased expenditures on manpower, education, health, basic research and other programs of high social priority. If temporary stimulus through tax reduction is needed, it would be better to move up to this year the personal income tax cuts slated to take effect in 1972 and 1973.

The Internal Revenue Service has said it will hold hearings on the proposed changes before the new depreciation system is formally put into effect. There is still time for Congress to stop this outrageous tax gimmickry.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER (Mr. TUNNEY). Is there further morning business? If not, morning business is concluded.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. TUNNEY). The Chair, on behalf of the Vice President, appoints the following Senator to the Conference on Problems Relating to Environment of the Economic Commission for Europe, Prague, Czechoslovakia, May 2–15, 1971: The Senator from Rhode Island (Mr. PELL).

EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business, S. 1557.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

S. 1557, to provide financial assistance to local educational agencies in order to establish equal educational opportunities for all children, and for other purposes.

The Senate resumed 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. PELL. On my time, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. 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. PELL. Mr. President, I commend the senior Senator from Connecticut for bringing before the Senate in the form of an amendment to S. 1557 the most important question of what is to be the national policy with regard to the elimination of minority group isolation in our Nation's public schools.

I believe this is a question which the Nation must consider in depth. Indeed our concern about a national policy was a major rationale in the committee action on S. 1557. This bill seeks, through a project grant program, to fund the many laudable mechanisms which may be used to integrate our schools. The committee members thought so highly of the goals of S. 1283, Mr. RIBICOFF'S proposal, that section 8(a)(2) of the bill is an outgrowth of that proposal. I would refer the Senate to page 16 of the report, wherein it states:

2. *Planning for Metropolitan Areawide Integration*

Section 8(a)(2) authorizes the Commissioner to conduct a program of grants to groups of local educational agencies located in Standard Metropolitan Statistical Areas for the development of plans to reduce and eliminate minority group isolation, to the maximum extent possible, in all public schools within the Standard Metropolitan Statistical Areas. Section 8(b)(1) requires that at least one such project must be funded; however, several such plans could be funded in a variety of demographic situations. As a minimum, plans must provide that, no later than July 1, 1983, the proportion of minority group children enrolled in each public school in the Standard Metropolitan Statistical Area is at least half the proportion of minority group children enrolled in all the public schools in the Standard Metropolitan Statistical Area.

The objective of section 8(a)(2) is to demonstrate the feasibility of the planning process proposed in S. 1283, a bill entitled "Urban Education Improvement Act of 1971." Funding for implementation of such a plan could be available under section 5(a).

If I were speaking not as chairman of the Subcommittee on Education, and the manager of the bill, but as an individual Senator, I would vote for the amendment before us. But as chairman of the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, I believe I have a special responsibility for the basic bill pending before the Senate at this time. As has been said on the floor many times for the past 2 days, S. 1557 was arrived at after consultations and agreement with the Department of Health, Education, and Welfare and the Senators most interested in the subject matter.

If the administration supported the agreed upon bill containing provisions which it was against, I believe I should do the same and not press for anything above or over that agreement. I find myself in a difficult personal position, for while wholeheartedly supporting the goals of the amendment of the senior Senator from Connecticut, I believe my support of its addition to S. 1557 would in effect break the agreement to which I am a part. Therefore, I reluctantly must vote against the pending amendment.

In addition, excellent as the Ribicoff proposal is, I believe this bill—and I mean the basic bill—has a better chance of ultimate enactment into law if it is not encumbered with this proposal.

Finally, Mr. President, I believe the Senate must carefully consider whether it should support what is, in effect, a 14-year program, on the basis of the record which is before us. Adoption of S. 1557, unamended, could be interpreted as adoption of the first 2 years of the Ribicoff

proposal, for instead of merely planning, we would be funding promising experiments along the lines of this proposal. The experience gained during the 2 years would be invaluable to the Congress as it considers future action on this vital question of national policy.

Mr. President, in this regard I understand that the administration is very much opposed to this amendment and that a letter so stating is on its way to us at this time, although I am a little disappointed that it is not yet in hand.

Mr. JAVITS. Mr. President, will the Senator yield at that point?

Mr. PELL. I yield.

Mr. JAVITS. I understand it is actually on its way and it will be available to the Senator from Rhode Island and in the Senate before we have the vote.

Mr. PELL. I thank the Senator from New York.

Mr. President, I would also add that if the Ribicoff amendment is agreed to I would ask that after House action the Senator from Connecticut (Mr. RIBICOFF) be made a conferee, inasmuch as he understands his proposal best and should be on that conference.

Finally, because of my position supporting the objectives of the Senator from Connecticut, but feeling bound by an agreement, I turn over the responsibility of the allocation of time to my colleague, the senior Senator from New York (Mr. JAVITS), if that is agreeable with him.

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

Mr. PELL. I yield.

Mr. JAVITS. That is agreeable to me. I think it is a very fair and honorable thing to do.

As I seemed to be the butt of the attentions of the Senator from Connecticut yesterday in a personal way—very unusual—and as I am opposed to the amendment for the reasons I will explain to the Senate, I think it is quite appropriate I should have the time. So I will accept it and I hope to use it in a way the chairman of our subcommittee would desire me to use it, always bearing in mind the chairman is at full liberty to recapture it at any time or to take whatever time he desires in respect of the debate.

Mr. President, may I inquire as to the time that is available?

The PRESIDING OFFICER. At the moment the Senator from Connecticut has 25 minutes remaining and the Senator from Rhode Island has 97 minutes remaining.

Mr. JAVITS. I understand I have the disposition of 97 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I yield myself as much time as is necessary to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. 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. CRANSTON. Mr. President, I would like to address a question, or perhaps several questions, to the Senator from Connecticut in regard to his amendment.

Mr. RIBICOFF. Mr. President, I believe the Senator from New York (Mr. JAVITS) has the floor.

Mr. CRANSTON. I was just recognized by the Chair.

Mr. PELL. Mr. President, the Senator from California had the quorum call rescinded.

Mr. JAVITS. Mr. President, who has control of the time?

The PRESIDING OFFICER. The Senator from Connecticut and the Senator from Rhode Island have control of the time.

Mr. PELL. Mr. President, is the Senator from California speaking for or against the amendment?

Mr. CRANSTON. I want to ask a question about the amendment.

Mr. PELL. On whose time?

Mr. CRANSTON. On the time of the Senator from Connecticut (Mr. RIBICOFF).

Mr. JAVITS. Mr. President, the Senator from Connecticut has little time, so, if it is agreeable to the Senator from Rhode Island, we will yield the Senator 5 minutes.

Mr. RIBICOFF. Mr. President, I thank the Senator from New York and the Senator from Rhode Island for their graciousness.

Mr. CRANSTON. My question relates to section 404, the provisions that permit some exceptions under this amendment. I am deeply concerned about the situation as it would relate to the Los Angeles-Long Beach area in the standard metropolitan statistical concept in my State, and I would like to describe briefly that area and then ask about the application of section 404 to areas like that.

The city of Los Angeles-Long Beach comprises the second largest—in population—standard metropolitan statistical area in the United States. It consists of over 4,083 square miles and contains 1,478,782 students. The area covers the entire county, which, measured from the center of Los Angeles, stretches 25 miles to the east; 30 miles to the west; 20 miles to the south; and 60 miles to the north. The county is bisected by two mountain ranges. The Los Angeles Basin where most of the population of the county lies, constitutes about one-third of the land area of the total county.

The largest minority population is Mexican American. It represents 250,000 students—17 percent of the total student population.

Blacks constitute 13.8 percent.

Orientals constitute 2.4 percent.

American Indians constitute 0.2 percent.

There are 1,671 public schools in the county.

Minority population is heavily concentrated in a few areas in the county. Otherwise distribution is in relatively small pockets.

The heavy concentration of Chicanos is in east Los Angeles; of blacks in south-central Los Angeles in such places as Watts and Compton.

To insist upon a percentage of Chicanos of 8.5 percent in every school in this area would create an intolerable burden on the Merican American community. There would be a morning exodus of thousands of Mexican American students from east Los Angeles in buses to areas as far away as Canoga Park and Chatsworth, a distance of better than 30 miles; to Long Beach and Palos Verdes, perhaps 20 miles away; or to Claremont and Pomona, perhaps 25 miles away. While there are some Mexican Americans in schools in all these areas, I doubt there are enough to make up the required Chicano population.

An equal problem would exist with the Indians in Los Angeles with a population of 3,161, to be distributed in 1,671 schools, which would require probably one Indian for each school in Los Angeles.

There would be an equally substantial need to bus young black students out of Watts into places of great distance like Glendale or west Los Angeles, or Burbank, which is 20 miles away. Burbank has a white population of 87,769 and a black population of 60. A substantial number of black students would have to be bused to make up the 7 percent. Likewise with regard to Claremont, 25 miles away, which has a white population of 22,536 and a black population of 353; and Lancaster, which is 80 miles away and has a white population of 29,958 and a black population of 544.

The specific percentage which would be required under the Ribicoff amendment would constitute extreme and unusual hardship for many schools in LA even though substantial integration can be achieved in these schools in various ways.

Because of the size, diversity, and population distribution in the SMSA, was it the Senator's intention in section 404 to make allowance for the near impossibility of applying this formula to an area like Los Angeles County?

Mr. RIBICOFF. Mr. President, may I say to the distinguished Senator from California that this is exactly what the provisions of section 404 of my amendment are intended to obviate. The Senator raises a question similarly raised by others. If he would indulge me a few minutes, I would like to explain what I mean by section 404, which I believe encompasses the problem stated by the Senator from California.

The question has been raised concerning the impact of my amendment on standard metropolitan statistical areas which have a small proportion of minority group students in the total student population or in which the geography of the metropolitan area is such that it would be extremely difficult to accomplish the specific requirements of my amendment.

For example, the distinguished chairman's Providence, R.I., metropolitan area has a total school population of almost 160,000, but a minority group school population of only 8,000.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PELL. I yield the Senator 5 more minutes.

Mr. RIBICOFF. Of these 8,000 students, 6,000 are located in the Providence central city. If the exact requirements of my amendment were to be met, it might well mean that each school throughout the metropolitan area would receive only a handful of minority group children.

It is to provide for these unusual circumstances that I included section 404 in my amendment. This section empowers the Secretary of Health, Education, and Welfare, in extreme and unusual cases, to exempt portions of the SMSA from full participation in the plan.

The section specifically states:

In extreme and unusual cases should the Secretary determine that the size, shape, or population distribution of an SMSA would make inclusion of some parts of that SMSA in a plan unnecessary for fulfillment of the purposes of this title or excessively disruptive of the education process, he may exempt such parts from participation in the plan.

I would say, if I were Secretary, that what the Senator from California describes is exactly the situation that I have in mind, where an exemption should be permitted from participation in the plan.

In addition, the Secretary would have discretion under this section to approve an appropriate and reasonable plan for the Honolulu SMSA where several races exist with no race dominating.

The guiding principle, however, will still be the fulfillment of the purpose of the amendment—the elimination of minority group isolation in our Nation's schools. To safeguard the just and careful exercise of this power to exempt, I have required the Secretary to make any such determinations in writing, with full explanation and justification, and to make the determinations freely available to the public and the local committees established to advise on the plans developed pursuant to this amendment and their implementation.

Throughout this country we will have to consider exceptions, because of geography or population density, the extremely long distances involved, or the impact upon students. My proposal gives the Secretary authority to make exemptions, and I would say what the Senator from California describes in the Long Beach area, where distances of 80 miles are involved, is exactly what I had in mind in placing section 404 in my amendment. Section 404 covers the situation noted by the distinguished Seantor from California, but I would emphasize that this exception section is only for extreme cases.

Mr. CRANSTON. I thank the Senator very much for his explanation, which I think is very important to the consideration of this measure, I think it was very wise to include section 404 in the language of the measure. I would assume a situation like that of the Indians, where there are so few in a school, would be covered by the language, in section 404, "unnecessary for fulfillment of the purposes of this title."

Mr. RIBICOFF. That is right, because there is nothing to be gained, in that case, by the Indians or the whites, by scattering Indians one at a time around in 200 schools. It does not make sense.

Mr. CRANSTON. While the Senator has written, in section 404, language that would enable a compromise on a particular situation within this bill, where it would not apply in totality to a situation like that of the Los Angeles SMSA, at the same time, is the Senator thoroughly satisfied that he has not written a loophole that communities could wriggle through and out, where that is not the intent of the author of the measure?

Mr. RIBICOFF. I am satisfied. This section clearly states it is to be used only in exceptional cases, and cannot be used to allow a school district or an entire area to evade the requirements of my amendment. The section would apply in extreme cases like the long distances in part of the Long Beach area. The racial mixture in Hawaii and the condition in Rhode Island where there are few minority students. These are cases that have been called to my attention by fellow Senators. There may be other specific cases around the country.

That is why my proposal provides 2 years and funds to permit officials of the SMSA to place plans before the Secretary of Health, Education, and Welfare for his determination and approval. My proposal requires the Secretary to make sure that he has taken into consideration all the circumstances in deciding whether a given case is or is not extreme.

Mr. CRANSTON. I thank the Senator. He has been most helpful.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 30 minutes.

Mr. President, the situation which we face today has gotten itself embroiled far out of all reason, and I think that is most regrettable. Perhaps it was the fashion in other days for Senators to make personal attacks on each other's motivations, and we know of situations 100 or more years ago where one Member of the Senate even physically attacked and seriously injured another in the Senate Chamber; but I must say I was very surprised, and I felt a sense of unpleasantness, that this note should have been introduced into this debate.

I know that the Senator from Connecticut has "sanitized" the transcript, as I shall show in a minute, and I appreciate that, in the light of history, that may be a nice thing to do, but I do not think it does much good in terms of the decision of this issue.

The reason, Mr. President, that personal attacks are so disheartening, is that they tend to obscure the issue. We are here to serve the people, not to challenge each other's motives, and not to insult each other. We are here to serve the people by an elucidation, in our most honest judgment, of what is the issue before us.

I do not think it would be very productive, Mr. President, to accuse any Senator of cynicism in voting, a charge which could often be made. He is voting within the temple of his conscience, and will answer to his God. Who knows what his motivation is, or whether he is or is not cynical? I do not, and I doubt that the Senator could do so.

In addition, Mr. President, we have had some experience with legislation by epithet in this country, and we have been very ably rejecting it. It is very interesting, in terms of history, that the memory of the detractors has rarely survived the memory of those whom they attacked. My own hero in American history is Abraham Lincoln, who is the hero of so many millions of other Americans. Mr. President, he was reviled, insulted, and denigrated in debate in a way which is inconceivable in the modern context. But who remembers who called him these names, and who remembers Abraham Lincoln?

So, Mr. President—and I say what I do only because I would be less than a man if I did not say it, and for no other reason—having fought all my public life for civil rights, the statement of the Senator from Connecticut is not going to unmake me as an advocate of civil rights in the eyes of the country, my constituents, or the world. If it did, it would hardly be a world worth fighting for or living for.

That does not dismay me at all, but I do not wish it to be a red herring, a smokescreen for the purpose of influencing a great legislative body to make a decision which is unwise. I would not like to be a party to having the Senate wake up one fine day and find that it has thoroughly messed up the opportunity for bringing about a higher degree of excellence in education with something which a sympathetic press might call, in the same vein as a headline attributed to my colleague from Connecticut referred to me this morning, "Ribicoff's folly," if I could avoid it. I take no satisfaction in the fact that it might be so done.

Mr. President, so much for the personals. I should like to point out that the statements attributed to my colleagues which give rise to what I have to say in a very leading paper of the United States, the New York Times, this morning read a little differently, just enough differently to make all the difference in the world between the printed CONGRESSIONAL RECORD transcript and the statements as the newspaper reporter took them down. One statement is:

Senator Abraham A. Ribicoff charged Senator Jacob K. Javits today with "hypocrisy" for being "unwilling to accept desegregation for his State, but he is willing to shove it down the throats of the Senators from Mississippi."

I beg Members to read the printed RECORD transcript and see whether they can find that quotation. They might find something like it, but they will not find the quotation.

Be that as it may, Mr. President, as I say, I have spent my lifetime fighting for the things I believed in, and even those who opposed me bitterly on this floor have said that there is one thing you can say about me—I will stand or fall by what I believe, even if it affects me. I have never been dissuaded or deluded by the arguments of my bitterest opponents that I was not practicing at home what I preached here. They never charged that to me personally. They may have said my State has not; they may have said my

legislature has not; but they never said that I have not.

The second quotation I should like to read is this:

I don't think you have the guts—

meaning me, says the New York Times—

to face your liberal constituents who have moved to the suburbs to avoid sending their children to school with blacks.

When one reads that in the transcript, it reads as follows, on page 10959:

Let me say to my distinguished northern colleagues that the reason you are unwilling to do it, and let me say it frankly, is fear of political reprisal. The question is whether northern Senators have the guts to fact their liberal white constituents who have fled to the suburbs for the sole purpose of avoiding having their sons and daughters go to school with blacks.

It is a most reprehensible charge, couched as the New York Times wrote it. And it is a rather tough charge on all the Senators who voted with me yesterday, who number some of the finest liberals in the Senate. I should like to point out also that some of the finest liberals in the Senate voted with Senator RIBICOFF. They are splendid men, who observed the highest dictates of their conscience. I do not think they are hypocrites at all, and I will defend them with my life against any such charge by anyone.

So, Mr. President, I speak only in sorrow and not in anger. I hope very much that these vestiges, this fustian kind of debate, we will be spared in this body. I would hope the record had not been cleaned up. I am sorry it had. I know that the motivation for whatever revisions were made was friendly and not unfriendly. I understand that. But I wish it had not been done, for the reasons I have stated. We learn from these passages not to play with fire, and to legislate under the cover of epithet in a free country is playing with fire. We learned it in the day of another Senator in this Chamber, only a few years ago, and I hope we will not have to learn it again.

So much for that, Mr. President. For me, it is a closed book, and I should like now to go on to the merits of the amendment offered by the Senator from Connecticut.

I am sorry that not more Senators are in the Chamber. I hope that Senators will take advantage of whatever opportunity is afforded in the short time before we vote to acquaint themselves with the details of this amendment and what it means.

I think that Senator CRANSTON, in his questioning, has put his finger on the difficulty. He may be satisfied. That is his business and the business of his State. But I should like to point out that what is an SMSA—that is, a Standard Metropolitan Statistical Area—is not only true of his part of the world but of many others as well.

In my own State of New York, for example, the range of the Standard Metropolitan Statistical Area extends from Harlem, in New York City, with its tremendous confluence of black students, to the outer reaches of Suffolk County on Long Island. At its maximum, that is approximately 140 miles away, and obviously the incidence of minority grouping there is very, very small. We all know that we are never going to pass a bill that is going to make anybody bus a child from Harlem to Suffolk. I am not arguing that. We obviously are not going to do that. But I hope Senators, when they vote, will vote on the assumption that what they are voting for will become law.

The amendment reads "in extreme and unusual circumstances," and then the Secretary may make some other disposition. Extreme and unusual circumstances, we must assume, mean what they say. They are not general circumstances. Yet, here is a partial list of the size of standard metropolitan statistical areas: Bakersfield, Calif.—this is in square miles—8,152. Phoenix, Ariz., 9,226. Dallas, Tex., 3,653. Duluth, Minn., and Superior, Wis.—which is a combination—7,591. Fresno, Calif., 5,964.

To bring it closer to home, in congested parts of the country, in my own State of New York, Syracuse, 2,421. Chicago, 3,714. Even New York City has 2,149 square miles in terms of the standard metropolitan statistical area.

Mr. President, this is not an unimportant thing, for this reason: The whole concept of the proposal of the Senator from Connecticut is based upon standard metropolitan statistical areas, of which there are 245 in the country, with this extremely broad geographical and population dispersion within each.

On the other hand, the bill which the committee has reported, which is essentially the creative result of the work of Senator MONDALE, is directed toward individual educational agencies. An individual educational agency covering a community can work out a plan subject to that bill. That is what it is all about.

It seems to me that that is an infinitely better method of dealing with the problem than the enforced automaticity for enormous ranges of area, many of which have no real relation to each other.

The only definition of a standard metropolitan statistical area is that 15 percent of the workers in any given part of that area shall work in the central core of it—to wit, the central city or cities.

That is a far cry from a basis upon which an educational plan can be intelligently premised. This one point—and I shall name a few others in the analysis which I intend to make—emphasizes something which I think the Senate has to consider very seriously in this matter. I do not want to be in the position of being against this plan, and I do not think anybody else does. There is no reason why we should be frozen into that position and paint ourselves into that corner. The fact is that this plan may have some fine things in it. We, ourselves, decided that it was well worth making a part of the experimentation which the whole bill contemplates. But to be pushed and driven into a situation where we have to vote it up or down, our feeling, my feeling, and that of many other Members, is that we really have to have a much more profound look than we have had and that we have no business jeopardizing the plan which we have come up with. I shall describe why it is apposite to our situation, because we seemingly want suddenly to go off and embrace this totally new thing. We have had very little consideration of it, aside from the eloquent and obviously convincing arguments of the Senator from Connecticut—that is, they were apparently convincing to a majority of the Senate yesterday.

The testimony of the Senator from Connecticut—and that is the only testimony on this subject that I can find before us—constituted exactly four pages of the committee hearing record, from page 409 to page 413 inclusive. We may add, if we wish—I say it is perfectly all right—the list of Standard Metropolitan Statistical Areas, which is also in the hearing record, and that constitutes in round figures 40 pages, although it was inserted because we ourselves had dealt with that concept as part of the committee bill. The justification for the plan of the Senator from Connecticut—and it is a very big and comprehensive one, not only in money but also in thrust and direction—was contained in the four pages of his testimony, period.

That is all we had.

I deeply feel that that is a pretty slim basis upon which to legislate, especially if it will jeopardize a program which has a whole volume of testimony on it, and which has been thought through and concentrated upon by us in the Education Subcommittee and by the select committee headed by the Senator from Minnesota (Mr. MONDALE), and the administration, which has been refined in negotiation, and which finally developed into the measure before us.

Now, Mr. President, let us look a little deeper into this matter. The bill before us accepts the 2 years which our program contemplates. It also accepts the concept of the planning money in that period of time. It adds planning money for 2 additional years and extends the bill for 2 additional years with a $1 billion appropriation authorization for each such year.

Again, there is no question of principle or order of magnitude in that. If the Senate wants to make it 4 years, that is the privilege of the Senate. But the concept and the fundamental basis are the same.

Then, suddenly, to have a sharp cutoff and a totally different—and this is what I shall undertake to prove to the Senate—concept involved in this approach, a really new concept, which is not only untried but will be untried by the time we get around to it, because if the concept of the bill before the Senate remains as it is for 4 years—and the concept of the amendment of the Senator from Connecticut is really different, and I think I can demonstrate that—then we will have had, at the end of the 4 years, a sharp change in direction, with no use by way of preliminary experimentation or test in any appreciable way, of the plan which will be put into effect at the end of that 4 years. That is no inconsiderable plan that we are asked to put into effect, because not only is it a 10-year plan but one which also involves $2 billion a year.

To give the Senate some idea of the order of magnitude of that $2 billion, the

appropriations already passed by the other body for fiscal year 1972 aggregate $1,937,218,000. That sum includes the major elementary and secondary education programs for which the United States gives support except for impacted areas aid program which is roughly on the $600 million order of magnitude, and vocational education assistance, which is roughly on the $550 million order of magntiude. It includes the handicapped, the educationally disadvantaged aided under title I of ESEA, supplementary education centers, library resources, dropout prevention, strengthening State education departments, bilingual education, and planning and evaluation.

But even the aggregate, even if we put in the impacted areas aid and the vocational training aid, that is a total of about $3 billion. The Ribicoff plan would take $2 billion of that, or at least try to add that, in order to do what it seeks.

I point out another thing which is critically important, and I hope Senators will not omit realizing it, that there is a big penalty contained in the Ribicoff amendment if a school district does not actually carry out what the bill says it should carry out. If it cannot or will not, then it loses all educational support from the Federal establishment. That is a very clear provision in the Ribicoff amendment. That is designed, of course, to make it unprofitable not to comply with this measure and not to do what the measure dictates. But, nonetheless, the penalty is a great one and a real one, considering the orders of magnitude of the money involved, both in the plan and in the Federal educational funds which could be lost.

Also, Mr. President, I think it is essential to show a list of the various types of funds which are included under this heading of Federal support for local educational agencies. There are some 48 of them. I ask unanimous consent to have the list printed in the RECORD.

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

Local educational agencies, under section 601 of the Ribicoff amendment, could lose Federal educational funds under the following programs:

1. Machine Tool Loan to Educational Institutions—PL 883 (80th Congress).
2. Bilingual Education (Title VII, ESEA).
3. Civil Rights Technical Assistance and Training (Title IV of Civil Rights Act).
4. Dropout Prevention (Sec. 807, ESEA).
5. Educational Classroom Personnel Training—Earl Childhood (Part C of Education Professions Development Act).
6. Educational Classroom Personnel Training—Special Education (Part C of Education Professions Development Act).
7. Educational Personnel Training Grants—Career Opportunities (Part D of Education Professions Development Act).
8. Educational Research and Development—General Education (Project) Research—Cooperative Research Act.
9. Educational Research Dissemination—ERIC System—Cooperative Research Act.
10. Educational Research Training—Cooperative Research Act.
11. Educational Staff Training (School Personnel Utilization)—Part C of Educational Professions Development Act).
12. Educationally Deprived Childern (Handicapped)—PL 89-313.
13. Educationally Deprived Children (Local Educational Agencies)—Title I ESEA.
14. Follow Through—Economic Opportunity Act. Title II.
15. Foreign Languages and World Affairs (Language and Area Research)—Title VI of National Defense Education Act.
16. Fulbright-Hays Training Grants (Foreign Curriculum Consultants)—Mutual Educational and Cultural Exchange Act, Section 102(b)(6).
17. Handicapped (Research and Demonstration)—Mental Retardation Facilities and Community Mental Health Centers Construction Act, Title III.
18. Handicapped Early Childhood Assistance—Handicapped Children's Early Education Assistance Act, Section 2.
19. Handicapped Innovative Programs (Deaf-Blind Centers)—Title VI-C, ESEA.
20. Handicapped Media Services and Captioned Films—PL 85-905.
21. Handicapped Physical Education and Recreation Research—Mental Retardation Facilities and Community Mental Health Centers Construction Act.
22. Handicapped Preschool and School Programs—Title VI-A, ESEA.
23. Handicapped Regional Resource Centers—Title VI-B, ESEA.
24. Handicapped Teacher Recruitment and Information—Title VI-D, ESEA.
25. Research and Development (Arts and Humanities)—Cooperative Research Act, as amended by Title IV, ESEA.
26. School Assistance in Federally Affected Areas (Maintenance and Operations)—PL 874.
27. School Library Resources, Textbooks, and Other Instructional Materials—Title II, ESEA.
28. Strengthening School Administration (Training Grants)—Sections 521-528 and 531-533, Education Professions Development Act.
29. Supplementary Education Centers and Services—Title III, ESEA.
30. Teacher Corps (Operations and Training)—Part B-1, Education Professions Development Act.
31. Trainers of Teacher Trainers—Part C, Education Professions Development Act.
32. Upward Bound—Title IV-B, Higher Education Act of 1965.
33. Vocational Education (Curriculum Development)—Vocational Education Amendments of 1966, Title I, Part I.
34. Vocational Education (Planning and Evaluation)—Title II, Vocational Education Amendments of 1968.
35. Vocational Education (Innovation)—Part D, Title I, Vocational Education Amendments of 1968.
36. Education Personnel Development (Urban/Rural School Development) Part D, Title V, Education Professions Development Act.
37. Educational Personnel Development (Media Specialists)—Part C, Education Professions Development Act.
38. Educational Personnel Development (Pupil Personnel Specialists)—Section 531-533, Education Professions Development Act.
39. Child Development (Technical Assistance)—Economic Opportunity Act of 1964.
40. Transfer of Indian School Properties—PL 47.
41. Disposal of Federal Surplus Real Property—Federal Property and Administrative Services Act of 1949, as amended.
42. Donation of Federal Surplus Personal Property—Federal Property and Administrative Services Act of 1949, as amended.
43. National Archives References Services—44 USC chapter 21.
44. National Audiovisual Center—44 USC 2110.
45. Library of Congress Publications—2 USC 136.
46. Physical Fitness Demonstration Center Schools—Executive Order 11398, March 4, 1968.
47. Educational Services, Elementary and Secondary Education—Act of Congress approved August 10, 1846, 20 USC 41 et seq.
48. Smithsonian Publications—Act of Congress approved August 10, 1846, 20 USC 41 et seq.

Source: Catalogue of Federal Domestic Assistance (Education Section) Compiled for the Executive Office of the President by the Office of Economic Opportunity.

Mr. JAVITS. Mr. President, it seems to me that a key issue is the practicality of the utilization of the SMSA's as the basis for administering a plan to help end school segregation and racial isolation and the basic approach, in terms of education, of the bill itself on the one hand and the Ribicoff amendment on the other.

I have already pointed out the real paucity of the evidence which we have on the plan which is being proposed to us by way of amendment in terms of the amount of evidence taken on the opportunity for those who were for and those who were against, to elucidate their views, other than debate here on the Senate floor.

Mr. President, as to the SMSA's, I should like to add one further point. Three States have no SMSA's at all, and unless something is done about it they would not even receive funds under the Ribicoff amendment. The States are: Alasaka, Vermont, and Wyoming. They have no SMSA's at all.

The situation in Hawaii has already been referred to. That entire State is constituted as one local educational agency. So, in that respect, it would not differ from the basic bill which we have before us as to the differences in concept and approach between the two measures.

The committee bill, incidentally, Mr. President, is the result of the work and personal efforts expended over a very considerable period of time of the chairman of the committee and of the Senator from Minnesota (Mr. MONDALE). Indeed, my only role of any consequence in the matter was in the effort to work out a bill which could get us the money and, at the same time, do the job in view of the fact that the administration had sent up in its budget $1.5 billion, which we certainly wanted for this purpose. I worked with essentially the materials which were available from the committee staff, acting under the Senator from Rhode Island (Mr. PELL) and the ideas of the Senator from Minnesota (Mr. MONDALE). This was the stuff out of which I did my utmost to bring about agreement.

Mr. PELL. Mr. President, will the Senator from New York yield right there?

Mr. JAVITS. I yield.

Mr. PELL. As chairman of the Subcommittee on Education of the Senate Committee on Labor and Public Welfare, I should like very much to reexpress my thanks for the very fine efforts of the Senator from New York. He has a singular facility for leaving his mark on legislation, particularly in attempting to mesh opposing or different ideas with somewhat of an intellectual systems ap-

proach, he finds the common denominator brings about agreement.

The committee kept in mind what happened in the closing days of the last Congress when we had a good bill, though not as good as this one, and it failed. This time we believed that what was needed was a good bill that would have the support of a majority of the Members of the Senate and the administration and therefore one which would not fail.

I think this is the kind of bill that emerged from our subcommittee and full committee.

A point that should not be lost sight of is, that the committee by a vote of 16-to-0 ordered the bill reported. That unanimous vote indicated the views of the committee in support of the bill.

Mr. JAVITS. Mr. President, I am very grateful to the Senator from Rhode Island for that statement. I hope it will be borne in mind that is why I was so dismayed by the fact that my own good faith was attacked yesterday, and, I feel, unnecessarily.

I hope we must bear in mind that we have failed once with this bill. Those of us carrying the responsibility must have this matter clearly before us. We are making every effort not to fail again.

So, when it did appear that the bill was being weighted down with a totally new plan which involved large sums of money and proceeded on a different set of principles than the ones we had in mind, I hope it will be understood why I felt in all due conscience that I should defend our action. That is why I do that at this time.

I repeat again that this is not a matter of refusing to have an open and sympathetic mind to any other plan. However, I do not see what we gain by legislating another proposal now when we will not carry it out for 4 years. Yet we will weight this bill down and could get nowhere in the other body and might face a Presidential veto. I, as a ranking minority member, along with the other members of the committee, will be more than glad to take the matter into the most serious consideration with a view toward legislating on it.

There is plenty of time to put it into effect, and perhaps even sooner than it would be put into effect if this proposal were to become law now.

This is the only essential basis for my opposition.

The difference in the approach of the Mondale and the administration combination proposal and the pending amendment is, as I have already stated, that the grants in the committee bill are to single rural and urban local educational agencies for the most part rather than a combination of such agencies in metropolitan areas alone in all cases. The committee bill provides for a very material amount of money that is earmarked and must be used for educational purposes.

There would be 3 percent set aside for educational television; 3 percent for bilingual education. There would be 15 percent of the State allocation fund for local groups like parent groups, so that they can have an impact on education in their communities. As the Senator from Minnesota pointed out, they can have a pot of money which they can utilize to affect the educational process in their particular educational district.

Then there is 1 percent provided for evaluation. Quite apart from the question of counsel fees—which is a controverted matter under question by the Dominick amendment, but the remainder is allocated among the States going toward the concept of the desegregation idea which the administration had in its bill and which was in the Mondale bill.

Of that amount, 15 percent is expressly authorized for organizations, other than local educational agencies as I have pointed out. That is again to provide flexibility in the handling of the educational process. And overall there is a requirement in every local educational agency which is dealt with, that there is to be at least one stable integrated school.

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

Mr. JAVITS. Mr. President, I yield myself an additional 10 minutes.

Mr. President, that stable integrated school idea is absolutely omitted from the pending amendment. To me, it is the most required form of contribution which can be made to the whole process of ending racial isolation.

It is the key concept of the Senator from Minnesota. It is not mine. But I find myself in the strange position of being its protagonist on the floor of the Senate.

The concept is to have at least one model school in every area which is aided. In other words, it is a part of the idea of educational excellence rather than the strict concept of reducing the amount of racial isolation. That is what is dealt with in the pending amendment. So the second big point is that there is an earmarking for various purposes which I have described, including bilingual education.

The third proposition is that there is a major required contribution to educational excellence on the concept that this raises the whole level of education in every one of these districts which is helped, ever though that district cannot meet the very special standards regarding racial isolation which will be mandatory under the Ribicoff proposal.

The third aspect which makes it very different is the abstraction of compensatory education.

The committee bill provides sums of money for agencies other than educational agencies in order to compensate for many of the deficiencies in education found in ghetto schools.

Again, all of these things can conceivably represent money which may be used under the concept of the Ribicoff proposal. However, there is no assurance or requirement that it will be done.

The only requirement is a rather simplistic one of reduction of racial isolation.

We in the committee do not feel that means everything. We feel that we are trying to attain a higher level of educational excellence. We feel that many schools will sustain a heavy impact unless they bus children for hundreds of miles—members of minority groups, and we have a lot of them.

So, the whole approach, the whole concept, the whole basic principle of the bill is very different from the basic concept or approach of the Ribicoff proposal.

Mr. President, for all of those reasons, I think it would really be ridiculous for me to affirm at this stage of my life—considering the number of struggles I have engaged in here in respect of civil rights and equal opportunity—my own judgment on the subject except to say that from my profoundest conviction, we would not be acting properly if we risked or jeopardized this bill by hanging on such an enormous new proposal, one that is completely unnecessary because in itself it contemplates 4 years during which no more will happen than would happen under our bill.

We allow in the committee bill money for this kind of demonstration, a plan which could be envisioned under the Ribicoff proposal. There is no organized opposition to this.

The Senate has no right to feel that all has to be done "now or never." Quite the contrary, we have given evidence that we will go into the matter. We are not dismayed by what has occurred here. We have great confidence that we will get the most good out of it.

But it seems to me most improvident to abort that whole process and everything we have done in the last 2 years.

It is very interesting to me that the select committee of the Senator from Minnesota (Mr. MONDALE) has a year to go and we gave it money for this purpose. I refer to the Select Committee on Equal Educational Opportunity. If the Senate votes for this amendment today, it would be cutting off the work of that committee. That is a reason why I consider it highly improper and, therefore, why, notwithstanding my deep devotion to this cause, I believe the cause would be aborted, harmed, and jeopardized, rather than helped, if we were to take this action.

I am not talking in the remotest about other than the highest motivation, but I think we would be unwise to take this course. The day may come, and no one would be happier than I, and I will try to do my part, but to do it today would be unwise.

Mr. GRIFFIN. Mr. President, will the Senator from New York yield for a brief comment?

Mr. JAVITS. I yield.

Mr. GRIFFIN. Mr. President, I wish to commend the distinguished Senator from New York for his statement, and I want to ally myself with him. He has always been in the vanguard of the long struggle to provide equal opportunity for people of all races, and he has been particularly diligent in the field of education.

I think that he is exhibiting great courage here today. Legislating is the art of the possible, and he wants to be certain we have an emergency school aid measure, a measure which we were unable to pass in the last Congress, even without these encumbrances.

Without casting aspersions on the motives of any of my colleagues, I want to say that anyone familiar with the process of legislating knows there are various ways to kill a bill. One of the most effective is to amend a bill to death, to laden it with so many amendments that it will not survive the steps of the legislative process.

That is not to say, as the Senator from New York has pointed out, that there is no merit in the amendment of the Senator from Connecticut; there is much to recommend his proposal. But it is a big step, one that should be carefully considered on its own merits, separately from this measure.

It now threatens the life of the emergency school aid bill which we should pass as quickly as possible. We need the act to insure assistance for those school districts that are moving ahead, voluntarily or under court order, toward racial balance. Then we can move on to other steps and the consideration of other measures.

So I wish to stand with the senior Senator from New York who, in so many instances, has been out in the front of this battle. I have followed him before and I intend to follow him today.

Mr. JAVITS. How very kind of the Senator. I am very grateful. I might tell my colleague that I would not be for this measure if I did not think it would materially advance the cause of bringing about higher educational excellence, which I think is the first consideration, the desegregation of the schools, and the accomplishment of our goal of compensating, where we cannot do anything else, the education of those who have been dispossessed.

Mr. President, there is one other point I wish to cover. Many figures have been quoted here about the number of districts which have desegregated in the South and the number of districts which have desegregated in the North, the litigations which have been instituted in the South and the relatively small number which have been instituted in the North, West, and so forth. The charge has been made that this represents discrimintion or hypocrisy.

Mr. President, these laws which we are passing are universally applicable. There have been suits everywhere and there will be more, but I do not believe it is in the interest of our Nation to obscure, to cover over, or to induce us to try to forget that in a great section of this country there was a built-in social order and law which violated the Constitution of the United States for decades.

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

Mr. JAVITS. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. JAVITS. Mr. President, this endeavor to gloss that over, to make us forget about it, to make us feel we are the guilty ones, that we are persecuting our brethren, is to simply shut one's eyes to the facts of history. I do not think anyone in this body needs to be a bit backward with respect to that claim. Our brethren in the South have every right to be proud of the progress they have made and we have every right to be proud that we helped to make it.

I do not know anyone trying to bail out the North or the West who is a civil rights advocate, who fought the battle, and made the South do what it is doing. There are many things the South might want that we might not like. There are many things, for example, about public housing, which the Presiding Officer (Mr. SPARKMAN) knows about. But we are not seceding from the Union and we are not accusing our southern brethren. We cannot forget that a great national injustice had to be corrected; and it is in the process of correction. Glory be. But let us not gloss over and make people forget the facts in order to win an argument on what is going to happen in the future.

I do not know what the Senate will do but I hope that whatever it does it does in the depth of conscience and in an honest effort to achieve the result which I believe is in the greatest interest of the country, which is to bring about excellence in education, and to support those who have been separated through violations of the law.

The PRESIDING OFFICER. Who yields time?

QUORUM CALL

Mr. PELL. Mr. President, I suggest the absence of a quorum to be charged equally to both sides.

Mr. RIBICOFF. I object. I have only 25 minutes remaining. I believe the other side has 40 minutes.

Mr. JAVITS. Mr. President, if the Senator will yield to me, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 25 minutes remaining and the Senator from New York has 37 minutes remaining.

Mr. JAVITS. I wish to inform the Senator from Connecticut that we will yield time within our capability, if he is short.

Mr. RIBICOFF. Actually, with 25 minutes remaining I would like to reserve my time toward the end of the debate. A number of Senators have asked for time. As far as I personally am concerned I expect to take only 1 or 2 minutes. I would rather save my time to be used close to the voting hour, which is 1:30 p.m.

The PRESIDING OFFICER. The Chair observes that, no one having yielded time, the time now being consumed is charged equally to each side, and that will be the case until someone yields time.

Mr. JAVITS. Mr. President, I ask unanimous consent that a quorum may be called and that the time may be charged equally to each side.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 4724. An act to authorize appropriations for certain maritime programs of the Department of Commerce; and

H.R. 5352. An act to amend the act to authorize appropriations for the fiscal year 1971 for certain maritime programs of the Department of Commerce.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred, as indicated:

H.R. 4724. An act to authorize appropriations for certain maritime programs of the Department of Commerce; and

H.R. 5352. An act to amend the act to authorize appropriations for the fiscal year 1971 for certain maritime programs of the Department of Commerce; to the Committee on Commerce.

EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 1557) to provide financial assistance to local educational agencies in order to establish equal educational opportunities for all children, and for other purposes.

Mr. PELL. Mr. President, I suggest the absence of a quorum, and request unanimous consent that the time run against both sides equally.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. 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. JAVITS. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, it is a matter of grave concern that the proposed Ribicoff amendment to the education bill has become the subject of emotional charges that becloud the basic issue.

Some supporters of the Ribicoff proposal seem to overlook the fact that it permits postponement of school desegregation until 1983. Perhaps 1984 might have been a better date, although both dates are atrocious, in my opinion. This means that, in addition to the 17 years that have elapsed since the 1954 decision, there would be another 12 years in which footdraggers and obstructionists could think of new schemes to prevent the inclusion of all children into a desegregated school program. It should also be noted that there is no clear showing that

the Ribicoff proposal would get at the most troublesome of all problems—namely, the segregation in schools located in racially isolated areas. Unfortunately, these are the places where the poor children are concentrated. On its face at least, the Ribicoff amendment seems to open the way for a plan of desegregation that will tolerate more than a decade to bring the white middle-class schoolchildren and the black middle-class schoolchildren together and, in addition, will consign the black poor children to segregated schools indefinitely.

The landmark decision of the Supreme Court on yesterday, April 20, 1971, reaffirmed our conviction that there are orderly ways of achieving the elimination of racial segregation in public schools.

While we have no interest in reopening ancient exacerbations such as the time of the 1860's, we must point out that no amount of talk about hypocrisy in the North can excuse the studied and effective southern exclusion of black children from integrated schools in that region.

These decisions also remind us that, while there is segregation throughout the country, it is only in the South that the total power and machinery of State legislative bodies and the courts have been used to perpetuate an unconscionable system of racial separatism. The Supreme Court has again said this is unconstitutional and that they mean it.

Because we have had the benefit of extensive and faithful consideration of school desegregation problems through the Mondale-Javits committee's exploration, as well as the careful consideration of the Senate Committee on Labor and Public Welfare, I earnestly hope that Members of the Senate will support S. 1557, the bill reported by the Senate Committee on Labor and Public Welfare, but excluding the Ribicoff amendment.

Up to this point, I should say that I have paraphrased the statement by Mr. Clarence Mitchell of the NAACP.

I would add that the addition of approximately $10 billion in cost to a $1.5 billion bill will also make it untenable, in my opinion, in the other body, perhaps in conference, and very likely in the eyes of the administration, although I do not at this time undertake to speak for anyone but myself. I certainly would be surprised if the administration could accept a bill with the Ribicoff amendment in it.

I sincerely hope that we will get away from the emotion which seems to have swept through the Chamber yesterday and approach this matter from a rational and logical standpoint, which is to get the best legislation possible and to avoid reliance upon emotional reactions, which, indeed, most of us share, because I think that de facto segregation in many ways is fully as bad as de jure segregation.

Mr. President, I ask unanimous consent to have the complete text of Mr. Mitchell's statement printed in the RECORD.

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

STATEMENT OF NAACP ON THE RIBICOFF AMENDMENT

(Submitted by Clarence Mitchell, director of the Washington Bureau, NAACP)

It is a matter of grave concern that the proposed Ribicoff amendment to the education bill has become the subject of emotional charges that becloud the basic issue.

Some supporters of the Ribicoff proposal seem to overlook the fact that it permits postponement of school desegregation until 1983. This means that, in addition to the 17 years that have elapsed since the 1954 decision, there would be another 12 years in which footdraggers and obstructionists could think of new schemes to prevent the inclusion of all children, into a desegregated school program. It should also be noted that there is no clear showing that the Ribicoff proposal would get at the most troublesome of all problems, namely, the segregation in schools located in racially isolated areas. Unfortunately, these are the places where the poor children are concentrated. On its face at least, the Ribicoff amendment seems to open the way for a plain of desegregation that will tolerate more than a decade to bring the white middle class school children and the black middle class school children together and, in addition, will consign the black poor children to segregated schools indefinitely.

The landmark decision of the Supreme Court on yesterday, April 20, 1971, reaffirmed our conviction that there are orderly ways of achieving the elimination of racial segregation in public schools.

While we have no interest in reopening the Civil War, we must point out that no amount of talk about hypocrisy in the north can excuse the studied and effective southern exclusion of black children from integrated schools in that region.

These decisions also remind us that, while there is segregation throughout the country, it is only in the south that that total power and machinery of state legislative bodies and the courts have been used to perpetuate an unconscionable system of racial separation. The Supreme Court has again said this is unconstitutional.

Because we have had the benefit of extensive and faithful consideration of school desegregation problems through the Mondale-Javits Committee's exploration, as well as the careful consideration of the Senate Committee on Labor and Public Welfare, we earnestly hope that members of the Senate will support S. 1557, the bill reported by the Senate Committee on Labor and Public Welfare, including the amendment to provide for attorneys' fees in school desegregation cases.

Mr. SCOTT. I thank the distinguished Senator from New York for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. I yield 5 minutes to the distinguished Senator from Kentucky.

Mr. COOPER. Mr. President, yesterday I voted to table the amendment of the distinguished Senator from Connecticut. I did so, frankly, because a rather cursory examination made it appear to me that it was too burdensome an addition to the pending bill, which had been worked out very conscientiously in the committee under the leadership of Senator PELL and Senator JAVITS. Also, I considered that cases were before the Supreme Court which, upon their decision, would throw light on the issue of both de jure and de facto discrimination. Now the Supreme Court has rendered several decisions, and I think it clear that they deal only with de jure discrimination—that is, discrimination in the South.

Senator RIBICOFF's proposal, as I understand it, offers a procedure to develop a process to deal with de facto integration throughout the country. Time is given for planning. Time is given to local bodies to implement planning. Time is provided for the application of court review. I think it a reasonable and fair amendment, and I shall vote for it.

In making this decision, I want to be clear that I do not derogate the work of the committee, under the leadership of Senator PELL. Particularly, I want it to be known that I hold Senator JAVITS of New York as one of the great leaders in past years, since World War II, in the battle against discrimination of all kinds, and as a great and constructive legislator in this field. I have had the opportunity to work with him on every civil right issue since 1954, and we have joined in many bills and amendments. But I shall vote for the amendment of Senator RIBICOFF for these reasons:

First, I do not believe that the tensions over civil rights and discrimination in this country, particularly in relation to the schools, will be ended until they are applied uniformly throughout the country. Although the South has borne the chief burden for its discrimination in the past, it should not be made forever the only object of these laws. It has been forced to remove some discrimination and, in many areas, the South is working voluntarily.

Second, and this, to me, is very important, I do not see how the quality of education can be elevated substantially until the issue of discrimination is settled nationally.

The loss of quality education which obtains throughout the country is not wholly the fault of discrimination. There are poor and disadvantaged whites as well as blacks—people of varying nationalities who suffer because of their different cultural and language background, as well as some, as in my own State, who, because of the lack of motivation in the family, remain outside the opportunities of our educational system.

I am concerned that the quality of education must be raised throughout the country—for, if it is not, then I cannot see that many of the great problems which affect us today will be solved.

The pending bill is a fine effort and it does have provisions in it which attempt and will, I hope, raise the quality of education.

But I come back to my central issue, that racial tensions will not end until we deal with the question of discrimination throughout the entire country.

Thus, it seems to me, the Ribicoff amendment makes a fine start. It is not conclusive. It does not attempt to decide everything immediately, but it does set in motion a process which may lead to the solution of racial discrimination and tensions throughout the country. He deserves our support.

Mr. President, I have here a very fine statement made by the Honorable Clarence Mitchell, director of the Washing-

ton Bureau of the NAACP, whom I have known for many years and for whom I have great admiration; but I must disagree with one sentence in his statement and its reasoning. It reads:

> On its face at least, the Ribicoff amendment seems to open the way for a plan of desegregation that will tolerate more than a decade to bring the white middle class school children and the black middle class school children together and, in addition, will consign the black poor children to segregated schools indefinitely.

That would be true, if the Ribicoff amendment applied to the South only. It applies to those areas in our Nation not covered by existing law, where no legal progress applies, so no time is lost by its provisions. In fact, time is gained.

As I see it, there is nothing in the pending bill, there is nothing in the way, so far as the decisions of the Supreme Court are concerned, which lead to the end of discrimination totally throughout the country. I think it logical, fair and just, to support this effort to apply law uniformly throughout the Nation on the issue of discrimination.

Mr. RIBICOFF. Mr. President, I thank the distinguished Senator from Kentucky for his remarks.

Mr. President, may I inquire of the Chair to let us know how much time remains to both sides.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Connecticut has 8 minutes remaining and the Senator from New York has 20 minutes remaining.

Who yields time?

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, I have heard with the greatest interest the statement of my colleague from Connecticut, with whom my relations have always been the very best, and for whom I have a depth of affection which is really quite important to me in my own life.

I hope very much that all Senators will, by now, believe that we should strip this issue of any personal relationship to it. I do not feel involved, in that sense.

The Senator from Kentucky is kind to think of it, that I would never have felt I was involved in any personal sense in what happens on this amendment, where it could have the rather unfortunate impression that was gained from yesterday's debate. I hope that has been laid to rest. I have no personal feeling whatever about the outcome. So we can lay that absolutely aside. I respect the Senator, as always, whatever may happen in the vote on the amendment.

Mr. President, I should like to point out the meaning of the Supreme Court decision upon which he based his change of position—if it be a change—although I assume even an affirmative vote for tabling would not have prevented the amendment bringing up something else. It is important to estimate what the Supreme Court's decision means.

To me, it means precisely the opposite of what it means to the Senator from Kentucky.

I think that all the Court has done is to lay out what the Federal Government considers to be its province. It does not in any way forceclose educational agencies or States from the direction of education, which is their province. I think that is right.

The court, in my judgment, has been on the liberal side in saying that busing is entirely permissible as a means for carrying out a constitutional mandate.

One of the great problems with the approach of the Senator from Connecticut (Mr. RIBICOFF) is that it is one-way busing that will take place; that is, busing from the slums and the ghettos to the outer reaches of the Standard Metropolitan Statistical Areas.

It is inconceivable that we would bring in children, in my case, from Suffolk County, 140 miles away, into Harlem any more than the other way about, as I have pointed out. So this is one of the reasons why Clarence Mitchell of the NAACP is against the amendment, because they realize that it is patronizing in its conclusion.

An interesting point—I have just been handed this, and I think it is fascinating—when the Senator from Connecticut (Mr. RIBICOFF) put in his bill originally, it rated a top-flight, leading editorial in the Washington Post on December 7, 1970.

This is what the editorial had to say, in part:

> It rests on the Senator's too casual (we think) dismissal of the de jurede facto distinction and results in a proposal which—no matter how benign and well-intended its goal—makes race *as such* the basis of governmental actions affecting citizens, the criterion by which government decides certain issues directly affecting their fate.

Then it goes on to say:

> But Senator Ribicoff's school bill would legitimatize race as a proper basis for governmental distinctions among its citizens to a degree and an extent not contemplated before. It thus brings us face to face with the really hard question that was bound to appear at about this point in the national effort to remedy old (and current) racial injustices: namely whether in the interest of remedying those injustices, of doing right by people to whom the nation has done grievous wrong, we should permit the concept of race to be reinstated in law as a relevant, if not overriding, factor in the way government may treat individual citizens. We believe the answer is: no.

Mr. President, therefore, I thoroughly concur with Mr. Mitchell that if we adopt this amendment and it becomes law, it will materially slow down our whole effort to bring about desegregation of the schools and educational excellence and, where we cannot do anything else, compensatory education.

It is for those reasons that the Supreme Court decision, in my view, only reaffirms and emphasizes the fact that it would be improvident to adopt this whole scheme now.

Mr. DOMINICK. Mr. President, will the Senator from New York yield me 5 minutes?

Mr. JAVITS. Mr. President, how much time remains to me?

The PRESIDING OFFICER (Mr. STEVENSON). Fifteen minutes remain to the Senator from New York.

Mr. JAVITS. I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. DOMINICK. Mr. President, this particular amendment proposed by my friend, has aroused a lot of emotion, which I personally can understand. After all, the Senator from Connecticut (Mr. RIBICOFF) represents the State where I was born and brought up, and I know of his deep feeling about this particular matter. The issues have been pretty much beclouded by some of the emotional statements that have been made.

First of all, we have a lot of difficulty with the matter. I have great difficulty with Senator RIBICOFF's amendment as it prevents, in my opinion, the applicability of Federal funds to help southern areas in trying to comply with the court orders and court rules and with voluntary compliance regulations which have been agreed to between the Justice Department and the various school districts in the States involved. To document this statement I refer to the April 21 letter from my good friend and legislative director of the National Association for the Advancement of Colored People, Clarence Mitchell.

It seems to me, in addition, that the amendment goes far beyond what the Supreme Court said yesterday in the four cases which it decided, because those cases did not refute the de facto de jure distinction. They specifically said that these decisions were not designed to apply to those areas where residential housing patterns had created a situation which made it difficult or almost impossible to comply with a quota system within each school within each school district.

If we added the Ribicoff proposal, we would be going further than the Court said. We would be writing such a requirement into law.

I also suggest that a good deal of the funds that are involved are not going to be allocated to a great number of different States.

For example, let us take Montana, particularly eastern Montana. Eastern Montana probably does not have a metropolitan statistical area containing 50,000 people. Under the Ribicoff proposal, what is provided for Indians that are in eastern Montana or North Dakota or western Colorado? As I understand it they would not qualify for funds as they are not within a standard metropolitan statistical area.

Mr. ERVIN. Mr. President, would the Senator yield for a question?

Mr. DOMINICK. I would be happy to yield on the Senator's time.

Mr. ERVIN. I have not any time.

Mr. DOMINICK. Then, I am afraid that I cannot yield. I am limited to 5 minutes' time. I apologize to my friend, the Senator from North Carolina, for not being able to yield.

I think it is extremely significant that when we move around this broad, vast Nation of ours, if we were to put into effect an amendment which has not had generally detailed hearings, which had not had an analysis made as to how it would apply State by State, which will

not come into effect at the earliest until 1974, which costs more than $22 billion in terms of money under the general tax funds, when we do not know how it will work, since what we are trying to do is to get the funds to enable the school districts to comply with the court orders, it seems to be a very great mistake for the Senate to adopt this amendment at this time.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. RIBICOFF. Mr. President, how much time remains to each side?

The PRESIDING OFFICER. The Senator from Connecticut has 8 minutes remaining. The Senator from New York has 10 minutes remaining.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, I take this time, though I think the debate has been very thorough in elucidating the respective contentions, to read a letter which I have just received. The letter was written on behalf of the President. It is from the Secretary of HEW, Elliot Richardson.

Mr. PELL. Mr. President, is that the letter that the administration was to send to me as chairman?

Mr. JAVITS. The Senator is correct. I would be grateful if the Senator would do this. It is really his function.

Mr. PELL. No. The letter was written to the Senator from New York.

Mr. JAVITS. I am reading this letter for the first time to the Senate.

Mr. President, the letter reads as follows:

On behalf of the President, I would like first to thank you for your very constructive role in bringing about the understanding out of which came the emergency school aid legislation now being debated. This legislation would provide funds urgently needed to assist school districts, both North and South, in carrying out desegregation plans and providing quality integrated education.

While I know we both share the view that the same desegregation policies should be even-handedly applied in all sections of the country, it is important to emphasize that the pending bill and the Ribicoff amendment pursue widely different approaches. The bill provides affirmative support for desegregation; the amendment would attach a new sanction to schools which fail to meet a specific timetable in desegregating. The pending bill has been the subject of extensive hearings in both Houses of the Congress, has had very careful consideration, and embodies the accommodation of many views; the amendment has been the subject of testimony only by its sponsor and has had no comparable consideration.

As you so effectively stated on the Senate floor yesterday afternoon, moreover, adoption of this amendment could well undermine the compromise achieved on the bill itself. This would be a tragic result for the many school districts throughout the Nation which are depending on passage of the bill for much-needed assistance for their desegregation efforts.

There is, in any case, ample time to give proper consideration to the Ribicoff measure if it is not precipitously adopted at this point on the Senate floor. By its own terms the Ribicoff amendment's Federal fund cutoff provisions would not become effective until July 1, 1975.

Therefore, while I can appreciate the concern which underlie the Ribicoff amendment and while we in the Administration have no less a desire to achieve even-handed desegregation policies in all parts of the country, I believe that it would be a serious mistake under the present circumstances for the Senate to combine a two-year, $1.5 billion emergency program with a ten-year, $20 billion long-range program.

We greatly appreciate the efforts to this end that you have already made and hope that your colleagues will join you in this position.

With kindest regards,

Sincerely,

ELLIOT RICHARDSON,
Secretary.

Mr. RIBICOFF. Mr. President, I yield 5 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. CRANSTON. Mr. President, I have been laboring under the mistaken idea that the SST vote was the toughest vote I would come up against in my career. My good friend, the Senator from New York, has rudely shattered my illusion.

I will not take the time of the Senate or my own to say why this is true and why it is such a tough decision. The reasons are well known to all Senators.

I want to say to my good friend, the Senator from New York—for whom my admiration is virtually limitless and with whom I have worked on this committee—that I am always reluctant to differ with him because I greatly respect his judgment.

The Supreme Court yesterday fixed new school integration requirements on the South only.

I agree with the senior Senator from Connecticut and the junior Senator from Mississippi that the fine distinctions between de jure and de facto integration and segregation are of no importance to the children of our land.

The Senator from Mississippi has said:

In the South we will live with any pattern and try to make it work that is applied to other areas of the country beyond the South.

I have the hope and faith that Senators from the South will not turn on this bill and defeat it if Senators from the North, East, and West seek in all good faith a national pattern, not a southern sectional solution.

I will support the Ribicoff amendment. I believe that the amendment will ease the situation in the South. I believe its adoption can move us toward a nationwide resolution of our most tragic, heartrending, divisive domestic issue. I know the Ribicoff amendment is not perfect and that it has not been heard in detail by the committee; but there is time to perfect it and one of its virtues is that it calls for a year-by-year and stage-by-stage approach over a good many years, leaving ample time to perfect its imperfections.

If I am wrong and the Senator from New York is correct about the parliamentary consequences, if the Ribicoff amendment kills the Mondale bill, that need not end the struggle. There is time in the session to find another vehicle for the very fine proposal of the Senator from Minnesota in the pending bill and to find a way to bring it before the Senate for action in its original form.

For these reasons I hope very much that Senators will support the amendment of the Senator from Connecticut.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

Mr. RIBICOFF. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 4 minutes remaining and the Senator from New York has 6 minutes remaining.

Mr. JAVITS. Mr. President, with all respect, I think the time is too short for a quorum call. I think we should wind up the debate. If the Senator from Rhode Island (Mr. PELL) is willing, I would be glad to yield 1 minute to the Senator from Connecticut so that each side will have 5 minutes remaining.

Mr. PELL. That is agreeable.

Mr. RIBICOFF. I shall not need 5 minutes. I have ample time.

Mr. President, the issue here is a very simple one. Since 1954 we have been trying to eliminate dual school systems in this country. By a series of decisions yesterday the Supreme Court of the United States once and for all has struck down the dual school system in the South. I agree with this series of decisions of the Supreme Court.

However, we have dual school systems in the North, and these dual school systems are separate but unequal. While we have been inveighing against conditions in the South for the last 17 years and have been insisting that the South move faster and faster, the North has been retrogressing until the South has reached the situation today where they have more school integration than the North.

I think the issue here is a very simple one. We have a double standard in the United States. Shall we continue to insist on integration in the southern States only, or shall we have integration in the northern States, as well? I do not see how this country can unify, how this country can solve its deep problems, or how this country can prevent apartheid in America until the North, too, moves toward integration.

This vote comes down to whether we in the northern section of our Nation are willing to accept for ourselves the same standards we insist upon for the South. As far as the senior Senator from Connecticut is concerned I personally believe we should have the same standards in the State of Connecticut as we have in the State of Mississippi or in the State of Alabama, and that is why I support and will vote for the Ribicoff amendment.

The PRESIDING OFFICER. All time of the Senator from Connecticut has expired.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, if the issue were as stated by the Senator from Connecticut he would be correct. Although his amendment, in my opinion,

is not going to accomplish what he wants to accomplish, he would be correct in terms of trying to do something different than we are doing in the committee bill. But that is not the issue.

The fact is that the policy and practice are precisely the same North and South with respect to de jure segregation, which has been ruled upon by the courts as being in violation of the Constitution. The United States does not wish to run educational systems in the United States which establish therein the same kind of cognizance of de facto segregation.

We in the North are not guilty of the same thing which the people in the South have been guilty of for so long in anywhere near that order of magniture, and in my opinion, it is distorting the facts to say so.

Where there is not official action there is not violation of law. I thoroughly subscribe to the policy that we should end racial isolation, but to equate that with considered governmental action for the segregation of students is to delay segregation where the law demands that it end, it confuses the entire issue, and it submerges the issue, as this amendment would submerge it, in an enormous way which would drown what is good without reference to what is bad.

Clarence Mitchell of the NAACP—the people whose ox is being gored—that is what they think and told us.

While I am more than in favor of any legislation dealing with racial isolation, and that is what we do in this bill, I do not believe it fair to gloss this whole matter over, to paper it over with the charge that the situation is the same in districts which are violating the law as in districts which are not violating the law. Therefore, the remedy for the former proposition is going to defeat them both. That is what I argued with respect to the Stennis amendment and it is what I argue with respect to this amendment.

Finally, the Ribicoff amendment will not be effective for 4 years. In the meantime, the plan we have in this bill will be in effect. Why commit ourselves and jeopardize ourselves at this time when it serves no purpose except the forensic of being able to say that a Senator said he was contributing a lot of money 4 years from now upon a plan which may then be completely obsolete and wrong? The Committee on Appropriations will tell us that whatever is decided now will be contingent upon the situation in the future.

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

Mr. JAVITS. I yield.

Mr. PASTORE. As I understand the Senator, Mr. Clarence Mitchell opposed the Ribicoff amendment.

Mr. JAVITS. He did, and I have the document here and I have placed it in the record.

Mr. PASTORE. I thank the Senator.

Mr. CRANSTON. Mr. President, I am proud to be a cosponsor and firm supporter of what I think is one of the most significant education measures ever to come before the Senate—Senator MONDALE's "Emergency School Aid and Quality Integrated Education Act of 1971." Many Senators are convinced that minority group isolation, in all its aspects, is strongly detrimental to our entire educational system. More positively, we recognize that, while much has been done to reduce this isolation, we are far from our goal.

The pending bill can make enormous strides for us. It is a recognition by Congress that an integrated, quality education is vital to every child. It conforms fully to the spirit and intent of the President's own observations on the importance of integrated education. It reinforces and fulfills the hopes of our most innovative national leaders in education. And it gives us some very specific ways in which we can build upon our general, mutual commitment.

I have been specifically interested in the provisions of the bill that relate to bilingual, bicultural education. Of over 4 million children in the California public schools, 1 million are members of minority groups. I bring up these statistics not to prove the importance of this measure to encourage and provide for equal educational opportunities for the minorities in my State. I mention them because they raise a larger issue, which Senator MONDALE's bill deals with, and that is that we must not only see to it that minorities and majorities mingle, but that they begin to understand, from individual points of view, the cultural, and ethnic heritages of which we must not be simply aware, but truly proud.

In working with this bill in committee, Senator MONDALE was joined not only by me, but also by the distinguished Senator from New York (Mr. JAVITS) in solidifying and strengthening the bilingual, bicultural curriculum provisions. Along with the Senator from Rhode Island (Mr. PELL), chairman of the Education Subcommittee, we worked to make sure that the bill's language contained sufficient attention not only to building bilingual, bicultural curriculums, but in seeing to it that emphasis was placed upon the importance of training teachers and ancillary personnel to implement the curriculums developed.

I firmly believe in this bill and I strongly urge its passage by the Senate.

Mr. PEARSON. Mr. President, yesterday I voted against tabling the Ribicoff amendment because I felt that this amendment should be brought to a vote on its own merits. As we all know, a tabling motion often clouds the merits of the issue being tabled.

Also, Mr. President, I am in sympathy with the goals of the Stennis amendment, which calls for a uniform national policy with regard to school desegregation—both in the North and in the South, both de facto and de jure segregation.

But the implementation of such a policy is a highly complicated and extremely difficult problem. After careful consideration of all aspects of the Ribicoff amendment—the purpose of which I heartily applaud—I have concluded that its approach is not one which should be adopted by the Senate without more careful investigation. No hearings have been held on this amendment, and, while the Senate has discussed it for 2 days, I believe it is necessary to have more "in-depth" study before it is enacted.

I shall oppose the Ribicoff amendment for this reason.

Let us stick to the provisions of the committee bill, S. 1557. Let us build at this time on what progress has already been made. Let us not risk the chance of endangering the passage of the bill itself by the adoption of this amendment.

Step by step, let us proceed in an orderly fashion, which, to my mind requires more thorough study of this approach.

Mr. MUSKIE. Mr. President, it is now over a decade and a half since the historic Supreme Court decision of Brown against Board of Education which ordered the elimination of State enforced separation of races in public schools. Since that decision, we have come a long way in eliminating segregation in our schools. But we have not come far enough.

There has been substantial progress in the South over the past few years in moving beyond a token level and toward the elimination of dejure segregation in school systems. This has been a sweeping social change for that part of the country, and because of that, it has been extraordinarily difficult. But this had to be done to eliminate segregation by law.

The South is moving meaningfully against school segregation by law. There remains the even greater problem in large metropolitan areas in the North and South which have large segregated communities which frequently consist of blacks living in the inner city surrounded by a ring of white suburbs. By and large, this segregation has not been caused by law. It is segregation caused by a variety of historical forces including residential patterns and the reactions and attitudes of private individuals.

School segregation in the North caused by circumstances, rather than by law, must be ended just as segregation by law must be ended. A democratic society whose major premise is the equality of man must give each individual an equal opportunity to achieve his potential in that society. In education, that must mean that each child has an opportunity to obtain a quality education and, when quality education requires it, an integrated education.

I believe our society and our Government must develop and enforce those programs which bring an end to segregation in the North as well as in the South. There can be no regional hypocrisy. We have one such program before us today, and that is the emergency school aid and quality education act of 1971. This bill provides $1.5 billion between the date of its enactment and July 1, 1973 to deal with the problems arising out of minority group isolation in public schools due to de facto segregation. The major part of these funds are directed to programs that establish and maintain quality and integrated schools and that reduce and eliminate minority group school isolation.

This legislation is a major step forward in developing the kind of tools and momentum needed to end de facto racial segregation. It is the result of long and detailed study by the Senate Select Committee on Equal Educational Opportunity and has involved the participation of experts on schools and social problems inside and outside the Govern-

ment. I support this bill without reservation. The Senate should do nothing that would endanger the passage of this bill.

Of course, this bill offers only financial incentives to develop ways of overcoming racial isolation in schools. It does not offer a deadline. It offers a carrot, but no stick. This is not enough. We need legislation to provide integration in the North that contains a national commitment to end racial isolation by a certain date. Such legislation should be drawn so that it requires moves in the direction of wise and healthy plans for integration, and so that it does not further divide our people or drive children to private schools, because of inflexible rules. It should have a deadline. And it must contain the flexibility to conform to the peculiarities of local needs. Just as in the South, where court decision in school desegregation cases have emphasized the need to fashion integration plans to local problems, so too in the North we must allow communities to use local variations to comply with federally established principles to end racial isolation in public schools.

Before the Senate now is an amendment offered by the Senator from Connecticut. It is the Urban Education Improvement Act of 1971 that was introduced earlier this year. It would require wide scale integration in metropolitan areas according to a single mechanical formula. Each school in a broad metropolitan area would be required to enroll in each school one-half of the percentage of minority group members that live in that metropolitan area. Thus, if the population of the metropolitan area is composed of 40 percent minority group students each school in that area would be required to enroll 20 percent minority group students.

There have been no hearings on this amendment nor has it received widespread attention from private and public experts. So it is difficult to predict exactly what effects this would have on our metropolitan areas. At the least, the amendment will not improve the quality of education of inner city schools, for funds provided are directed solely to the efforts toward integration. Yet even under this proposal, a large number of inner city students will have to continue to rely upon inner city schools for their education. Indeed, if an overwhelming percentage of minority group members lived in the inner city, about one-half of the minority children will still have to depend upon obsolete and ineffective school systems for their education.

Nor does this bill respect the wishes of many black inner city residents to shape the kind of education their children receive.

Another aspect of this bill which I find deeply troubling is the inevitable widespread one-way busing that would be required to fulfill its integration goals. The most obvious way to meet the requirements of this legislation would be to bus black children from the inner city into suburban schools. I do not think it wise to pass legislation such as this which will inevitably result in such heavy use of busing, as opposed to other techniques of integration such as magnet schools, educational parks and the construction of schools inbetween segregated communities. There are more likely and useful ways to lessen racial isolation in our schools resulting from de facto segregation.

In spite of the serious difficulties which I have with the Ribicoff amendment, I believe it deserves support. Its passage by the Senate will still allow time for its amendment and improvement in the House of Representatives. It would represent a commitment by the U.S. Senate toward ending racial isolation in our school systems. Such a commitment is necessary if we are ever to solve the problem of racial isolation; such a commitment is necessary to demonstrate to the Nation that the Federal Government will apply principles of racial equality fairly throughout the entire Nation; and such a commitment is necessary if we are to retain the hope in black Americans that equal opportunity is still a goal of America.

In its historic report on racial division in our society, the Kerner Commission made these trenchant observations on education and racial isolation:

> In an atmosphere of hostility between the community and the schools, education cannot flourish—new links must be built between the schools and the communities they serve—while each community should determine the appropriate desegregation technique we believe substantial Federal assistance should be provided.

The amendment which is before us today, represents an approach consistent with the Kerner Commission's wisdom.

Mr. TAFT. Mr. President, the Ribicoff amendment instead of squarely facing the problems of segregated housing and unequal job opportunities, would shuffle school children back and forth across an entire Standard Metropolitan Statistical Area—SMSA—in an attempt to achieve racial balance at any cost in time, education, or other hardship. I question whether this is either practical or desirable.

True it is that segregation cannot be allowed to be perpetrated by transportation patterns, but the Ribicoff amendment might require school children to be bused across an entire SMSA if that were to achieve the necessary racial balance. One SMSA, San Bernardino-Riverside-Ontario covers 27,295 square miles and is larger than the State of West Virginia. It is little comfort that section 404 of the amendment would permit the Secretary to exempt parts of an SMSA from participation in the plan. The fact is, we are talking about taking young children great distances from their neighborhoods into communities quite remote from their own.

Almost every community within an SMSA has its own school board with its own budget, and its own tax levies. Under this amendment, would people in one community be taxing themselves to educate students from another community, while their own students are sent elsewhere for schooling? Would a community raise local tax dollars to support schools if its own students may be required to go into another school system for their education? How anomalous it is that this amendment would enlarge educational districts at the very time when the trend is the other way and neighborhoods such as Ocean Hill-Brownsville, want to have more localized control over their schools.

The Supreme Court has quite properly ruled that we must strike down every last vestige of racial discrimination and segregation brought about by governmental action. The Court has quite properly approved busing as one procedure which may be employed toward that objective. But to dictate racial balance throughout the schools of an entire metropolitan area, while desirable, could be very unwise. I believe that the Constitution must be colorblind but use of quotas could be emphasizing differences in some circumstances where, in the interest of all affected, the community should be forgetting them.

I have long supported and worked for fair housing legislation because I believe that integrated neighborhoods could help eliminate the present abyssmic prejudice between ethnic groups in our society. There should be no privilege in America allowing any person to discriminate on account of race, color, religion, or national origin against another's equality of opportunity. Racial discrimination in housing has had and still has that effect. The American principle of equality of opportunity for each individual and family calls for ending the discrimination that is principally responsible for the lack of available decent housing for blacks. In my judgment, fair housing, economic opportunity, and careful location of public schools can be effective ways to achieve the vital objective of desegregation in many communities. Transportation patterns can help as the Supreme Court has just noted but not within the inflexible strictures of the Ribicoff mold.

I share the dream of the day when we will have a thoroughly integrated society. In my judgment integrated housing has a real chance of succeeding where we bring together people of both races who have approximately the same economic means. Whites and blacks can and do live together in harmony. The problem is simply where poor blacks or poor whites are injected into a more affluent neighborhood. With integrated neighborhoods Americans can become racially colorblind, in education and in other endeavors as well. I believe that the cost of racial understanding will suffer a great blow by a calculator approach to the racial numbers game.

Will children become oblivious to race if they know that they are heading across town in one bus while children of another race are heading in the opposite direction to comply with mathematical racial equilibrium? I think not.

Mr. JAVITS. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Two minutes remain before the vote.

Mr. MANSFIELD. Has all time been yielded back?

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. MANSFIELD. Mr. President, I

suggest the absence of a quorum, not to go beyond the hour of 1:30.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the vote on the pending amendment, the distinguished Senator from Colorado (Mr. DOMINICK) be recognized, and that, instead of 2 hours on the amendment, there be 1 hour, the time to be equally divided between the Senator from Colorado, sponsor of the amendment, and the manager of the bill or whomever may be designated by him.

Mr. JAVITS. Mr. President, how about amendments to the amendment?

Mr. MANSFIELD. And 10 minutes for amendments to the amendment.

Mr. MONDALE. Mr. President, I would like 2 or 3 minutes to make a personal statement following this vote, before that time starts.

Mr. MANSFIELD. How much time does the Senator want?

Mr. MONDALE. Five minutes.

Mr. MANSFIELD. Mr. President, 5 minutes to the Senator from Minnesota, and then the Senator from Colorado to be recognized.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

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

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

The yeas and nays have been ordered on the amendment of the Senator from Connecticut (Mr. RIBICOFF), and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ERVIN (when his name was called). On this vote I have a live pair with the distinguished Senator from Oklahoma (Mr. HARRIS). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was resumed and concluded.

Mr. BYRD of West Virginia. I announce that the Senator from Louisiana (Mr. LONG), the Senator from Wisconsin (Mr. NELSON), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Washington (Mr. MAGNUSON) are absent on official business.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG) and the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. BROCK) is absent on official business.

The Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Texas (Mr. TOWER) would each vote "nay".

The result was announced—yeas 35, nays 51, as follows:

[No. 43 Leg.]

YEAS—35

Allen	Ellender	McGovern
Anderson	Fulbright	Metcalf
Baker	Gravel	Mondale
Bayh	Hart	Montoya
Bellmon	Hatfield	Moss
Brooke	Hughes	Muskie
Case	Humphrey	Ribicoff
Church	Inouye	Sparkman
Cook	Jackson	Stennis
Cooper	Kennedy	Tunney
Cranston	Mansfield	Williams
Eastland	McClellan	

NAYS—51

Aiken	Gambrell	Percy
Beall	Goldwater	Prouty
Bennett	Griffin	Proxmire
Bentsen	Gurney	Roth
Bible	Hansen	Saxbe
Boggs	Hartke	Schweiker
Buckley	Hruska	Scott
Burdick	Javits	Smith
Byrd, Va.	Jordan, N.C.	Spong
Byrd, W. Va.	Jordan, Idaho	Stevens
Cannon	Mathias	Stevenson
Cotton	McGee	Symington
Curtis	McIntyre	Taft
Dominick	Miller	Talmadge
Eagleton	Pastore	Thurmond
Fannin	Pearson	Weicker
Fong	Pell	Young

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED

Ervin, against.

NOT VOTING—13

Allott	Hollings	Packwood
Brock	Long	Randolph
Chiles	Magnuson	Tower
Dole	Mundt	
Harris	Nelson	

So Mr. RIBICOFF's amendment was rejected.

Mr. JAVITS. I move to reconsider the vote by which the amendment was rejected.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized.

Mr. MONDALE. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PELL. Mr. President, I request order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD of West Viriginia. Mr. President, may we have order in the Chamber and in the galleries?

The PRESIDING OFFICER. Senators will please take their seats.

Mr. BYRD of West Virginia. Will the galleries be in order, Mr. President?

The PRESIDING OFFICER. The guests of the Senate in the galleries will please maintain order.

PERSONAL STATEMENT

Mr. MONDALE. Mr. President, I rise following this last vote on the Ribicoff amendment because I would like to make some personal observations about one of America's great citizens, the senior Senator from New York (Mr. JAVITS).

In the more than 6 years that I have had the privilege of serving in this body, I have become more and more impressed by both his energy and his genius. I have come to admire, even far more, his total and selfless dedication to the cause of human justice and decency.

This week the Senate is considering an educational program to establish quality integrated schools through this land. The legislation before us, I believe, is a remarkably sophisticated, sensitive, and courageous proposal. It is so, in large measure, because of the efforts of the senior Senator from New York.

Mr. BYRD of West Virginia. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MONDALE. I doubt very much that this measure could have been developed and be brought before us in the Senate without Senator JAVITS' wisdom and understanding of the legislative process and without his great commitment to the cause of civil rights and equal educational opportunity.

Mr. President, I would like order.

Mr. BYRD of West Virginia. Mr. President, the Senator from Minnesota is entitled to be heard.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats and refrain from conversation.

Mr. MONDALE. Mr. President, to put it bluntly, there is no Member of this Congress, indeed, no American, whom I consider more completely, compassionately, and truly dedicated to the cause of human rights and to the cause of an integrated society.

Senator JAVITS' record requires no defending by me or anyone else, and I am certain that the civil rights leadership in this country and the millions of people across this land for whom they speak share my admiration and respect for his contribution in this field.

But there is a special personal reason why I rise to speak on this point today. The pending legislation was the product of a compromise reached in good faith among many of us on this side of the aisle, the leadership on the other side of the aisle, including Senator JAVITS, and representatives of the present administration. Without Senator JAVITS' leadership in initiating the compromise between two versions of this legislation that were pending before the Labor Committee, we would not be here today.

Indeed, it is uncertain whether any legislation could have been brought to the Senate without his leadership. He, Senator PROUTY, Secretary Richardson, Commissioner Marland, Senator PELL, and many others, in good faith, worked out this excellent measure that is now before us.

I support the present bill with enthusiasm. I support it because it is one of the most important human rights and human development measures to be recommended in this body in a long time.

This legislation can fulfill a major commitment to achieve equal and open education for our Nation's children on the integrated basis which is essential if we are to have a healthy, open society.

I have supported Senator RIBICOFF's proposal which is designed to provide a metropolitan approach to the problems of education in our large cities and suburbs. I have cosponsored Senator RIBICOFF's bill and I have supported his amendment to this bill, because I believe it is right. Believing that as I do, I could not do otherwise.

Senator RIBICOFF's amendment is not a part of the difficult bargain which we hammered out, although one section of the present bill does provide for programs that will encourage multidistrict cooperation, metropolitan area planning, and the establishment of education parks. I do not recall that during the discussion with Secretary Richardson, Senator JAVITS and I specifically discussed the Ribicoff proposal.

But in any event, I say to the Members of this body that the senior Senator from New York has courageously and at considerable risk to his own reputation, upheld his strong belief that he is only keeping faith with the compromise that was reached. I know he does not oppose, but indeed enthusiastically supports, a metropolitan approach to integration of our schools. I know that because he helped us develop the creative provisions which are in the bill reported by the committee.

What concerns me, however, is that his integrity has been challenged and his position has been characterized as evidence of less than a complete commitment to an integrated society. I believe this to be undeserved.

What we have seen in this Chamber is an honest difference of opinion, not over substance, but over the best way to achieve the goal which we all share.

Let me just close by saying that while the senior Senator from New York is not a Member of my party, it is with special feeling and with deep personal admiration for his unselfish commitment to human rights and human justice in his home State of New York and throughout this Nation, that I make these remarks today.

The PRESIDING OFFICER (Mr. TAFT). The 5 minutes of the Senator from Minnesota have expired. Under the previous order, the Senator from Colorado (Mr. DOMINICK) is now recognized.

Mr. JAVITS. Mr. President, will the Senator from Colorado yield? May I have 2 minutes to reply?

Mr. DOMINICK. I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I am deeply moved. I am also a little embarrassed. However, I am very grateful to the Senator from Minnesota. He is a big man in many ways. Although he and I did not vote the same way on the Ribicoff amendment, that really is not important. What is important is that he feels as he does about my character, which is deeply touching and moving to me.

I can only tell him one thing, that I hope and pray my children will cherish what he has said today and that it will be an inspiration to them, not only today but also in the future.

We will work this out. We will even satisfy the distinguished Senator from Connecticut (Mr. RIBICOFF). But the ultimate values which reside in our relations as high-powered Senators is what makes life worth living.

The distinguished Senator from Minnesota (Mr. MONDALE) has ennobled it a little bit for me today, and I thank him very much.

Mr. MONDALE. Let me say in reply, that I have worked with the distinguished Senator from New York on the problems of hunger, on the problems of health, and on many other human rights problems, and I have come to admire deeply not only his talents but also his tremendous commitment.

I have made this somewhat emotional statement of my views because I believe that my deep feelings should be made a part of the public record.

Mr. President, I yield the floor.

Mr. McCLELLAN. Mr. President, I voted for the Ribicoff amendment, because of the double standard being followed and practiced by our Government on the issue of integration of our public school systems in this country.

Notwithstanding my vote for the Ribicoff amendment, I oppose and continue to oppose forced integration. Nevertheless, I am also vigorously opposed to law and court decisions and administrative actions that discriminate against my State—that penalize it and other Southern States—while applying a different policy and standard of equity so as to favor the States of the East and the North, States that now have far more segregation in their public schools than we have in the South.

The hypocrisy that is being practiced against the South today, the holding it up to scorn and ridicule, while refusing to enact and to enforce laws to require the same degree of integration in all sections of the Nation, makes a mockery of justice and constitutes a serious reflection on the integrity of our Government.

Mr. President, I simply voted for the Ribicoff amendment as a protest against this discrimination and hypocrisy, and to demonstrate my conviction that our Federal Government should be just and that its decisions and judgments should be fair and equitable between the several States and all of the people. I shall continue to protest and oppose these despicable practices.

MESSAGES FROM THE PRESIDENT

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

PROPOSED INTERNATIONAL DEVELOPMENT AND HUMANITARIAN ASSISTANCE ACT OF 1971—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. TAFT) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

On September 15, 1970, I proposed a major transformation in the foreign assistance program of the United States. My purpose was to renew and revitalize the commitment of this Nation to support the security and development objectives of the lower income countries, and thereby to promote some of the most fundamental objectives of U.S. foreign policy.

Today, I report to you on the progress of the last seven months in effecting that transformation and ask the Congress to join me in taking the next creative step in our new approach—the reform of the United States bilateral assistance program.

To achieve such reform, I am transmitting two bills—the proposed International Security Assistance Act and International Development and Humanitarian Assistance Act—and announcing a number of actions which I intend to take administratively. Taken together, they would:

—Distinguish clearly between our security, development and humanitarian assistance programs and create separate organizational structures for each. This would enable us to define our own objectives more clearly, fix responsibility for each program, and assess the progress of each in meeting its particular objectives.

—Combine our various security assistance efforts (except for those in Southeast Asia which are now funded in the Defense budget) into one coherent program, under the policy direction of the Department of State. This would enable security assistance to play more effectively its critical role in supporting the Nixon Doctrine and overall U.S. national security and foreign policy in the 1970s.

—Create a U.S. International Development Corporation and a U.S. International Development Institute to replace the Agency for International Development. They would enable us to reform our bilateral development assistance program to meet the changed conditions of the 1970s.

—Provide adequate funding for these new programs to support essential U.S. foreign policy objectives in the years ahead.

THE IMPORTANCE OF FOREIGN ASSISTANCE

U.S. foreign assistance is central to U.S. foreign policy in the 1970s in three ways:

First, we must help to strengthen the defense capabilities and economies of our friends and allies. This is necessary so that they can increasingly shoulder their own responsibilities, so that we can reduce our direct involvement abroad, and so that together we can create a workable structure for world peace. This is an essential feature of the Nixon Doctrine.

Second, we must assist the lower income countries in their efforts to achieve economic and social development. Such development is the overriding objective of these countries themselves and essential to the peaceful world order which we seek. The prospects for a peaceful world will be greatly enhanced if the two-thirds of humanity who live in these countries see hope for adequate food, shelter, education and employment in peaceful progress rather than in revolution.

Third, we must be able to provide prompt and effective assistance to countries struck by natural disaster or the human consequences of political upheaval. Our humanitarian concerns for mankind require that we be prepared to help in times of acute human distress.

THE NEED FOR REFORM

We cannot effectively pursue these objectives in the 1970s with programs devised for an earlier period. The world has changed dramatically. Our foreign assistance programs—like our overall foreign policy—must change to meet these new conditions.

In my September special message to the Congress I spelled out the major changes in the world which require new responses. Let me summarize them here:

—Today the lower income countries are increasingly able to shoulder the major responsibility for their own security and development and they clearly wish to do so. We share their belief that they must take the lead in charting their own security and development. Our new foreign assistance programs must therefore encourage the lower income countries to set their own priorities and develop their own programs, and enable us to respond as our talents and resources permit.

—Today the United States is but one of many industrialized nations which contribute to the security and development of the lower income countries. We used to furnish the bulk of international development assistance; we now provide less than half. The aid programs of other countries have grown because they recognize that they too have a major stake in the orderly progress which foreign assistance promotes, and because their capabilities to provide such assistance have grown enormously since the earlier postwar period.

—Today the international institutions can effectively mesh the initiatives and efforts of the lower income countries and the aid efforts of all of the industrialized countries. We can thus place greater reliance on such institutions and encourage them to play an increasing leadership role in the world development process.

Our ideas on the reforms needed in the world of the 1970s have evolved significantly since I received the Report of my Task Force on International Development, chaired by Mr. Rudolph Peterson, and since my special message of last September, as the result of our own deliberations and our further consultations with the Congress, the business community and many other sectors of the American public, and our friends abroad. Before spelling out a new blueprint for our bilateral assistance program, however, I wish to report to you on the gratifying progress achieved since last September in reorienting our assistance policies.

PROGRESS TOWARD REFORM

First, the Congress in December passed supplemental assistance legislation for FY 1971 which represented a major step in implementing the security assistance component of the Nixon Doctrine. This legislation authorized additional funds for military assistance and supporting economic assistance for countries in which the U.S. has major interests and which have convincingly demonstrated the will and ability to help themselves—including Israel and Jordan in the Middle East and Cambodia, Vietnam and Korea in East Asia.

Such support is necessary to carry out one of the central thrusts of the Nixon Doctrine—moving us from bearing the major responsibility for the defense of our friends and allies to helping them achieve an increasing capability to maintain their own defense. This increase in security assistance enables us to continue to reduce our direct presence abroad, and helps to reduce the likelihood of direct U.S. military involvement in the future.

Second, the international development institutions have continued their progress toward leadership in the international development process. For example:

—*The World Bank* continues to increase the size and improve the effectiveness of its operations. It also has decided to broaden the scope of its lending beyond the traditional financing of projects to the provision of funds to support overall development programs in appropriate circumstances, and it is developing an improved internal evaluation and audit system.

—*The United Nations Development Program* has initiated a reorganization to improve its administration. In time this will enable it to assume a leading role in coordinating the international technical assistance effort.

—*The World Health Organization* has effectively guided and coordinated the worldwide effort to cope with the present cholera epidemic in Africa.

Third, the industrialized countries have now agreed on comparable systems of tariff preferences for imports from the lower income countries. The preferences plan is a major step in the crucial international effort to expand the export earnings of these countries, and hence to reduce their reliance on external aid. The European Community has indicated that it plans to put its tariff preferences into effect on July 1, and Japan has announced that it will do so before October 1.

Fourth, there has been satisfying progress toward achieving the untying of bilateral development loans on a fully reciprocal basis. This action will enhance the value of economic assistance to recipient countries, and eliminate the political frictions which tied aid now causes, Virtually all of the industrialized countries have agreed to the principle of untying. Details of a system offering suppliers of all participating countries a fair and equitable basis for competition are now being worked out in the Organization for Economic Cooperation and Development.

Fifth, I have established a Council on International Economic Policy, which I chair, to coordinate all aspects of U.S. foreign economic policy, including development assistance. It will provide top-level focus for our policies in this area, and accord them the high priority which they require in our foreign policy for the 1970s.

I am heartened by this progress, but much more remains to be done:

—I again urge the Congress to vote the additional funds which I have requested for the Inter-American Development Bank and the Asian Development Bank.

—We will shortly transmit legislation to authorize the U.S. contribution to the doubling of the resources of the International Development Association, the soft-loan affiliate of the World Bank, which stands at the center of the network of international financial institutions, and I urge the Congress to approve it.

—We are working with others to help establish a soft-loan window for the African Development Bank.

—We will shortly transmit legislation to authorize U.S. participation in the system of generalized tariff preferences for developing countries, and I urge Congress to approve it.

THE NEW U.S. BILATERAL ASSISTANCE PROGRAM

The next major step is the reform of the U.S. bilateral assistance program, incorporated in the proposed International Security Assistance Act and International Development and Humanitarian Assistance Act.

Our new bilateral assistance program must achieve several objectives. It must:

—Clearly identify our distinct aid objectives: security assistance, development assistance and humanitarian assistance.

—Be truly responsive to the initiatives of the lower income countries themselves and encourage them to play the central role in solving their own security and development problems. In the area of development assistance, this means working within a framework set by the international institutions to the maximum extent possible.

—Be concentrated in countries of special interest to the United States, and in projects and programs in

which the United States has a special ability to be of help.

—Recognize the improved economic capacity of many of the lower income countries in establishing the terms of our assistance.

—Assure improved management.

—Reduce substantially the number of U.S. Government officials operating our assistance program overseas.

Let me now spell out the details of our new approach, based on these principles.

SECURITY ASSISTANCE

I have repeatedly stressed the essential role played by our military and related forms of assistance in supporting the foreign policy of the United States and our own security interests. The primary purposes of this assistance have been, and will continue to be, the preservation of peace through the deterrence of war, and the support of efforts by allied and friendly countries to move toward self-sustaining economic growth and social progress. To abandon our responsibilities would risk magnifying the world's instability in the short run and impairing its peaceful development for the longer run, and therefore increase the threat to our own security both now and in the future.

The new course on which we are set, however, encourages others to take on greater responsibilities themselves. Our new security assistance program will seek to strengthen local defense capabilities by providing that mix of military and supporting economic assistance which is needed to permit friendly foreign countries to assume additional defense burdens themselves without causing them undue political or economic costs. If we are to move toward reducing our own physical presence, the effectiveness of our security assistance program will become of ever more crucial importance.

In Asia, this new strategy has already encouraged the nations of the area to assume greater responsibility for their own defense and provided a basis for a major reduction in our military presence. The funds which have been provided to assist the Government of South Vietnam have been essential to the progress of Vietnamization, and helped insure continued U.S. troop withdrawals. We have helped Cambodia to mobilize its manpower and other resources in defense of its independence and neutrality. We are providing Korea with equipment to improve and modernize its defenses and we are withdrawing some of our own troops.

Our friends and allies know that it is no longer possible nor desirable for the United States to bear the principal burden of their defense. A clear lesson of the 1960s is that deterrence against local aggression, or against subversion supported from outside a country's borders, cannot be achieved without a strong contribution by the threatened country itself. We can meet our security assistance objectives effectively only if we link our efforts closely with those of our friends and thereby build the foundations for peace in partnership with them.

To help do so, and also in recognition of the improved economic capability of many of the countries receiving security assistance, I propose today significant changes in our authorities to provide military assistance to our friends and allies.

Our military assistance programs have suffered from undesirable rigidity. The only choice has been between grant assistance and sales on hard credit terms. Many of those nations that need our assistance are unable to meet the hard credit terms—so grant assistance has been the only course open for us to help meet their essential security needs. But as the lower income nations begin to develop an ability to shoulder the costs of their defense, we need to be able to assist them in doing so even though they cannot immediately assume the entire burden. Sales on concessional credit terms would permit earlier participation by some recipient countries in the financing of their essential defense needs and would thus engage their own assessment of priorities for the allocation of their resources at an earlier stage of development than is now possible.

To fill the existing gap between grant assistance and sales on relatively firm commercial terms, the International Security Assistance Act that I propose today includes authorization to finance sales of military equipment on concessional terms. Grant assistance will remain necessary for some nations whose financial resources are simply not adequate to meet their defense needs. But our objective is to move countries, as quickly as possible within the context of international security requirements and their own economic capabilities, along the spectrum from grants to concessional sales to the harder terms we have required for sales under the present act and finally to outright cash arrangements. We will also stress the transition from Government sales to those made directly by private industry to the extent feasible. By making these changes we would help countries move from dependence on the United States to independence in the creation and financing of their own security programs. We would not intend to provide concessional credits to countries able to meet the terms of the present program.

I am also asking, under the new act, greater flexibility to transfer funds among the various security assistance programs. Such flexibility is particularly important, for example, in this period of transition in Southeast Asia, where our troop withdrawals are freeing up substantial amounts of military equipment formerly used by our troops. I am asking that the ceiling on the amount of surplus equipment which can be granted to our friends and allies be increased; this will save us money as well as permit us to better help those of our friends who need it. In the long run, sound management of security assistance demands that there be enough flexibility to transfer funds among various programs in order to insure that the proper mix is used to meet our specific objectives in each instance.

For these international security assistance programs, I request authorization of $1,993 million for FY 1972: $778 million for supporting economic assistance, $705 million for grant military assistance, and $510 million for military credit sales.

These security assistance programs are at the core of our relations with certain key friendly countries. They critically affect our ability to meet our bilateral and collective security commitments. They are central to the achievement of major objectives of U.S. national security and foreign policy.

I therefore intend to direct by administrative action a reorganization of our security assistance program to meet more effectively the objectives of the Nixon Doctrine. Various components of security assistance—military assistance, military credit sales, grants of excess military stocks, supporting economic assistance, and the public safety program—have been fragmented in different pieces of legislation and managed through a series of different administrative arrangements. My proposals would bring these programs under one legislative act to assure that each is viewed as part of a coherent overall program. Military assistance for Vietnam, Laos and Thailand will continue to be funded in the Defense budget because these country programs are subject to the uncertainties of active hostilities and are intimately linked to the logistical support systems of our own forces in Southeast Asia.

To assure effective policy control and management of this new security assistance effort, I would direct that a Coordinator for Security Assistance be established at a high level in the Department of State. I would also direct that the supporting economic assistance program be administered by the Department of State. The Department of Defense will continue to have primary responsibility for administering our military assistance and sales programs, and for relating these programs to overall U.S. national defense planning.

These new arrangements would be a significant step in the direction of improving the management of our security assistance program. They would therefore represent a significant step toward achieving greater accountability to the Congress and the public as well.

This new security assistance program would, I am confident, serve our national interest in the 1970's in a number of important ways. It would:

—enable us to meet U.S. commitments more effectively and at lower cost;

—strengthen the self-defense capabilities of nations to whose security the U.S. is committed by treaty, by special political ties, or by essential U.S. interests;

—help to reduce the need for, and likelihood of, U.S. military involvement overseas;

—foster increased local initiative and self-sufficiency;

—promote constructive political relations with foreign governments;

—support U.N. peacekeeping operations;

—reduce potential frictions by lowering the U.S. profile abroad.

I am also requesting in the International Security Assistance Act authority for $100 million for the President's Foreign Assistance Contingency Fund for

FY 1972. This would permit the administration, with due notification to the Congress, to meet worldwide contingencies—in the security, development and humanitarian areas—in ways compatible with our national interests. It is particularly important to have available uncommitted funds which can be used on short notice, when sudden crises in the international community require us to act promptly and decisively.

DEVELOPMENT ASSISTANCE

The United States continues to have special national interests in particular lower income countries. We continue to have special capabilities in particular functional areas. We continue to need an effective bilateral development assistance program.

In order to advance such a program, I therefore propose legislation which would authorize the creation of two new development assistance institutions. Together with the two created by the last Congress, they would replace the Agency for International Development and enable us to develop a new approach based on the principles outlined above.

The two I now propose to create are:

—An International Development Corporation (IDC) to provide loans to finance development projects and programs in the lower income countries.

—An International Development Institute (IDI) to seek research breakthroughs on the key problems of development and to administer our technical assistance programs.

These would join two created by the last Congress:

—The Overseas Private Investment Corporation (OPIC) to promote the role of private investment in the development process.

—The Inter-American Social Development Institute (ISDI) to provide special attention to the social development needs of Latin America.

THE U.S. INTERNATIONAL DEVELOPMENT CORPORATION

The new IDC would administer our bilateral lending program. The authorities which I seek for it, and the operating style which I would direct it to pursue, would mark a major change in the U.S. approach to development assistance.

The IDC would make loans in response to initiatives from the lower income countries, rather than develop projects or programs on its own. It would have flexibility to tailor its loan terms to the needs of particular lower income countries, requiring harder terms from the more advanced and extending easier terms to the less advanced. Today's program has limited flexibility in this regard. Its lending volume to any particular country would be based on demonstrated self-help performance, and the quality of the projects and programs which that country presented to it. It would not seek to determine annual country lending levels in advance as is done at present.

The IDC would operate to the maximum extent feasible within a framework set by the international financial institutions. It would look to them to provide evaluations of the overall development prospects of particular countries, which would be a major consideration in its decisions to lend, rather than itself carrying out the extensive "country programming" which is now done. Within that context it would participate in nonproject lending and international efforts to alleviate the debt burdens of particular lower income countries. It would participate for the United States in the international consortia and consultative groups, managed in most cases by the international financial institutions, through which the bulk of our bilateral assistance will flow.

The IDC would concentrate its activities in countries and regions where the U.S. has a major foreign policy interest in long-term development. For example, it would establish guidelines to assure that an equitable share of its resources is provided to the countries of the Western Hemisphere. But precisely because our interest is in the long-term development of these nations, the IDC would use its funds to pursue such interests rather than to seek merely short-term political gains.

The IDC would provide loans on the basis of both sound business standards and the pursuit of sound development purposes. The terms of its loans would be determined in large part by the financial situation of the borrowing country, rather than on the standard terms now offered to all borrowers. It would avoid loans to countries where the analysis of international financial institutions, and its own views, suggest an inadequate policy framework in which the loans could effectively promote development. The IDC would not be solely a lender of last resort as AID is required to be today, often financing the riskiest projects and programs.

The Corporation would work with and through the private sector to the maximum extent possible. It would give high priority to projects and programs which promote private initiative in the lower income countries, and to this end would seek to increase U.S. lending to local development banks and other financial intermediaries. I recommend that it also have authority to lend directly to private entities in the lower income countries.

The IDC would be governed by a Board of Directors consisting of outstanding private citizens as well as government officials, thus bringing the private sector directly into its decision-making process.

With this clear identification of specific instruments and programs with the specific objectives they are designed to achieve, we should not need to tie the hands of our managers—of the Corporation or any of our other new institutions—with the kinds of foreign policy and administrative restrictions which apply to the present program. Administrators should be held accountable for achieving program objectives. This is a central requirement of the businesslike approach which the new structure is designed to foster.

To insure the necessary continuity and stability of operations to permit this businesslike approach, and building on the initiative of the Congress in 1969 to provide a 2-year authorization for foreign assistance, I request that the Corporation be given a 3-year authorization. I recommend an authorization of $1.5 billion of directly appropriated funds. I propose also that the IDC be provided with authority to borrow, in the private capital market or from the U.S. Treasury, up to a total of $1 billion during its initial 3-year period. This would help channel private capital more directly into the development process and bring private sector judgments directly to bear on the performance of the IDC. I recommend that it be authorized to use repayments of capital and interest on past U.S. development loans, which are now running at about $250 million annually.

A Corporation based on these principles would enable us to reduce substantially the number of U.S. government personnel involved in development lending overseas. By responding primarily to initiatives from the lower income countries, we would reduce the need for Americans to chart foreign programs and priorities. By relying increasingly on the international institutions for information and analytical work, we would reduce our own requirement for staff in both Washington and the field. By reducing the statutory restrictions on the program, we would be able to concentrate available staff on effective program management.

I am confident that a U.S. International Development Corporation based on these principles would regenerate our development lending program. It would provide major support to the development objectives of the lower income countries. It would enable us to play our full role effectively among the industrialized countries in promoting the development process. It would thereby provide major support for important U.S. national objectives in the 1970s.

THE U.S. INTERNATIONAL DEVELOPMENT INSTITUTE

The new IDI would administer a reformed bilateral technical assistance program and enable us to focus U.S. scientific, technological and managerial know-how on the problems of development.

The Institute would engage in four major types of activities:

—It would apply U.S. *research* competence in the physical and social sciences to the critical problems of development, and help raise the research competence of the lower income countries themselves.

—It would help *build institutions* in the lower income countries to improve their own research capabilities and to carry out a full range of developmental functions on a self-sustaining basis. I would expect it to place particular emphasis on strengthening agricultural and educational institutions.

—It would help *train* manpower in the lower income countries to enable them to carry out new activities on their own.

—It would help lower income countries, particularly the least developed among them, to finance *advisers* on development problems.

Like the Corporation, the Institute would finance projects in response to proposals made by the lower income countries themselves. It would not budget funds in advance by country, since it could not know in advance how many acceptable projects would be proposed by each. It would look to these countries to select candidates to be trained under its program. Its research activities would be located in the lower income countries, rather than in the United States, to the greatest extent feasible. With its stress on institution building, it would seek to ensure that each program could be carried on after U.S. assistance is ended.

Most importantly, the Institute would seek to assure that all projects which it helps finance are considered essential by the lower income country itself. To do so, the Institute would require that the recipient country make a significant contribution to each as evidence that it attaches high priority to the project and is prepared to support it financially after U.S. assistance ends. We would finance a project for only a definite and limited period of time, and would want assurance that the host country would then carry it on. In the past, all too many technical assistance projects have been undertaken which were of more interest to Americans than to the recipient countries, and had little or no lasting impact. Our new program is designed to ensure that this does not happen in the future.

The international organizations are less advanced in research and technical assistance than in development lending. The Institute would thus be unable to function as fully within an international framework at this time as would the Corporation. However, it would work to help improve the capabilities of these organizations, especially the United Nations Development Program, and would seek to cooperate with them whenever possible. In fact, one of its objectives would be to help create an international framework for technical assistance comparable to the framework which has developed over the past decade for development lending.

By the very virtue of its separate existence, the Institute would be free to concentrate its efforts on the application of research and technology to the problems of development—a key feature of our new bilateral program which would distinguish it markedly from the present approach. The Institute would also concentrate its resources on the few most critical problem areas of development. Such concentration is necessary if it is to achieve the "critical mass" necessary to make real breakthroughs where they are most needed, and to attract the top cadre of experts and managers who can achieve such breakthroughs.

The areas of concentration would evolve in response to the requests of the lower income countries and management's assessment of where we can contribute most. They would undoubtedly shift over time. Experience suggests that limiting population growth, increasing agricultural production and training manpower would be among the concentration areas at first. Unemployment and urbanization problems could be early additions to the list.

While the Institute would provide grant financing, it would vary the effective terms of its assistance by varying the shares of the total cost of particular projects that the recipient must finance itself—ranging from a small percentage in the least advanced countries to most of the cost in the most advanced. In addition, the Institute should have authority to provide advisers on a completely reimbursable basis to countries which no longer need concessional aid at all. At the other end of the development spectrum, the IDI would be conscious of the special problems of the least developed countries—most of which are in Africa—which will continue to need the more traditional types of technical assistance since they have traveled less distance along the road to economic self-sufficiency.

The Institute would be managed on a businesslike basis, and it would carry out its projects largely through the private sector. I propose that it be governed by a Board of Trustees including outstanding citizens from the private sector. It would stress evaluation of past projects to determine their payoff and to help guide future project development; there has been too little followup in these programs in the past. We would seek top flight technical managers, development specialists and scientists for the small staff of the Institute. This new approach would permit a major reduction in the number of U.S. government personnel operating abroad.

To achieve these goals, the IDI should have financial continuity. I therefore propose that the Congress authorize an appropriation of $1,275 million for a 3-year period.

In short, the International Development Institute would provide a new dimension to our foreign assistance effort. It would enable us to focus some of our finest national resources—our capabilities in management, research and technology—on the critical bottleneck problems of development. Its style of operation should enable us to forge a new and more mature partnership with the lower income countries, with the rest of the industrialized world, and with our own private sector. It holds promise of becoming one of the most significant additions to our national capability to engage meaningfully in the world of the 1970s.

OVERSEAS PRIVATE INVESTMENT CORPORATION AND INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

The new International Development Corporation and International Development Institute would join two development assistance institutions already created by the Congress: the Overseas Private Investment Corporation and the Inter-American Social Development Institute.

OPIC is already at work promoting the role of private investment in the international development process. The record of economic development shows that successful growth is usually associated with a dynamic private sector, and we therefore look to private investment—primarily domestic but foreign as well—to play an increasing role in the development process. It must do so, since no government or public agency has the resources or technical skills which are necessary to meet the vast needs of the lower income countries.

OPIC's guarantees and insurance of U.S. private investment in lower income countries which seek such investment are already serving effectively the interests of both the U.S. investor and the host countries. Its early activities suggest that an independent corporation, directed by a joint public-private Board of Directors, can effectively manage a development assistance program; it thus augurs well for the structures which I propose today for the Development Corporation and Development Institute.

OPIC is operating within one of the most sensitive areas—private foreign investment—of the inherently sensitive overall relationship between aid donors and aid recipients. It is therefore essential that OPIC assist only sound projects which are responsive to the particular development needs of each country.

And it is clearly for each country to decide the conditions under which it will accept private foreign investment, just as it is for each investor to decide what conditions are adequate to attract his investments. We as a Government ask only that the investments of our citizens be treated fairly and in accordance with international law. In nearly all cases they have been. However, unjust acts by a country toward an American firm cannot help but adversely affect our relationship with that country. As President, I must and will take such acts into account in determining our future assistance and overall policy toward such a country.

The Inter-American Social Development Institute has also begun to develop its programs, which seek to promote the social development of the Latin American and Caribbean people. Working mainly through private organizations and international institutions, it represents a new innovative channel in seeking to promote solutions to basic economic and social problems in these areas. I propose that it be renamed the Inter-American Foundation, to characterize more accurately its proposed style of operation.

HUMANITARIAN ASSISTANCE

U.S. humanitarian assistance programs cover a wide spectrum of human needs: disaster relief and rehabilitation; famine; refugee and migration relief and assistance. They aim to help people around the world recover from unfortunate situations by which they have been victimized. In the past year alone, such help has been extended to refugees from civil war in Nigeria and Jordan, earthquake victims in Peru, flood victims in Romania and Tunisia, and cyclone victims in Pakistan.

These activities rely heavily for program implementation on private voluntary agencies. In the past year alone,

U.S. voluntary agencies registered with the Advisory Committee on Voluntary Foreign Aid contributed $370 million of their own resources in over 100 countries.

At present, humanitarian assistance programs are carried out through numerous offices in the U.S. Government. I propose to centralize the responsibility for coordinating all humanitarian assistance programs under a new Assistant Secretary of State. We would thereby assure a coherent effort to carry out this vital and literally life-saving aspect of our foreign assistance policy. This new approach would also improve our capability to respond quickly and effectively through better contingency planning, additional stockpiling and training, and the maintenance of closer and better coordinated relationships with the United Nations, other donor countries, and the private voluntary agencies.

COORDINATION

I have outlined the overriding need to separate our overall foreign assistance program into its three component parts: security assistance, development assistance, and humanitarian assistance. I have indiciated that we would pull together all parts of our security assistance and humanitarian assistance under central management, so that each can function effectively as a total program within the context of U.S. foreign policy. And I have also proposed the creation of two new institutions, to go along with the two created by the last Congress, to carry forward our development assistance program in the 1970s.

There is thus a need for new mechanisms to assure effective coordination of our new foreign assistance program.

First, there must be effective coordination among the several components of the new development assistance program. This would be done through my appointing a single Coordinator of Development Assistance, responsible directly to the President, as Chairman of the Boards of the IDC, IDI, and OPIC.

The Coordinator would also chair an executive coordinating committee composed of the chief executive officers of each of these institutions and ISDI. He would be available for congressional testimony on our overall bilateral development assistance policy and the operations of the several institutions. Both the Congress and I could look to him as the administration's chief spokesman on bilateral development assistance policy and programs.

Second, the Secretary of State will provide foreign policy guidance for all components of our new foreign assistance program. His representatives would be members of the boards of each of the development institutions, and he would have direct responsibility for both security and humanitarian assistance. In each country our Ambassador, as my personal representative, will of course be responsible for coordination of all of our assistance programs.

Third, foreign assistance issues which raise broader questions of foreign economic policy will be handled through my new Council on International Economic Policy.

Finally, coordination among the three major components of our assistance program, and between them and our overall national security policy, would be handled through the National Security Council. We will thus establish strong management, coordination, and policy guidance over all of our foreign assistance programs.

CONCLUSION

This Nation can no more ignore poverty, hunger and disease in other nations of the world than a man can ignore the suffering of his neighbors. The great challenge to Americans of this decade, be they private citizens or national leaders, is to work to improve the quality of life of our fellow men at home and abroad.

We have a unique and unprecedented opportunity. We do not have all the answers to the questions of poverty, nor adequate resources to meet the needs of all mankind. We do possess the greatest scientific and technological capacity, and the most prosperous and dynamic economy, of any nation in history. More importantly, we have, as a vital element of the American character, a humanitarian zeal to help improve the lives of our fellow men.

We are therefore a nation uniquely capable of assisting other peoples in preserving their security and promoting their development. By doing so, we accomplish three major objectives:

—We strengthen international cooperation for a peaceful world.
—We help to relieve the poverty and misery of others less fortunate than ourselves.
—We help to build firm foundations of friendship between this Nation and the peoples of other nations.

I have seen for myself just how important is our aid in helping nations preserve their independence, and in helping men achieve the dignity of productive labor instead of languishing on crowded streets. I have seen its importance to children whose chances for a rewarding life have been increased because they have adequate nutrition, schools and books. It is right that we, the richest nation in the world, should provide our share of such assistance.

And such help, in addition to being right for its own sake, also creates strong bonds.

I recognize that whenever an American firm is nationalized without prompt, fair, and effective compensation; whenever an anti-American demonstration takes place; or whenever a leader of a developing country criticizes the United States, many question the effectiveness of our aid.

But the headline reporting the occasional anti-American act overlooks the many countries which do thank us for providing them the means to preserve their own security; and it also overlooks the countless number of villages where farmers do appreciate our helping provide the know-how and the tools necessary to grow larger crops, the school children who cherish the education our assistance makes possible, and the people everywhere who recognize our help in eliminating disease.

For these people, our aid is a source of encouragement. And they, not those who demonstrate or destroy, are the real revolutionaries—for they, in quietly attempting to preserve their independence and improve their lives, are bringing about a quiet revolution of peaceful change and progress. They are working hard to build the foundations for a better tomorrow and they recognize that we have helped provide them with the tools to do the job.

But while such appreciation is gratifying, foreign assistance has a more basic purpose. Foreign assistance is quite clearly in our interest as a nation. We are a people whose sons have died, and whose great statesmen have worked, to build a world order which insures peace and prosperity for ourselves and for other nations. We are aware that this world order cannot be sustained if our friends cannot defend themselves against aggression, and if two-thirds of the world's people see the richer third as indifferent to their needs and insensitive to their aspirations for a better life. To these people it is critical that this be a generation of peace, and our foreign policy is directed at helping to make it so; and for the impoverished it is equally important that it be a generation in which their aspirations for a better life, improved health conditions, and adequate food supply can be realized—a generation of development, a generation of hope.

Foreign policy is not a one-way street. It requires that other nations understand our problems and concerns, but it also requires that we understand theirs. We cannot ask the lower income countries of the world to cooperate with us to solve the problems which affect our vital interests unless we cooperate with them to help solve the problems critical to their vital interests—the problems affecting their security and development, and thus affecting the quality of life of their people.

The legislation I propose today, along with the corollary administrative actions which I will take, will permit this Nation to carry out the major reforms which are necessary to improve the effectiveness of our foreign assistance program and to fit it to our new approach.

I believe that this new approach is of major importance in promoting the national security and foreign policy interests of the United States in this decade and beyond. I believe that it is sound, and will blend as effectively as possible our special strengths with those of other nations and institutions. It is an approach through which we can focus the energies and resources of this great Nation on the security and development problems of those peoples living in poorer nations who wish to improve their lives, but lack the resources and the expertise to do so. I believe that this program is worthy of your support.

I therefore reaffirm my commitment, and the commitment of this administration, to seek an effective U.S. foreign assistance program for the 1970s. It is our objective to work for peace, not only in our time but for future generations, and we can make no better investment toward that end than to participate fully

in an international effort to build prosperity and hope for a better tomorrow among all nations. I urge the Congress to join with me in making the reforms I propose today so that together we can achieve these great goals.

RICHARD NIXON.

THE WHITE HOUSE, *April 21, 1971.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. TAFT) laid before the Senate a message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 1557) to provide financial assistance to local educational agencies in order to establish equal educational opportunities for all children, and for other purposes.

AMENDMENT NO. 43

Mr. DOMINICK. Mr. President, I call up my Amendment No. 43 and ask that it be stated.

The PRESIDING OFFICER (Mr. TAFT). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, line 21, strike out lines 21 through line 24.

On page 32, line 8, strike out through line 7, on page 33.

Redesignate the succeeding sections and all references thereto accordingly.

Mr. PELL. Mr. President, will the Senator from Colorado yield?

Mr. DOMINICK. I yield.

Mr. PELL. Mr. President, in view of the fact that I supported the amendment of the Senator from Colorado in the committee and intend to vote for it on floor of the Senate, I believe that it would not be proper for me to assign the time on the pending amendment and, for that reason, I would ask the distinguished Senator from Minnesota (Mr. MONDALE)—who is most interested in this amendment—if he would assign the time.

Mr. MONDALE. I would be glad to do that.

The PRESIDING OFFICER. Without objection, the time will be assigned by the Senator from Minnesota.

Mr. DOMINICK. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 10 minutes.

Mr. DOMINICK. Mr. President, my amendment to strike section 11 is not complicated, nonetheless it has some substance to it which I think is extremely important.

Under the present language of the bill there is a set-aside of $15 million for attorneys who bring successful suits not only under this bill, but also on most other bills dealing with school integration, as well as title I of the Elementary and Secondary Education Act of 1965. The total budget of the education section of the Civil Rights Division of the Justice Department at the present time is only $1 million, and here we are setting aside, for attorneys alone, some $15 million, or 15 times that amount to those attorneys who are successful in suits. These attorneys can file suits against any local school district or State, or the Department of Health, Education, and Welfare, to recover these fees for noncompliance with this bill, title I of the Elementary and Secondary Education Act, or violations of title VI of the Civil Rights Act of 1964, and the 14th amendment, insofar as they apply to elementary and secondary education.

Mr. President, section 11 contains no language to control the kinds of suits brought by private attorneys but rather it leaves the whole question of resource allocation to the whim of private litigants. To qualify for "reasonable attorneys' fees" suits need not establish a new principle of law, need not clarify a previously neglected area, need not be a part of a coordinated approach, or even avoid duplication. Recent legislation, such as title II—public accommodations—and title VII—equal employment—of the Civil Rights Act of 1964, and title VIII—fair housing—of the Civil Rights Act of 1968, allows the court "in its discretion" to assess the U.S. Government reasonable attorneys' fees "the same as a private person." This language is substantially different from the section 11 language which allows reimbursement if the court finds that "the proceedings were necessary to bring about compliance." Section 11 preempts such discretionary court authority and assumes that legal fees should be assessed, that the litigant's cause was meritorious, and that the plaintiff is not financially able or should not be financially responsible for attorneys' fees. Also it must be noted that the attorneys' fees authorized under the 1964 and 1968 Civil Rights Acts were for suits normally brought against private persons and not for suits against tax-supported school districts, States, and Federal agencies.

Additionally, Mr. President, section 11 language provides that the United States must be joined as a party to all section 11 actions for the purpose of determining the appropriateness of the attorney's fee assessed.

This is the language that was added in the committee by the distinguished Senator from New York (Mr. JAVITS). This language should be made discretionary on the part of the United States joining as a party. Otherwise, it would cause an unjustified overburdening of the already busy Justice Department with many inconsequential section 11 suits.

To compound further the problems of uncontrolled attorney fee reimbursements, section 11 extends coverage to elementary and secondary education discrimination suits brought under title VI of the 1964 Civil Rights Act or the 14th amendment and to title I of the Elementary and Secondary Education Act of 1965. Inclusion of title I would expand the coverage of section 11 to all 15,400 school districts receiving title I aid.

Despite the good intention of encouraging only valid and meritorious suits, section 11 will stimulate much unjustified litigation against those least able to afford the large legal expenses normally incurred in protracted school desegregation litigation—the financially troubled local school districts. Not only does section 11 stimulate the institution of litigation, but it discourages negotiation and settlement of compliance suits because the plaintiff must pay his attorney's fees unless he is able to force the dispute to final court disposition so that he will be entitled to recover attorneys' fees.

On the other side of the coin, Mr. President, a poor school district threatened by a parent might well comply with demands regardless of their merit rather than contest them and risk the incurring of heavy attorneys' expenses.

Section 11 also tends to put the entire burden of school desegregation litigation on the already overburdened Federal courts.

Many suits for enforcement of the 14th amendment with respect to the operation of public schools are now litigated in State courts, particularly in the North and West where some States have stricter nondiscrimination laws than the Federal statutes. But since attorney fees are to be made available only in Federal courts, potential litigants would have an enormous incentive to sue there under section 11.

One cannot assume that the above-discussed abuses can be avoided or their effect nullified by treating attorneys' fees as a matter of secondary importance to be largely ignored. Out of all proportion to its importance, section 11 is given paramount funding priorities which treat it as a single most important section in the bill. In very explicit language which was mysteriously lacking when the scope of the section was being defined, the reserve fund for attorneys' fees is to receive $5 million through fiscal year 1972 and $10 million more through fiscal year 1973. The bill contains the above language rather than the somewhat misleading majority report figure of 1 percent of the funds authorized under the act. Five million dollars and $10 million represent 1 percent of the total authorization levels for fiscal year 1972 and fiscal year 1973, but the attorney fee reserve fund is to receive the specified amount regardless of whether complying school districts receive a cent. All other provisions of the bill are funded on a percentage basis contingent upon appropriations. Additionally, all section 11 funds are to remain available until expended whereas most other provisions in the bill are funded only through the succeeding fiscal year for which they are appropriated. It put the figure of $15 million in proper perspective, one must realize that the annual budget for the educational section of the Civil Rights Division, Department of Justice, is approximately $1 million—one-fifteenth of what is in the bill.

Mr. President, perhaps some of the above abuses could be endured if there were some compelling reason for section 11, but there is not. Potential section 11 plaintiffs have access to more legal assistance than most private litigants. Section 407(a) of the Civil Rights Act of 1964 provides that the Attorney General

is authorized to institute a civil action against the school board on behalf of a complaining parent if the school board is depriving the parent's child of the equal protection of the laws and if the complaint is meritorious, the complainants are unable to initiate and maintain appropriate legal proceedings for relief, and the institution of the action will materially further public education desegregation. Since passage of the 1964 Civil Rights Act, the Department of Justice has filed more than 111 school desegregation suits under title IV of the act. Additionally, the Department of Justice has intervened, as a party plaintiff pursuant to title IX in 47 additional school desegregation suits.

Mr. President, section 215 of the Economic Opportunity Amendments of 1966 provides "legal advice and legal representation to persons when they are unable to afford the services of a private attorney" through the OEO legal services program. Also, potential complainants can institute termination proceedings through administrative channels provided for by title VI of the Civil Rights Act of 1964 against federally assisted schools which practice discrimination. In addition, parents of children discriminated against have access to many special private funds, such as the NAACP Legal Defense Fund and the Lawyers Constitutional Defense Committee.

In summary, Mr. President, section 11 should be deleted in its entirety to avoid subsidizing private lawyers. Section 11 fails to control or delineate the scope of coverage or the resource priorities for reimbursement; it discriminates in favor of the complainant to the detriment of the defendant; it contains disproportionate priorities and funding levels; and it is unnecessary as adequate remedies are available under present laws.

The PRESIDING OFFICER. The Chair inquires whether the Senator from Colorado wishes to have his amendment considered en bloc.

Mr. DOMINICK. I do.

The PRESIDING OFFICER. The amendment will be considered en bloc.

Mr. DOMINICK. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. MONDALE. Mr. President, the Senate has just acted on the amendment of the Senator from Connecticut, which sought to deal with segregation of schoolchildren throughout the land with a broad metropolitan approach.

One of the arguments underlining the need for that measure was the undoubted fact that segregation of minority group children North, East, and West is growing and that it is probably now greater than that existing in the South.

In no sense can it be said that in any region of the country is there a satisfactory response to the Supreme Court decision of 17 years ago requiring the elimination of official discrimination in this country. One of the key points of confusion, in my opinion, is the feeling that there is one law for the South and another law for the rest of the country. In fact, the 14th amendment and yesterday's Supreme Court decision apply the same law to every community in the country.

The reason for the confusion, in my opinion, is that the standard policy of the Departments of Justice and Health, Education, and Welfare has been to concentrate their activities primarily, if not exclusively, on the traditional dual school systems as they were found in the South. In fact, in my opinion and in the opinion of many others, much of the so-called de facto segregation found in the North and West upon close examination would prove to have as its base some form or forms of official discrimination, which would make it subject to the same 14th amendment remedies and the same law which is being used to eliminate the traditional dual school systems of the South.

However, we have no such vigorous enforcement policy either in the South or elsewhere, nor do we have such a policy which includes discrimination against all minorities, not just black, but also Spanish speaking, Oriental, American Indian, Portuguese and others.

The truth of it is that there is a major, enormous gaping law enforcement crisis in the field of civil rights.

This crisis is found in the South as well as the North and West. We have had widespread reports of wholesale firing and demotion of black teachers. We have had reports of the transfer of public school property to segregation academies. We have had reports of segregation of schoolchildren by race in schoolrooms, and many other evidences of discriminatory practices which, in my opinion, clearly violate the proscription of the 14th amendment.

In the South, North, and West, the law is not being enforced. I was appalled to find that the Department of Justice spends $1 million a year on the enforcement of school desegregation laws in this country.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a tabulation showing that presently only 31 Department of Justice attorneys devote their attention to the subject, with respect to the entire Nation.

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

Justice Department Education Section, Civil Rights Division

Present personnel:	
Attorneys	31
Clerical and others	23
Total	54
Fiscal year 1972:	
Additional attorneys	5
Additional clerical	2
Total, additional staff	7
Total request	61

Mr. MONDALE. Under title II—public accommodations—and title VII—equal employment—as well as under the Fair Housing Act of 1968, a plaintiff may similarly recover the cost of attorneys' fees in cases involving violations of those laws.

Mr. President, I ask unanimous consent that the text of those fee provisions be printed in the RECORD.

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

TEXT OF ATTORNEYS' FEES PROVISIONS

CIVIL RIGHTS ACT OF 1964

Title II (Public Accommodations), Section 204(b)—

"In any action commenced pursuant to this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, and the United States shall be liable for costs the same as a private person."

Title VII (Equal Employment), Section 706(k)—

"In any action or proceeding under this subchapter the court, in its discretion, may allow the prevailing party, other than the Commission or the United States, a reasonable attorney's fees as part of the costs, and the Commisison and the United States shall be liable for costs the same as a private person."

CIVIL RIGHTS ACT OF 1968

Title VIII (Fair Housing), Section 821(e)—

"The court may . . . award . . . court costs and reasonable attorneys fees in the care of a prevailing plaintiff: *Provided*, that the said plaintiff in the opinion of the court is not able to assume said attorneys' fees."

Mr. MONDALE. Mr. President, section 11 tries to deal nationally with the law-enforcement crisis to which I made reference, by bringing to bear a private law-enforcement remedy in light of the apparent futility of prevailing upon the Department of Justice and the Department of Health, Education, and Welfare to do their jobs. Time and time again I urged them to pursue a national enforcement policy, but up to this point it has been in vain.

We have precedent. Under the Equal Employment Act, dealing with fair employment, an aggrieved party can bring an action; and, if successful, recover reasonable attorneys' fees from the defendant.

Under the Public Accommodations Act, an aggrieved party can bring an action against a discriminating owner of a public accommodation and, if successful, collect reasonable attorneys' fees and costs from the defendant.

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

Mr. MONDALE. Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. MONDALE. Mr. President, what is needed in light of this compelling and unarguable evidence of law violations, of the failure to enforce the law on a national basis in the South, North, East, and West, is the application of this type of remedy.

We have broad and wide support behind this measure, which was adopted by a strong majority of the Committee on Labor and Public Welfare. The vote was 10 to 5, with bipartisan support.

Mr. President, the American Federation of Teachers strongly endorsed this proposal and argued that section 11 must be adopted. Mrs. Helen Bain, president of the National Education Association, sim-

ilarly testified in strong terms for the adoption of section 11.

Mr. Clarence Mitchell, director of the NAACP, testified:

We support payment of lawyers fees as provided in the Mondale bill. . . . In terms of time, it can cost enormous sums of money to exhaust the process of going all the way from the U.S. district courts up to the Supreme Court. The cost could run into the thousands of dollars, all of which, of course, has to be paid for by private people.

Finally, Mrs. Marian Edeleman, Mrs. Ruby Martin, and Mr. Richard Warden, three individuals who were largely responsible for the nonprofit organizations evaluation report on the expenditure of emergency school assistance program funds, stated with respect to section 11 authorizing funds for reimbursement of attorneys' fees in successful lawsuits:

We enthusiastically endorse this provision without reservation.

Mr. President, the National Legal Aid and Defender Association supported this provision. I ask unanimous consent that the letter appearing on page 713 of the hearing record be printed in the RECORD.

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

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION,
Chicago, Ill., March 1, 1971.

Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I am writing this letter in response to your request for an expression of views on Section 11 of Senate Bill S. 683.

School desegregation suits are always complex, time-consuming and expensive, but lawyers who represent minority clients are almost never paid for their work either by their clients or by court order—even when they win. This means, as a practical matter, that the vast majority of lawyers who have been able to take on such suits have been supported by foundations such as the NAACP Legal Defense Fund. Those lawyers work principally in the South and they are overextended. They cannot handle all the cases of discrimination in educational facilities.

Section 11 of S. 683 (the "Quality Integrated Education Act of 1971") would help to rectify this situation and to fill a gap in existing legal services. That Section would require courts to award attorneys' fees for successful litigation pertaining to elementary and secondary education under Title I of the Elementary and Secondary Education Act of 1965, Title VI of the Civil Rights Act of 1964, or the Fourteenth Amendment to the Constitution.

The fee provision will not make the bringing of school discrimination cases particularly attractive from a financial viewpoint—it will only make it possible for more private attorneys to work on them. The legislation provides only for "reasonable" fees, which is virtually the same language appearing in both Title II (public accommodations) and Title VII (employment discrimination) of the Civil Rights Act of 1964. In cases arising under those titles, courts have had no difficulty in determining appropriate fees after examining pertinent materials.

The present Administration has determined that school desegregation issues should be decided in federal courts, and not through administrative action under Title VI of the Civil Rights Act of 1964. This means that more lawyers will be needed to undertake the major litigation which must ensue. Obviously, most of the litigation will be private, and private lawyers will be needed. Section 11 will thus give parents and children of minority races a new and effective means of challenging instances of racial discrimination which have gone unattended too long.

I therefore strongly support Section 11 of S. 683.

Sincerely yours,

JOHN W. DOUGLAS,
President, National Legal Aid and Defender Association.

Mr. MONDALE. Mr. President, two additional letters of support from law school deans are printed also in the hearings at pages 715 and 716. I ask unanimous consent that the letters be printed in the RECORD.

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

UNIVERSITY OF CALIFORNIA, BERKELEY,
SCHOOL OF LAW (BOALT HALL),
Berkeley, Calif., March 15, 1971.

Re attorneys' fees in desegregation and related suits—section 11 of S. 3883.

DEAR SENATOR MONDALE: I have recently learned of your continuing interest in the reimbursement of attorneys' fees and costs in successful litigation under Title I of the Elementary and Secondary Education Act of 1965 and Title VI of the Civil Rights Act of 1964, and of your plan to reintroduce a provision on that subject in the current session of Congress.

I am writing to express my support for such a measure and hopefully to encourage you to go forward with this proposal. Private enforcement of individual rights and legislative policy is vitally important in this area, and the recovery of attorneys' fees represents a reasonable and valid means of combating a serious deterrent to the bringing of an already uninviting form of litigation.

I respectfully urge you to reintroduce this provision and hope that you will be successful.

Sincerely,

EDWARD C. HALBACH, Jr., *Dean.*

STANFORD SCHOOL OF LAW,
Stanford, Calif., March 12, 1971.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I have recently become aware of the provision for the payment of plaintiffs' attorneys' fees contained in the Emergency School Assistance Act of 1970 as reported out last December by the Education Subcommittee to the Senate Committee on Labor and Public Welfare (Sections 3(b)(1)(C) and 11 of S. 3883).

Obviously greater efforts are needed to find ways to protect the rights of children and teachers to freedom from racial discrimination in the public schools. Private litigation by those injured by breach of legal requirements is one of the most efficient, decentralized and economical methods for protecting those rights. But such litigation often is lengthy and therefore expensive. The Senate Subcommittee's provision would provide an effective and practical way of encouraging private action in reinforcement of the public interest. Private litigation cannot, of course, serve as a substitute for enforcement efforts by public agencies. But private litigation can effectively and responsibly supplement those efforts.

I hope that you will reintroduce the attorneys' fees provision in the present session and urge you to do so.

Sincerely,

BAYLESS MANNING, *Dean.*

Mr. MONDALE. Mr. President, we have also received support from "Common Cause," with respect to the attorneys' fees provision. Common Cause stated:

This is a vital provision and one which Common Cause strongly urges the Subcommittee to retain in any bill it reports. Indeed, a similar provision in effect after passage of the 1964 Civil Rights Act would have alleviated, at a much earlier date, many of the problems still necessarily confronted by the proposed legislation." The American Civil Liberties Union stated:

Experience under the public accommodation and employment discrimination sections of the Civil Rights Act of 1964 (Title II and VII), which contain similar reimbursement provisions, indicate that the policies of those acts have been significantly furthered by providing private attorneys willing to litigate to enforce the acts on behalf of poor people the economic basis for doing so. Moreover, the Justice Department is not able to police every school district in the South. The history of school desegregation litigation is, for the most part, one of parallel efforts of government and private lawyers. Unquestionably, were the government alone carrying the burden of school desegregation litigation, for less progress would have been made in this area. In order to insure the maximum effective enforcement of the Act, and the continued involvement of private attorneys in this area, they must be provided the wherewithall to litigate on behalf of those persons who are unable to hire attorneys to enforce their public rights.

The League of Women Voters of the United States also filed a statement. The League stated:

The League also favors the 3% funds set aside for the reimbursement of attorneys' fees resulting from lawsuits to protect the rights of citizens under this program and under Title VI of the Civil Rights Act, the 14th Amendment and Title I of ESEA. Our support for this provision derives from our firm support of the right of the poor for equal access to the legal system and from our conviction that orderly integration and quality education will be effected faster if the poor and aided in their access to the legal system.

Finally, the National Council of Jewish Women also supported the attorneys' fees provision. Their statement is contained at page 738 of the hearings.

Mr. President, that is the record of hearings on the bill. But I would like to quote from the testimony of six school superintendents from California in a hearing held by the Select Committee on Equal Educational Opportunity in San Francisco on March 6. I asked the school superintendents whether they would or would not agree that it would be helpful, if there were a provision in this bill setting aside Federal funds to pay attorneys' fees and costs upon the conclusion of successful lawsuits asserting constitutional rights in school systems. Let me quote from the testimony of Dr. J. Russell Kent, superintendent of San Mateo County, Calif.:

I think the Legal Aid Society in our county has been a very constructive influence . . . I think the issues they have brought up have led to a better definition, a better awareness on the part of the problems we face, and I think this has been a constructive influence. Sure, I have three lawsuits pending (against our school system) right now, but I am glad that we have them.

Mr. President, the cost of these private lawsuits are very great. It is to be observed that practically all the moneys being spent today by school districts to resist the reach of the Constitution are public funds. Section 11 is designed to

equalize, to some extent, the disparity of resources between private persons and public agencies. The typical costs of lawsuits are set forth with regard to a lawsuit in Denver, Colo.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the firm of Holland & Hart setting forth some of those details.

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

HOLLAND & HART,
ATTORNEYS AT LAW,
Denver, Colo., December 4, 1970.

MR. BERTRAM W. CARP,
Select Committee of Equal Educational Opportunity, Old Senate Office Building, Washington, D.C.

DEAR MR. CARP: As we discussed on the telephone earlier today, I have enclosed a resume by month of the hours and corresponding time charges incurred with respect to the efforts of attorneys in this firm in the case of *Keyes, et al. vs. School District No. 1, Denver, Colorado, et al.* You will note that the time to date totals 2909.2 hours, valued at our normal rates at $109,498.20. In addition, my co-counsel Craig Barnes received some $20,000 in partial payment for his services in the case and has probably in excess of between $20,000 to $40,000 in unbilled time at this juncture. He is out of the city and I was unable to reach him to confirm these figures. Mr. Barnes was paid from funds raised locally through donations. In addition, from time to time from five to ten lawyers in other firms in the city volunteered their time to assist us in the case. We have no idea of the total time spent by these volunteers, but I would estimate that it represents another $15,000 to $25,000.

The chronology of the case was as follows:

1. June 19, 1969—Complaint filed.

2. July 16 through July 22, 1969—hearing on Preliminary Injunction.

3. July 23, 1969—oral Findings of Fact and Conclusions of Law.

4. July 31, 1969—Memorandum Opinion and Order and Preliminary Injunction.

5. August 14, 1969—Supplemental Findings.

6. Subsequent to the supplemental findings the defendants moved in the Court of Appeals for a stay of the preliminary injunction. This stay was ultimately granted by the Court of Appeals for the 10th Circuit on August 27, 1969, and an appeal to the Supreme Court to vacate the stay was immediately prosecuted, and on August 29, 1969, Mr. Justice Brennan, Acting Circuit Justice, vacated the stay. The schools subsequently opened on September 2, with the preliminary injunction in force.

7. The trial on the merits commenced in February, 1970, taking 14 trial days.

8. On March 21, 1970, the trial court issued its Memorandum Opinion and Order. Subsequently a separate hearing on relief taking 4 days in May was held, resulting in the court's decision on remedy dated May 21, 1970.

9. Subsequently the defendants moved in the trial court and Court of Appeals for a stay, the motions being denied in each instance.

10. Thereafter the Court of Appeals set up an expedited briefing schedule and briefs on appeal and cross-appeal were led in August, and the Court of Apepals for the 10th Circuit heard oral argument on the case on August 18.

11. The case as of this writing has been fully submitted and pending before the 10th Circuit since August 18. We assume that the court is awaiting the decision of the Supreme Court on the cases argued early in October, but have no information to confirm this.

The provision under consideration would certainly help to insure the enforcement of the constitutional rights of minorities and would give such claimants financial standing in terms of ability to pay for competent counsel which would put the claimants on more of a par with the School District or other governmental agencies. It is unrealistic to expect that such private entities as the Legal Defense Fund and local private contributions can continue to fund these cases, particularly should the pace of litigation in the north accelerate.

We of course are strongly in favor of Senator Mondale's amendment, and would be happy to assist you.

Very truly yours,
GORDON G. GREINER.

Year and month	Total hours	Total time charge per month
1969:		
June	224.5	$7,573.20
July	546.3	19,377.40
August	250.0	8,635.20
September	146.8	5,624.00
October	131.4	5,146.60
November	148.4	5,896.00
December	149.6	5,883.00
1970:		
January	222.4	8,879.80
February	278.0	10,882.20
March	63.7	2,507.00
April	96.4	3,797.80
May	143.9	5,670.00
June	56.7	2,238.40
July	153.2	5,699.40
August	202.7	7,840.60
September	50.4	2,014.80
October	44.8	1,842.80
Total	2,909.2	109,498.20

Mr. DOMINICK. Mr. President, I yield myself 2 minutes and then I shall yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. DOMINICK. Mr. President, I was happy to hear the Senator from Minnesota refer to my former law firm of Holland and Hart. One of my former partners was the successful plaintiff's lawyer in the case referred to. I am sure they are happy to have money set aside to have their fees paid. I do not think that is sufficient reason for the taxpayers to foot the bill for $15 million in connection with desegregation suits around the country.

I do not think there is cause to say that because the Department of Justice has been complying with the law, which provides remedies only for violations where there is a State supported dual school system, that they are concentrating on the South. They have also filed suits in other areas of the country. In one instance they tried to intervene in a Denver suit, and also suits in Detroit and Indiana. So they are not concentrating their efforts exclusively in the South.

But I was happy to have the Senator bring this up and I am happy to be able to say I have a great deal of affection for my old firm. They are a good group of people and they are good lawyers. I am happy they won but I do not want the general taxpayers to pay their fees.

I yield to the Senator from Kentucky.

Mr. COOK. Mr. President, I listened with a great deal of interest to the statements of the Senator from Minnesota. What bothers me is that probably section 11 would constitute one of the most poorly drawn sections to expend $15 million of taxpayer money, regardless of who the judgment is against. The Federal Government would pay the attorney's fees and cost.

Obviously school superintendents would like to have that proviso because they do not want their school boards to have to pay these fees. The precedent of the Senator from Minnesota with respect to fair employment and the legislation we considered last year on guarantee warrantees, all of these authorize the payment of attorney's fees by the losing party.

Now, this provision does not authorize the payment of attorney's fees by the losing party. As a matter of fact, it would encourage school districts throughout the United States to violate some sections of title 1, if they wanted to, because they could sit back and the superintendent could say to his board, "Do not worry about it. If we lose, the Federal Government will pick up the tab and pay the plaintiff and the costs."

The point I make is if you want to write this properly let us say the defendant will pay the cost and the fees; or let us say the responsibility of the local school board is to pay; but why the Federal Government? In many instances it will not be a party. The only reason it will be in Federal court is because section 11 requires it to be in court for the attorney to collect his fees and the court to get its costs.

There is another thing in here that is very amazing. It must be brought to a judgment.

In other words, there could be no effort, after a lawyer has put in 6 months, 1 year, 2 years, 5 years, if the board says, "Let us sit down and solve the problem. I think we can solve it within the framework of the law." The attorney looks at the board and says, "It is not a solvable case." Why would he say, "It is not a solvable case"? Because the only way he can receive his pay and the only way the courts can be paid is through one simple procedure—he must bring it to a final judgment.

This cannot conceivably make sense. It cannot make sense that we say to the Federal Government, "Somebody else violates the law, somebody else is guilty of a violation, somebody else brings suit within the Federal court system. A judgment is rendered against him. Yet you, the Federal Government, did not violate the law, but you shall pay the attorney's fees and you shall pay the costs."

That is a brand new one. With all the new precedents that the Senator from Minnesota has talked about whereby fees can be levied against a losing party, they have not said that the Federal Government is the losing party. It is the party that lost the decision. We find here that we are penalizing Federal taxpayers to the tune of $15 million under section 11 under the circumstances of a violation by someone other than the Federal Government, and yet it must bear the burden.

But we say to the people in the other 49 States, "You have to pay a lawyer's fee when a school district in Minnesota violates the law under title I." Why not the school district in Minnesota? Why

should the other 49 States bear the burden? If a school district in my State loses, why not allow it to pay those costs? It ought to.

Perhaps if that section were changed to provide that the school board or the superintendent or the individual should bear those costs and pay the attorney's fees, we would not have so many violations; but in this way there is no encouragement to a local district to cure the violations, because he merely sits back and says, "If I lose, the Federal Government is going to pick up the tab." There is nothing in here that says the Federal Government can recoup its funds paid to a local district from the amount of money that is going to be paid to the school board. It pays the entire amount and then picks up the attorney's fee if the school district is found guilty of a violation.

So I can only say this is establishing a precedent. Frankly, I do not know which staff member wrote that section or which staff member with what knowledge of the law wrote section 11 to the extent that there would be no effort to compromise——

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

Mr. DOMINICK. I yield 2 minutes to the Senator from Kentucky.

Mr. COOK. That there would be no effort to bring about a conclusion to the suit prior to the judgment, because there would be no payment to the attorney until he concluded the matter and got a certified judgment against the defendant. I do not know who it would be that would write a section that would say the Federal Government is going to be responsible for the costs and the attorney's fees for a violation that it has been summarily concluded by the court has been imposed on an individual or a school system, by the very system itself, or the superintendent. This is a matter which is unimaginable in my mind. I cannot understand it.

I am sure the associations whose names have been put in the RECORD as supporting the fact that funds should be set aside have no idea that this section provides that a judgment must be secured, that a compromise cannot be arrived at, that a settlement cannot be made. I am sure they had no idea that that charge would not be imposed on a school system, but would be imposed on the Federal Government, who is not the violator at all. I can only say that the five or six school superintendents who said they would love to have those funds did not know of any school superintendent who was violating title I who should expect the Federal Government to pay those attorney fees and costs if he lost the suit.

ORDER OF BUSINESS

Mr. DOMINICK. Mr. President, with the Senator's permission, I ask unanimous consent that we may yield briefly in order that the Senator from Alabama (Mr. SPARKMAN) may introduce the distinguished visitors in this Chamber.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

VISIT TO THE SENATE BY DISTINGUISHED MEMBERS IN THE DELEGATION OF THE ROMANIAN GROUP OF THE INTERPARLIAMENTARY UNION

Mr. SPARKMAN. Mr. President, we are honored today by a visit from citizens of a friendly nation, a delegation representing the Parliament of Romania. These gentlemen have been to Venezuela, attending the Interparliamentary Union meeting, and have stopped here for a brief visit on their way back home.

I may say that our delegation last year visited their country and we were entertained royally. This delegation is headed by Prof. Mihail Levente. I ask unanimous consent that a brief biographical sketch of the members of the delegation be placed in the RECORD at this point, and I will ask our distinguished visitors to stand.

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

MEMBERS IN THE DELEGATION OF THE ROMANIAN GROUP OF THE INTERPARLIAMENTARY UNION TO VISIT THE U.S.A.

1. PROFESSOR DR. MIHAIL LEVENTE

Born June 20, 1915, university professor, degree in economics, former minister of internal trade, (presently) director of the Institute of Economic Research of the Academy of the Socialist Republic of Romania, secretary of the Front of Socialist Unity of Romania, member in the Foreign Policy Commission of the Grand National Assembly, president of the Romanian Group of the Interparliamentary Union, member in the Interparliamentary Council.

He was elected a deputy in the Grand National Assembly in 1961.

He was a member in Romania's delegation to the U.N. (1969).

He is married and has 2 children.

He speaks French.

2. PROFESSOR TUDOR DRAGANU

Born December 2, 1912, degree in law, university professor (at Cluj, where he is Dean of the Law Faculty). Elected deputy in the Grand National Assembly in 1965. He is the chairman of the credentials commission and member of the juridical commission of the Grand National Assembly, vice-chairman of the Romanian Group of the Interparliamentary Union, chairman of the Parliament and Juridical Commission of the Interparliamentary Union, member in the Interparliamentary Council. He has served on a number of occasions as head of the delegation of the Romanian Group to the sessions of the Interparliamentary Union.

He is married, without children.

He speaks French, English, German.

3. MIRCEA ANGELESCU

Born June 18, 1938, civil engineer. Elected deputy in the Grand National Assembly in 1969. He is a member in the Foreign Policy Commission and the Commission for Education, Science and Culture of the Grand National Assembly; member in the executive committee of the Romanian Group of the Interparliamentary Union. (Presently works in the International Section of the Romanian Communist Party (RCP) Central Committee, which deals with RCP relations with foreign communist and other parties outside the socialist system. From 1965 until 1968 he was president of the Romanian Students Association.)

He is married, without children.

He speaks English.

4. ION STOICHICI

Born June 22, 1931, law degree, counselor on the Grand National Assembly staff and administrative secretary of the Romanian Group of the Interparliamentary Union.

He is married, without children.

He speaks French, English, Russian.

(NOTE.—Above information received from the Grand National Assembly. Items in parentheses received subsequently by telephone.)

The PRESIDING OFFICER. On behalf of the Senate, the Chair is pleased to greet our distinguished visitors in the Chamber. (Applause, Senators rising.)

EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 1557) to provide financial assistance to local educational agencies in order to establish equal educational opportunities for all children, and for other purposes.

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

The Senator from Kentucky expresses dismay that we would be audacious enough to propose that the Federal Government ought to be concerned about the capacity of people in this country to assert their legal rights.

We have had the same trouble trying to persuade the Republican Party that the Federal Government should be interested in health, should be interested in hunger, should be interested in housing, should be interested in the environment. I am not surprised at all that when another new idea pointing to another great need is brought to the consideration of the Senate, once again we hear cries of anguish and dismay. Section 11 seeks to meet a real human need with reasonable and necessary Federal legislation and support.

Nothing was clearer, nothing was more compelling, nothing was more effectively and more clearly described by the witnesses before the Committee on Labor and Public Welfare than the law enforcement crisis that faces the country in school desegregation cases in the North as well as the South. The evidence was overwhelming of violations of court orders, violations of constitutional rights, violations of school laws, violations of fundamental principles of justice.

Thousands of teachers have lost their jobs or have been demoted. Nothing happens. So we come along with a bill that says, "Let us try to do something about that crisis." We have tried to get the Justice Department to move. We have tried to get the Department of HEW to move. They have not. So we have said, "Let us try, as we have done in other areas, to provide to private individuals a remedy for injustice, with public money to pay ultimately the costs of enforcing obedience to the Constitution and the laws of the United States."

To that we are told, "My, it is unbelievable—unbelievable—that the Federal Government would concern itself with the legal rights of all people." What is the difference between the need of a person who does not have enough to eat, where we do recognize a responsibility, the need of people who do not have decent housing, a right that was recognized by the father of the present Presiding Officer (Mr. TAFT) years and years ago, and the

need for legal services? That is precisely what the OEO legal services program is all about—Federal funds to provide fees for attorneys to protect the rights of the poor.

And the Senator from Kentucky says, This is going to encourage school districts not to settle, because the Federal Government will pay the fees of the plaintiff. That is peculiar. Who pays the fees of the plaintiff now? The answer is nobody. Section 11 would give the aggrieved party an opportunity to bring a lawsuit, which I suspect a school district would not want in the present situation, by providing for payment of fees.

In the present situation the plaintiff's attorney does not get funds from the Federal Government or anyone else. Under this bill, he would receive reasonable attorneys' fees if a successful judgment is reached.

Why do we place that burden on the Federal Government, rather than the defendant? The reason is that many school districts are very poor, and these lawsuits are very expensive. We thought that, rather than being vindictive towards a particular school district, it would be fairer, in the case of such a judgment, for the Federal Government to pay the cost of reasonable attorney's fees, as it does for indigent defendants in criminal lawsuits.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. MONDALE. I yield myself 3 more minutes.

We think, in addition to that, that the requirement that payment of fees and costs be made only after a final order has been issued—which could be issued, by the way, on agreement of the parties if a case is resolved by agreement—makes sense, in order to discourage champertous lawsuits. We do not want attorneys bringing lawsuits just to collect attorneys' fees. We only want lawsuits brought in meaningful, fundamental cases of violaton. We do not want an attorney to be given fees unless the court and the parties have determined that the suit was well founded, or unless the parties have agreed to an order, whereupon the court would have jurisdiction to distribute funds.

We have to look upon this matter in the light of the crisis in the area of school desegregation enforcement today. I do not think that 1 percent of the cases which should be brought are being brought. Hundreds of black teachers who have been fired are walking the streets, with no one to help them, no one to bring lawsuits on their behalf. School property is being transferred to private institutions. Children are being insulted on presenting themselves for transfer to desegregated schools. There are communities in the North and West doing just as the South is doing—I accept that challenge from the South—and nothing is being done.

I say to Senators, "If you believe in law and order, if you believe in a national policy, and if you believe that justice for aggrieved people in this area is as important as in housing and all the others, you will support this measure."

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. TAFT). The Chair, on behalf of the Vice President, pursuant to Public Law 86–420 appoints the following Senators to attend the 11th Mexico-United States Interparliamentary Conference, Mexico, May 27 to June 1, 1971: Senators MIKE MANSFIELD, ROBERT C. BYRD, HENRY M. JACKSON, HARRY F. BYRD, JR., JOSEPH M. MONTOYA, LLOYD M. BENTSEN, LAWTON CHILES, and GEORGE D. AIKEN.

EMERGENCY SCHOOL AID AND QUALITY INTEGRATED EDUCATION ACT OF 1971

The Senate continued with the consideration of the bill (S. 1557) to provide financial assistance to local educational agencies in order to establish equal educational opportunities for all children, and for other purposes.

Mr. COOK. Mr. President, I merely wish to say that I hope that the first words of the Senator from Minnesota, which castigated the entire Republican Party because of my remarks, were not demagogic enough to indicate that the Senator from Minnesota has now joined the ranks of many other Members of this body who may be running for higher public office than the U.S. Senate.

Mr. MONDALE. Mr. President, will the Senator yield? Will the Senator agree that it will take his party 8 or 10 years, at least, to catch up with the backlog in the demand for housing, for example?

Mr. COOK. It may take a little while to catch up with the Senator from Minnesota, but then I doubt that the taxpayers of this country would be as deeply in debt as they are today.

Mr. MONDALE. Will the Senator yield further?

Mr. COOK. Mr. President, I wish to complete my statement without further interruption.

The PRESIDING OFFICER. The Senator may proceed.

Mr. President, the Senator from Minnesota has said that this should be done on a basis that they would not expect to have any suits brought unless they were meaningful or purposeful. It does not say that in section 11. He says this should be done because there are some poorer school districts in the United States, and they should not be penalized. These poorer school districts should not be penalized because they fired a Negro teacher and have him walking on the street, or because they have done something to students wanting to break in.

Mr. President, to penalize that school district for violating the law and then to say, "Even if you are poor, if you violate the 14th amendment of the Constitution of the United States, if you violate the rules and regulations under the act, if you are using title I money improperly, you should not have to pay these fees," is rather like saying, "We know you are poor, but if you want to violate the law and continue this type of discrimination, we are not really going to make you pay for it, we are going to make somebody else pay for it."

Mr. President, I can only say that on this matter I may be speaking as the junior Senator from Kentucky, and I may be speaking from the Republican side of the Senate, but I am also speaking, I hope, as a member of the bar, as a person who has a tremendous amount of respect for the law and what the law intends, and I see a situation whereby we could solve the problem by merely inserting the language that the costs and attorneys' fees will be charged against the losing litigant, and we will reach the same result. We can even charge that school district those funds——

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

Mr. COOK. One more minute. We can even charge those expenses and make them a debit against the title I funds, so that in fact we would be accomplishing the same thing, but we are penalizing the person who violates the law; we are penalizing the person who decides the 14th amendment is for someone else and not for him. We are then imposing the cost on that individual who saw fit to commit an act that the court concluded was in violation of the law, or in violation of the proper utilization of title I funds, and that, as an indirect result thereof, that person shall suffer, but we are not saying, "Regardless of what you do or how you do it, the Federal Government will pay your expenses."

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

Mr. COOK. That is my only point.

The PRESIDING OFFICER. Who yields time?

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

The reason that the committee acted as it did, to provide Federal payment of reasonable fees rather than payment by the losing school district, is that this money would come out of the education budget for the education of the school children. And that in a real sense, when a school district is found guilty of violating constitutional antidiscrimination provisions. The plaintiff's fee, in our opinion, could far better go toward the education of the schoolchildren in that district.

Many of these districts are very poor. They are on thin budgets. Many of them are governed, not by venal people, but by people who have learned their attitudes and mores in the long tradition of the dual school system. It seems inappropriate, at least at this time, to visit the cost of that upon the children of the school district.

I think there may be cases where the Senator from Kentucky is dead right, where there are defendants who ought to pay the legal fee, where perhaps there is a wealthy school district or a district which has acted in such a way that it should be punished not only by court order, but by the assessment of legal fees as well.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. DOMINICK. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 6 minutes.

Mr. DOMINICK. How much time does the Senator from Minnesota have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 11 minutes.

Mr. DOMINICK. Mr. President, I yield myself 3 of those 6 minutes. I think maybe we can get through with this fairly quickly.

Mr. President, I want to make something clear here. During the process of the debate on the Ribicoff amendment, and during the process of the debate on the original bill, the Senator from Minnesota and the Senator from New York both said how strongly and how ably they had been supported in working out the provisions of this bill by Secretary Richardson and by Commissioner of the Office of Education, Dr. Marland. I am sure this is true. Yet, the one thing that the Office of Education and the Secretary of Health, Education, and Welfare said from the very beginning is, "We don't want section 11."

They talked about the overburdening of the Federal courts. They pointed out the problems where the United States would have to be a party wherever anybody attempts reimbursement under section 11. The United States immediately has to become a party, and the U.S. attorney has to join the suit regardless of its importance.

But over and beyond all technical complaints is something which I think is very important and which I think is pretty fundamental.

The Senator from Minnesota has accused the Republican Party of dragging their feet on various issues. I have listened to this talk before, and I am always enterained by it. Really, the issue is whether we are going to centralize government or decentralize it; whether we are going to be able to let the States and localities handle their affairs, with assistance and partnership under revenue sharing and a variety of other programs, or whether the Federal Government will become involved in everything and think they are experts enough to be able to control this country from Alaska to Florida. I do not think that they can, not in this country.

I can assure Senators that if we put up $15 million for plaintiffs to bring suits in school desegregation cases, title I cases, and all the other cases which are covered under section 11, we will have a multiplicity of suits by attorneys who are simply trying to get fees for themselves, the like of which the Federal court has never seen before. Whether or not the United States is a party, and whether or not a school district is a party, the successful plaintiff gets the general taxpayer to pay his attorney's fee. That is pure Federal subsidization of private legal fees, and I think we have had enough subsidization of all kinds of industries in this country out of general taxpayer funds. I do not want to see any more of it, and that is why I have moved to strike section 11.

Mr. MONDALE. I yield myself 3 minutes.

First of all, let me say that I endorse the statement made by the Senator from Colorado concerning his role, the role of the Republican minority, and the role of the Secretary of HEW. I think the development of this bill was an example of the kind of bipartisanship that all of us would like to see more. This is a bipartisan bill, and it is the product of a host of people who have shown a great deal of concern in this field.

I also must say that the Senator from Colorado was accurate when he said that the one provision that the Secretary opposes is that relating to legal fees.

Mr. President, one of the facts which comes dramatically and tragically to mind is this: Whenever we look at a program we have passed to help poor and powerless people, we find that those funds have been wasted and diverted, and their uses twisted in many ways, so that they are often more harmful than helpful.

Just a few weeks ago, a study was made of the expenditure of funds for the education of American Indians under the Johnson-O'Malley Act and other special titles. The report was absolutely devastating as to the way money was wasted, spent in the wrong way, spent in insulting ways, spent in illegal ways. Time and time again, funds were wasted, and robbed from the purpose for which we had appropriated them.

About a year ago, a study was made of the expenditure of title I funds. Once again, more than a billion dollars a year was being spent to help the most educationally disadvantaged and at the same time the most politically powerless in our Nation, with the same result. Funds were spent in ways that were downright illegal. Funds received to help the poor were spent on the rich side of town. Funds appropriated to help poor, minority group children were even spent on segregated, all-white facilities. The same story again. A noble, important, national piece of legislation twisted and diverted illegally, from the purpose that we intended.

Just a few weeks ago, there was a study by the General Accounting Office regarding the expenditure of $75 million designed to encourage desegregation in this land. I defy anyone to read that report and not conclude that we have an enormous, gaping, unconscionable law enforcement crisis, when it comes to minority groups, the poor and the disadvantaged.

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

Mr. MONDALE. I yield myself 2 additional minutes.

Finally, just a month ago, a special committee on the education of migrants completed a study of the 4-year program involving $45 million a year for the special education needs of the migrant labor force, the most pathetic children of all. I defy anybody to read that report and not conclude that there was enormous, unconscionable, cruel, and illegal wastage of funds.

I say that whenever we pass a bill to help poor folks, we had better believe it is not going to work, unless at the same time we give them some legal or political power to see that the money is spent in the way and for the purposes we had in mind when we adopted it.

We can pass this wonderful law, and unless we at the same time do something to assure its enforcement—not to impose greater control on anyone, but to see that the things we have decided should be done are, in fact, done—we are talking about law enforcement—unless we do that, I think all history predicts that we will be frustrated once again.

Mr. DOMINICK. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Colorado has 3 minutes remaining. The Senator from Minnesota has 5 minutes remaining.

Mr. DOMINICK. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, unless other Senators would like some time on this matter, I will use a couple of minutes to try to refute some of the arguments which have been made by the Senator from Minnesota.

I would remind the Senator from Minnesota, to start with, that one of the suggestions made by the Republican Party is that an Indian board of education be established and that we provide for local school boards with Indians on them. These suggestions were adopted on a bipartisan basis. They still have to be put into effect.

The point I am making is that it does not do any good, in the process of trying to get things cured, to continue to centralize a system under which the Federal Government is going to pay for everything. The Federal Government does not make money. It has to get the money from the revenues which are collected from the citizens who are producing around this country.

We are talking about $15 million of attorneys' fees to be paid for by everybody who is paying a Federal income tax in this country. It will go to private lawyers—private lawyers, who may be engaged in civil service work as a matter of convenience, but also private lawyers who may view section 11 types of funds as an opportunity to feather their nest through these kinds of suits. It may be an incentive, as the Senator from Kentucky has said, for a local school district to deliberately violate the law, knowing that they will not have to pay any of the plaintiff's court fees as the general public will pick up the tab. It may be that violations of title I will occur in the State of Minnesota, and my question, therefore, is: Why should the general taxpayers in Colorado have to pay for violations in Minnesota?

For that reason, Mr. President, I urge adoption of my amendment.

Mr. MONDALE. Mr. President, referring to my earlier remarks about the absolutely appalling crisis that exists whenever we proceed to implement programs to help the powerless and the disadvantaged, no matter how noble our objectives or, indeed, how clearly we spell them out, time and time again, with dreary repetition, we find that those funds have been wasted or diverted, or illegally spent, and that the spirit of the objectives of the legislation has been destroyed.

Once again, with a full spirit, we are trying to do something new, something

that I believe, by and large, we all agree should be done; namely, to try everything that is reasonably necessary and possible to encourage the establishment of stable, quality-integrated education and, at the same time, make certain that the funds are used for that purpose and not diverted into illegal, wasteful, or unconstitutional efforts.

We are duly warned. We have had a "shakedown cruise" on this program already. Seventy-five million dollars has been spent during the present year on an initial effort to encourage desegregation. I think everyone concedes that a great deal of that money was wasted; much of it, in my opinion, actually went to support segregation, not desegregation practices.

So the record is there, that if we want these programs for the poor and the powerless to mean something, it must contain provisions which permit those served to be sure that our will is carried out. One of the most effective ways to achieve this, in addition to parent participation, is to permit aggrieved persons to bring a lawsuit. A poor, unemployed teacher who is black and has been fired, is in no position financially to bring a lawsuit. Ordinary citizens are in no position to try to prohibit the transfer of public properties. These lawsuits are so expensive that there is no economic gain for anyone. Even the average lawyer cannot afford to spend the enormous amount of time that goes into such a lawsuit, without compensation.

Therefore, drawing on the experience of the Equal Employment Opportunities Act, drawing on the experience of the Public Accommodations Act, and drawing upon the experience of legal fees for indigent defendants under the Criminal Justice Act, we are trying a new and exciting way to assure that what we want done is, in fact, done, and that these funds will not be illegally diverted.

I think section 11 is one of the most important provisions, if not the most important provision, in the bill. Without it, I predict wholesale experiences such as those we have already experienced in the past.

Finally, for those who want a national policy of law enforcement—and I agree with the South that we do not have one today, especially in light of the defeat of the Ribicoff amendment—this is the only way I know of to insuer that lawsuits will be brought in the North, West, and the East, as well as the South, in order to eliminate official discrimination—which is about as widely evident in the North, in many cases, as it is in the South.

For these reasons, Mr. President, I plead with the Senate to reject the amendment of my good friend from Colorado who has done such fine work on this bill. I hope that the $15 million provision will remain in the bill.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER (Mr. TAFT). All time on the amendment has now expired.

The question is on agreeing to the amendment——

Mr. JAVITS. Mr. President, I ask unanimous consent that I may speak for 1 minute.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and it is so orderd.

Mr. JAVITS. Mr. President, I shall vote with the Senator from Minnesota. I appreciate that this is a troublesome problem. We wrestled with it hard in consideration of the bill which was finally worked out.

But, I think that Senators, in evaluating it—because it is difficult—should be careful, in evaluating it, to read the clause which says, "upon a finding that the proceedings were necessary to bring about compliance."

In my judgment, considering the legislative record, compliance could not otherwise be obtained had not these proceedings been brought. On that basis, I feel justified in going with the Senator from Minnesota.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 43, of the Senator from Colorado.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN (when his name was called). On this vote I have a pair with the Senator from Texas (Mr. TOWER). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold by vote.

Mr. BYRD of West Virginia. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Wisconsin (Mr. NELSON), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Florida (Mr. CHILES), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Washington (Mr. MAGNUSON) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Oklahoma (Mr. HARRIS), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT) is absent by leave of the Senate on official business.

The Senator from Tennessee (Mr. BROCK) is absent on official business.

The Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

If present and voting, the Senator from South Dakota (Mr. MUNDT) would vote "yea."

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

The result was announced—yeas 47, nays 38, as follows:

[No. 44 Leg.]

YEAS—47

Aiken	Curtis	Pearson
Allen	Dominick	Pell
Baker	Eastland	Percy
Beall	Ellender	Prouty
Bellmon	Ervin	Roth
Bennett	Fannin	Smith
Bentsen	Fong	Sparkman
Bible	Gambrell	Spong
Boggs	Goldwater	Stennis
Buckley	Gurney	Stevens
Byrd, Va.	Hansen	Taft
Byrd, W. Va.	Hruska	Talmadge
Cannon	Jordan, N.C.	Thurmond
Cook	Jordan, Idaho	Weicker
Cooper	McClellan	Young
Cotton	Miller	

NAYS—38

Anderson	Hughes	Moss
Bayh	Humphrey	Muskie
Brooke	Jackson	Pastore
Burdick	Javits	Proxmire
Case	Kennedy	Ribicoff
Church	Mansfield	Saxbe
Cranston	Mathias	Schweiker
Eagleton	McGee	Scott
Fulbright	McGovern	Stevenson
Gravel	McIntyre	Symington
Hart	Metcalf	Tunney
Hartke	Mondale	Williams
Hatfield	Montoya	

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Mr. Griffin, against.

NOT VOTING—14

Allott	Hollings	Nelson
Brock	Inouye	Packwood
Chiles	Long	Randolph
Dole	Magnuson	Tower
Harris	Mundt	

So Mr. DOMINICK's amendment (No. 43) was agreed to.

Mr. DOMINICK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD obtained the floor.

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

Mr. MANSFIELD. I shall yield to the Senator if the distinguished minority leader will allow me first to yield to the distinguished Senator from North Carolina so that he may call up an amendment.

AMENDMENT NO. 44

Mr. ERVIN. Mr. President, I call up my Amendment No. 44, which I will explain after a colloquy between the Senator from Pennsylvania and the Senator from Montana.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. Mr. ERVIN proposes an amendment (No. 44) to strike out all after the enacting clause and insert in lieu thereof an amendment in the nature of a substitute entitled "Emergency School Aid Assistance Act".

The amendment (No. 44) is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Emergency School Aid Assistance Act".

STATEMENT OF PURPOSE

SEC. 2. (a) In order to meet the crisis created by the rising costs of providing education in the public schools of the States and by the limited resources of State and local educational agencies, it is the purpose of this

Act to make unconditional education grants to State and local educational agencies.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. There are authorized to be appropriated for the purpose of carrying out this Act $500,000,000 for the period ending June 30, 1972, and $1,000,000,000 for the fiscal year ending June 30, 1973. Funds appropriated pursuant to the preceding sentence shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

ALLOTMENT

SEC. 4. (a) From the funds appropriated pursuant to section 3, the Commissioner shall allot not less than 3 per centum among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs. From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to the number of children in each such State—

(1) who are aged five to seventeen, inclusive; and

(2)(A) who are enrolled in the public elementary and secondary schools of the local educational agencies, and

(B) enrolled in such schools of the State educational agency of such State;

bears to the number of such children in all States. For the purposes of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this Act shall be available for reallotment from time to time, on such dates during such period as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates will be needed in such State and will be used for such period for carrying out applications approved under this Act, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

USES OF FUNDS

SEC. 5. Grants made under this Act may be used in accordance with applications approved under section 6 for educational programs and activities conducted by public elementary and secondary schools of local educational agencies and of State educational agencies.

APPLICATIONS

SEC. 6. A grant under this Act may be made to any State or local educational agency upon application to the Commissioner at such time, in such manner, and containing and accompanied by such information as the Commissioner deems necessary. Each such application shall—

(1) provide that the programs and activities for which assistance under this Act is sought will be administered by or under the supervision of the applicant;

(2) describe with particularity the programs and activities for which such assistance is sought;

(3) in the case of a State educational agency, provides assurance that no more than 50 per centum of the funds for which the application is made by such agency will be expended for purposes other than programs and activities conducted by the public elementary and secondary schools of such agency;

(4) provide assurances that the applicant will pay from non-Federal sources the remaining costs of such program;

(5) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper dispersal of and accounting of Federal funds paid to the applicant under this Act; and

(6) provide for making such reasonable reports in such form and containing such information as the Secretary may reasonably require to carry out his functions under this Act, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) Applications for grants under this Act may be approved by the Commissioner only if—

(1) the application meets the requirements set forth in subsection (a); and

(2) the application is consistent with objective criteria established by the Commissioner for the purpose of achieving an equitable distribution under this Act within such State. Such criteria shall be based upon a consideration of—

(A) the number of children aged five to seventeen, inclusive, who are enrolled in the public elementary and secondary schools of the local educational agencies within each such State; and

(B) the relative need of the local educational agencies within the State for assistance under this Act.

(c) Amendments of applications shall, except as the Commissioner may otherwise provide, be subject to approval in the same manner as the original applications.

PAYMENTS

SEC. 7. (a) Payments under this Act shall be made from a State's allotment to any State or local educational agency which has an application approved under section 6. Payments under this Act with respect to the costs of carrying out an application of a State or local educational agency shall not exceed 90 per centum of such costs for any fiscal year in determining the costs of carrying out an application of a State or local educational agency and shall exclude any costs with respect to which payments were received under any other Federal program.

(b) Payments to a State under this Act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

WITHHOLDING

SEC. 8. Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to a grant recipient under this Act, finds—

(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this Act; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Commissioner shall notify such recipient of his findings and no further payments may be made to such recipient by the Commissioner until he is satisfied that such noncompliance has been, or will promptly be, corrected. The Commissioner may authorize the continuance of payments with respect to any programs or activities pursuant to this Act which are being carried out by such recipient and which are not involved in the noncompliance.

JUDICIAL REVIEW

SEC. 9. (a) If any State or local education agency is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 6, or with his final action under section 7, such State or local educational agency may within sixty days after notice of such action file with the United States court of appeals for the circuit for which such agency is located a petition for review of that action. A copy of that petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner shall file promptly in the court the record of the proceedings on which he based his action, as provided for in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

PROHIBITIONS AND LIMITATIONS

SEC. 10. (a) Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

(b) Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for the construction of facilities as a place of worship or religious instruction.

ADMINISTRATION

SEC. 11. (a) The Commissioner may delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the Office of Education.

(b) In administering the provisions of this Act, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

DEFINITIONS

SEC. 12. As used in this Act, the term—

(1) "Commissioner" means the Commissioner of Education;

(2) "elementary school" means a day or residential school which provides free public elementary education, as determined under State law;

(3) "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, and such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

(4) "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State;

(5) "secondary school" means a day or residential school which provides free public secondary education, as determined under State law, except it does not include any education beyond grade 12;

(6) "State" includes in addition to the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands; and

(7) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of State elementary and secondary education or if there is no such officer or agency, an officer or agency designated by the Governor or State law.

UNANIMOUS-CONSENT AGREEMENTS—PROGRAM

Mr. MANSFIELD. Mr. President, I have discussed the possibility of a time limitation with the distinguished Senator from North Carolina. He is most reasonable, but he would prefer to discuss it tomorrow rather than this evening.

May I inquire of the Chair how much time has been allocated for Senators to speak after the Senate convenes at 10 o'clock tomorrow morning?

The PRESIDING OFFICER. A total of 30 minutes.

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

Mr. MANSFIELD. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately following the remarks by the able Senator from Iowa (Mr. HUGHES) tomorrow, for which the order has already been entered, the following Senators each be allocated not to exceed 15 minutes, in the order stated: Mr. SAXBE, Mr. TAFT, Mr. HANSEN, Mr. BUCKLEY, and Mr. BYRD of Virginia.

Mr. ALLEN. Mr. President, reserving the right to object, do these time allocations come before the period set aside for the transaction of routine morning business?

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. ALLEN. How much time would then be allocated for it?

The PRESIDING OFFICER. The total allocation of time would be——

Mr. BYRD of West Virginia. Mr. President, under the order previously entered, there would be not to exceed 30 minutes.

Mr. ALLEN. How much time is being added now?

Mr. BYRD of West Virginia. The total consumed in the six speeches would be an hour and a half, and the 30 minutes would carry us past the hour of 12 o'clock, which would be the close of the morning hour.

Mr. ALLEN. I have no objection. I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn.

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

Mr. MANSFIELD. I yield.

Mr. ERVIN. Mr President, I want to inform the Members of the Senate who are present at this time that my amendment No. 44 which is printed in this RECORD earlier is a substitute bill for S. 1557, and it would disperse $1.5 billion directly to all local school districts and the States on the basis of their proportion of the Nation's school-age population. Other than the requirement that the money be spent for general educational purposes by the States and school districts, there would be no Federal restrictions on the funds.

The National School Board Association has strongly endorsed amendment No. 44 rather than S. 1557, as it is written. The association membership includes 85,000 school board members which represent 90 percent of the Nation's school boards. These boards serve 98 percent of our Nation's schoolchildren. Because of the strong backing of this broadly based group, a vote for amendment No. 44 would be truly a unifying act for a nation divided by the school desegregation issue.

Amendment No. 44 is basically a general revenue sharing measure, and I hope you will agree with me that it is a much more constructive way to aid education than S. 1557 as presently written.

Passage of amendment No. 44 would do away with this business of trying to divide the country into two parts. It would also do away with the necessity of having to vote on the parochial school aid question. I hope the Senate will adopt amendment No. 44 so we can bring this bill to an end and get out of here this week.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, the request is agreed to.

Mr. MANSFIELD. Mr. President, it is my understanding that the Senate has already agreed to a 30-minute period tomorrow for the transaction of routine morning business.

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that period be extended to 1 hour for the transaction of routine morning business.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, as the junior Senator from Alabama understands, we have an hour and a half set aside for specifically allocated time periods for Senators. Then we have 30 minutes allocated, with a 3-minute limitation, which would give 10 Senators an opportunity to speak for 3 minutes. We have as the pending business, which would be laid before the Senate at that time, 12 o'clock, Senate 1557, the Emergency School Act. This act should be given emergency treatment. It seems to the junior Senator from Alabama that 2 hours is long enough to set aside for speeches prior to getting on with this emergency school legislation.

So the junior Senator from Alabama respectfully and apologetically interposes an objection to the request of the distinguished majority leader.

Mr. MANSFIELD. Not at all, because the Senator is perfectly within his rights.

Mr. SCOTT. Mr. President, would the distinguished majority leader now advise us as to the schedule? For example, if we can finish consideration of this bill, as the Senator from Alabama has eloquently suggested, by tomorrow, would we be in session on Friday? I assume if we do not finish the bill by tomorrow we will be in session on Friday.

I would like the comments of the distinguished majority leader as to that question, as to whether he agrees with what I have indicated, and then, further, what legislative business may we expect thereafter?

Mr. MANSFIELD. Mr. President, may I say, in response to the question raised by the distinguished minority leader, he is in fact the eternal optimist. If we could finish this bill tomorrow, we would not be in session Friday; but it is my understanding that the distinguished Senator from North Carolina has more than one amendment and that the distinguished Senator from Mississippi has one amendment. There may be others.

The joint leadership would be prepared to stay in session late tomorrow to complete its business, but it appears to me it is not quite possible, and I would say as of now that the Senate will be in session on Friday.

I would like at this time, with the consent of the distinguished Senator from North Carolina, to make a request.

Mr. STENNIS. Mr. President, will the Senator yield before he makes that request?

Mr. MANSFIELD. I yield.

Mr. STENNIS. I appreciate the Senator's yielding.

In connection with the amendment the Senator mentioned, the amendment by my colleague and I that I have in mind is the same amendment that was introduced to the education bill last year and that was debated and was passed by the Senate. I would propose to offer that amendment now and would cooperate to such degree as I could to agreeing to some time tomorrow, but not very late. I just wanted the Senator to hear that statement.

Mr. MANSFIELD. Mr. President, that is encouraging news. That may change the picture.

If I may have the attention of the distinguished Senator from North Carolina, I ask unanimous consent that on the pending amendment there be a time limitation of 2 hours, the time to be equally divided between the sponsor of the amendment and the manager of the bill or whomever he may designate.

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

Mr. MANSFIELD. I yield.

Mr. JAVITS. That is fine, except I hope the Senator will protect us on amendments to the amendment and will not foreclose, though I do not intend to make one, a motion to table, because I gather the unanimous-consent request must contemplate both possibilities.

Mr. MANSFIELD. It would.

Mr. President, I ask unanimous consent that there be 10 minutes, equally divided, on all amendments to the amendment.

Mr. JAVITS. And that a motion to table may be made?

Mr. MANSFIELD. Oh, yes. That is always in order.

The PRESIDING OFFICER. Is there objection to the unanimous-consent re-

quest? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Stennis amendment is laid before the Senate, following the disposition of the Ervin amendment, there be a time limitation of not to exceed 3 hours, the time to be equally divided between the sponsor of the amendment and the manager of the bill, and under the same conditions that the Ervin amendment is being considered under.

Mr. JAVITS. Mr. President, what about amendments to the amendment and a motion to table?

Mr. MANSFIELD. Yes; I include that.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in view of that, may I say to the distinguished minority leader that there is a possibility that we could finish tomorrow night.

Mr. SCOTT. So I observed to the distinguished majority leader, when he called me a perpetual optimist, that that is a built-in role of the minority leader, and it is about all we have to look forward to. I am delighted to be such an optimist if preceded by the healthy kind of pessimism which leads to realism, as the last request indicated.

Mr. MANSFIELD. Mr. President, if we can cut through all those words, we still have the possibility to contend with, but there will be no further votes tonight.

The PRESIDING OFFICER. The Chair would inquire of the majority leader as to when consideration of the Ervin amendment takes effect.

Mr. MANSFIELD. Immediately at the conclusion of the 30 minutes set aside for morning business.

Mr. STENNIS. Mr. President, on behalf of my colleague from Mississippi (Mr. EASTLAND) and myself, and such other Senators as may join——

Mr. BYRD of West Virginia. Mr. President, the Senate is not in order—n–o–t in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President——

Mr. BYRD of West Virginia. Mr. President, will the Senator kindly suspend until we can get order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, I ask unanimous consent that the text of my amendment appear at this point in the RECORD.

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

On page 1, between lines 4 and 5, insert the following new section:

"POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

"SEC. 2. It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964, section 182 of the Elementary and Secondary Education Amendments of 1966, and this Act, shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation."

On page 1, line 6, strike out "SEC. 2. (a)" and substitute "SEC. 2A. (a)".

Mr. STENNIS. Mr. President, this is the same amendment with reference to the policy of withholding money for school purposes that we debated in the Senate last year, and it passed the Senate by a vote of 56 to 36, but the substance of it was lost in conference. I think we can debate the issue and the substance of it tomorrow. I call the Senate's attention to that amendment.

I ask unanimous consent that the name of the Senator from South Carolina (Mr. THURMOND) may be added as a cosponsor of the amendment.

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

Mr. STENNIS. I also ask unanimous consent that the names of the Senator from North Carolina (Mr. ERVIN) and the Senator from Alabama (Mr. ALLEN) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered. If the Senator will suspend for a moment, there is an amendment pending at the present time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all this may be effective when the Stennis amendment is laid before the Senate and becomes the pending business.

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

The unanimous-consent agreement reads as follows:

Ordered, That, following the conclusion of the routine morning business, on Thursday, April 22, 1971, time on the amendment (No. 44) of the Senator from North Carolina (Mr. ERVIN) be limited to two hours to be equally divided and controlled by the Senator from North Carolina (Mr. ERVIN) and the Senator from Rhode Island (Mr. PELL) or their designees. Should an amendment be offered to the Ervin amendment, time will be limited to ten minutes to be equally divided between the proponent of the amendment and the Senator from North Carolina (Mr. ERVIN).

Provided further, That following the disposition of the Ervin amendment, the amendment to be offered by the Senator from Mississippi (Mr. STENNIS) be laid before the Senate and the time limited to three hours, to be equally divided and controlled by the Senator from Mississippi (Mr. STENNIS) and the Senator from Rhode Island (Mr. PELL) or their designees. Should an amendment be offered to the Stennis amendment, time will be limited to ten minutes to be equally divided between the proponent of the amendment and the Senator from Mississippi (Mr. STENNIS).

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session for action on certain nominations which have been favorably reported by the Committee on the Judiciary today, and I yield to the distinguished minority leader for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Pennsylvania is recognized.

THE JUDICIARY

The legislative clerk proceeded to read sundry nominations in the judiciary, favorably reported by the Committee on the Judiciary earlier in the day.

Mr. SCOTT. Mr. President, I ask that the clerk report first the nomination which I now hand him.

The legislative clerk read the nomination of Raymond J. Broderick, of Pennsylvania, to be a U.S. District Judge for the Eastern District of Pennsylvania.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. SCOTT. I ask unanimous consent that the remaining nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. SCOTT. Mr. President, I ask that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. SCOTT. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

QUORUM CALL

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

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

VISIT TO THE SENATE BY MEMBERS OF THE GERMAN BUNDESTAG

Mr. SPARKMAN. Mr. President, I had hoped that I might be able to present a distinguished delegation from the Bundestag in Germany, but unfortunately they are due at the White House at 4 p.m., so they have to leave.

They have been visiting in the United States for 2 weeks, and they are in Washington today. They are members of the Foreign Relations Committee of the German Bundestag. We had a very nice visit in the Foreign Relations Committee room, and then they came to the Senate Chamber and enjoyed observing some of the proceedings.

I ask unanimous consent that a biographical sketch of each gentleman be printed at this point in the RECORD.

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

BIOGRAPHICAL SKETCHES

KURT MATTICK

Born June 27, 1908, in Berlin. Began career as a machinist in the Borsig works, later transferred to commercial and technical departments.

Active in Metal Workers' union and Socialist Workers Youth from 1924. Member of Social Democratic Party (SDP) since 1926. After 1933, member of Anti-Nazi resistance group. In 1946, Secretary of the SPD majority group in the Berlin City Council. Active in journalism as writer and editor for the Berlin dailies "Social Democrat" and "Telegraf."

Deputy from Berlin in the federal Bundestag (since 1953). Member of the SPD national party Council and of the party's Board for the Berlin city-state. Deputy Chairman of the Foreign Affairs Committee of the German Bundestag. Chairman of the SPD's Working Group of Foreign Affairs and intra-German relations of the Social Democratic delegation in the Bundestag.

PETER KLAUS CORTERIER

Born in Karlsruhe on June 19, 1936, studied law in Heidelberg and at 20 was already active in the Social Democratic Party (SPD). In 1967, at 31, he became Chairman of the Young Socialists in the SPD.

For three years, until 1968, he was President of the Atlantic Association of Young Political Leaders (AAYPL), whose member groups in the U.S. include the Young Democrats and Young Republicans. He is now a member of the organization's Board and heads its German delegation. He is also a member of the German Atlantic Society. He is the youngest member of the Social Democratic Party's Board. In the Bundestag, he serves on the Foreign Affairs Committee, its Sub-Committee for Disarmament and Arms Control, and is a deputy member of the Defense Committee.

JOACHIM RAFFERT

Born March 15, 1925 in Hildesheim. After war service, worked in construction, continued his education and became a Journalist with newspapers in Einbeck, Goettingen and Hannover. Member of the Social Democratic Party since 1949, served in various capacities with the SPD Youth Organization "Falken", the Young Socialists, member of SPD Subregional Committees and as Deputy District Chairman in Hildesheim. Since 1959, Councilman in Hildesheim and since 1964, Deputy Chief of the Political Section of the daily "Hannover Press". Member of the Board of the German Journalists' Union in Hannover, Board Member and Manager of Cultural Activities of the City of Hildesheim.

Mr. Raffert is Member of the Bundestag since 1965. He is married and has two sons.

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 second assistant legislative clerk proceeded to call the roll.

Mr. MILLER. 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 Senator from Iowa is recognized.

(The remarks of Mr. MILLER when he introduced S. 1612 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

REMOVAL OF INJUNCTION OF SECRECY FROM THE TREATY WITH MEXICO, EXECUTIVE B, 92D CONGRESS, FIRST SESSION

Mr. BYRD of West Virginia. Mr. President, as in executive session I ask unanimous consent that the injunction of secrecy be removed from the Treaty with Mexico, signed at Mexico City on November 23, 1970, resolving boundary differences—Executive B, 92d Congress, first session—transmitted to the Senate today by the President of the United States, and that the treaty, together with the President's message, be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the treaty to resolve pending boundary differences and maintain the Rio Grande and Colorado River as the international boundary between the United States of America and the United Mexican States, signed at Mexico City on November 23, 1970.

I transmit also, for the information of the Senate, the report of the Secretary of State with respect to the treaty.

This treaty, it is believed, constitutes as fair a settlement as can be negotiated of all pending boundary differences and uncertainties with Mexico, and represents a comprehensive attempt on the part of the two Governments to deal with existing and future boundary problems.

The provisions of the treaty are outlined and explained in the enclosed report of the Secretary of State. Under the treaty the Governments would settle the existing disputes and uncertainties regarding the location of the boundary along the Rio Grande and off both coasts, and would establish new procedures for handling the river movements that have occasioned differences and uncertainties in the past. Under it there would be assigned to the United States approximately 2,079 acres of land about which there has been question as to national sovereignty, and to Mexico about 3,326 acres about which there has been similar doubt.

The treaty would establish a permanent maritime boundary in the Gulf of Mexico where, due to migration of the mouth of the Rio Grande, it has been indefinite and moving for more than a century, as well as in the Pacific Ocean. Henceforth, mariners and potential lessors and lessees of the seabed would be able to ascertain precisely the extent of the jurisdiction of each nation.

The treaty would also provide measures to avert in the future significant loss of territory to either country because of the inevitable movements of the boundary rivers. The importance of these provisions is indicated by the fact that in a century more than 240 tracts have been cut from one country to the other, effecting a transfer of about 20,800 acres from Mexico to the United States and about 15,300 acres from the United States to Mexico, with the attendant uncertainty about the location of the boundary, and the inconvenience and personal loss to some of the owners of the land.

The settlement unfortunately will entail loss to the Presidio Valley of Texas of a considerable part of its irrigable land. While this land belonged to Mexico in 1852, it has long been occupied and much of it farmed by American citizens. With only a limited amount of irrigable land available, the economic base of the valley will be adversely affected. Following the precedent of the Chamizal settlement of 1963, when lands also had to be transferred to Mexico, I intend to recommend inclusion in enabling legislation of specific measures to relieve the people of the valley of financial loss and assist them in adjusting to the requirements of the settlement. This assistance should alleviate the burden of the settlement which the valley and its residents are ill-prepared to bear, and for which they have had no responsibility.

In the absence of the detailed investigations that can be undertaken only after ratification of the treaty, the U.S. Section of the International Boundary and Water Commission has been able to prepare only preliminary estimates of the cost of the works required for implementation of the treaty. In his report the Secretary of State presents preliminary estimates totaling $10,368,000 for the United States share of the work that should be performed over the next two years. In addition to normal maintenance, the treaty would commit the United States to a continuing program to restrain the boundary rivers in their courses and avert loss of territory through the shifting of sizable tracts from one country to the other. This program is expected to require an average expenditure of not more than $400,000 per year. The Government of Mexico would, of course, perform its share of this work, and the total continuing obligation for both countries would diminish as the Commission succeeds in stabilizing the course of the rivers where shifting seems most likely.

I believe that the proposed comprehensive boundary settlement admirably reflects the mutual respect and understanding in which the Governments of the United States and Mexico conduct their relations and the constructive spirit with which they approach common border problems. I strongly recommend that the Senate of the United States advise and consent to the ratification of the treaty as promptly as appropriate procedures permit.

RICHARD NIXON.

THE WHITE HOUSE, *April 21, 1971.*

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

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

Mr. MANSFIELD. Mr. President, is my understanding correct that there is to be a morning hour for the conduct of morning business from 11:30 to 12 noon, with

a time limitation of 3 minutes attached thereto?

The PRESIDING OFFICER. The understanding of the Senator is correct.

VISIT OF THE UNITED STATES TABLE TENNIS TEAM TO CHINA

Mr. GRIFFIN. Mr. President, I was absent from the Chamber this afternoon for the purpose of meeting with Mr. Graham B. Steenhoven, president of the U.S. Table Tennis Association. Mr. Steenhoven, from Detroit, recently returned with the U.S. Table Tennis Team from their historic visit to Communist China.

Those of us from Michigan are particularly proud of the way Mr. Steenhoven and the members of this American table tennis team conducted themselves as representatives of our Nation. The opportunity to participate in this historic diplomatic breakthrough fell to them without notice or preparation. Yet, they acquitted themselves with grace and tact.

I have watched the interviews and the reports on television and read about them in the newspapers. The team was an interesting group of citizens of the United States, most of whom had been born in foreign countries, of varying economic backgrounds and different colors.

It is interesting that this very representative group of U.S. citizens, in a very unexpected way, had the opportunity to participate in this historic event. What the future may hold in terms of Chinese-United States relations is still to be determined. In any event, I am very proud of the part that Mr. Steenhoven has played, and I commend him and all the members of the U.S. Table Tennis Team for the way they represented the United States.

SENATE RESOLUTION 101—USE OF THE MALL BY VIETNAM VETERANS — UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the hour of 12 noon tomorrow, the resolution submitted by the distinguished Senator from Michigan (Mr. HART) be laid before the Senate, and that the Senator from Michigan (Mr. HART) be recognized for 15 minutes.

The PRESIDING OFFICER. Without objection——

Mr. ALLEN. Mr. President, I understood the Senator was going to state the whole request before asking for approval. That is not all of the request.

Mr. MANSFIELD. And that the morning hour be closed at 12:15, which will be the termination of the 15 minutes granted to the distinguished Senator from Michigan and that at that time the unfinished business be laid before the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, I wish to inquire as to which Senators have been allotted time for the hour and a half period.

Mr. MANSFIELD. Senators, HUGHES, SAXBE, HANSEN, BUCKLEY, BYRD of Virginia, and the distinguished Presiding Officer, the Senator from Ohio (Mr. TAFT). It would be anticipated that what we are doing here is laying our cards on the table and that a Senator who may not be here tonight would understand the situation in which the leadership finds itself.

Mr. HART. Mr. President, reserving the right to object—and it may be that the point I am going to make is not quite an appropriate reservation—I think it will help those of our colleagues who are not here, but who will read in the RECORD our full intention with respect to tomorrow, to say that earlier today I submitted a resolution which would express as the sense of the Senate a desire to see the Mall made available for the remainder of this week to the Vietnam veterans who are here to petition us.

Because under our rules the only time tomorrow that action could be taken on that resolution would be during the 2 hours of the morning hour, and inasmuch as 1½ hours of those 2 hours have already been committed and there are reserved only 30 more minutes, and those 30 minutes are available to each and all Senators for 3 minutes each, it would be very unlikely that the Senate would be in a position to work its will with respect to the proposal that is reflected in that resolution, namely, to permit the veterans to be on the Mall.

I would hope that, given this kind of notice—and I shall not object—all of us will have reached our conclusions before 12:15 tomorrow as to whether we think the Senate should voice an opinion as to the appropriateness of the use of the Mall by the veterans.

The only way that can occur is if in that 15-minute period allotted to me our colleagues permit this question to come to a vote. If Senators think it would be helpful both to peace and concord in our community and a decent respect for the men who fought a war, which we declared but never went into ourselves, to use that Mall to petition us, vote "yes." If our colleagues disagree, vote "no." Let us not talk about it.

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

Mr. HART. I yield.

Mr. MANSFIELD. May I express the hope that this matter, which has been decided only by the Chief Justice up to this time, will be considered, as I understand it might be, by the full Supreme Court this afternoon. It would be my hope that a satisfactory solution could be found to the dilemma which faces all of us at this time. I would hope not only that the Supreme Court would look with leniency on the plea of the veterans, but that the National Park Service, which I think the distinguished Senator from Michigan had in mind in his resolution, would not be too strict in carrying out the orders of the Chief Justice, and that even the President of the United States might look with consideration, compassion, and understanding upon a situation which has developed so rapidly and which needs to be met in some fashion so swiftly.

Mr. ALLEN. Mr. President, reserving the right to object, the junior Senator from Alabama feels that the distinguished Senator from Michigan, having submitted this resolution, should have the opportunity of discussing it for a reasonable length of time, and for that reason he feels that the request that he have 15 minutes to discuss it is not unreasonable.

Without passing any judgment on the resolution, the junior Senator from Alabama, who on occasion has felt it advisable to speak here on the floor for periods longer than 15 minutes, feels that the distinguished Senator from Michigan should have the opportunity of speaking for 15 minutes. Whether the resolution will come to a vote in those 15 minutes is, to say the least of it, problematical, but he will have his day, or if not day, at least his 15 minutes, in court.

I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. HART. Mr. President, I really have very little interest in speaking for 15 minutes. I have a bed to sleep in tonight and a very comfortable home. I am trying to get some time so that 100 Senators can express themselves by a "yes" or "no" on the proposition of whether people who come to petition us may have a place to stay. Not all of them are able to house themselves in suites at the Shoreham. Some of them find it very difficult to house themselves. A man from Michigan, without his two legs, is here in fatigues. Fifteen minutes gives us all an opportunity to answer a rollcall as to whether that man will be permitted to stay on the Mall unmolested while he seeks to petition us about a war he knows much more about than we will ever know.

The PRESIDING OFFICER. The Chair will inquire whether, under the unanimous-consent request, the order shall include that a vote on the resolution will take place after the Senator from Michigan has used his time.

Mr. MANSFIELD. Mr. President, it will be laid before the Senate at 12 noon, at which time the distinguished Senator from Michigan will be recognized for the next 15 minutes. If a vote is achieved in the meantime, that will dispose of it one way or the other. If a vote is not achieved by the hour of 12:15, then it is my understanding that the time which the Senator from Michigan has will be terminated and the sense of the Senate resolution automatically will go on the calendar.

Mr. ALLEN. Mr. President, if the Senator will yield, so much of the 15 minutes as the Senator from Michigan might care to use. If he should yield the floor, it would be available at the request of any Senator.

Mr. MANSFIELD. That is right.

Mr. President, I modify my previous request slightly so that the time for the Senator from Michigan will be not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I want to say to the distinguished Senator from Alabama that he has been most fair and considerate, as always, in help-

ing to work out an impasse in which we all found ourselves, and I think he did so not only gracefully but with due regard for the rights of the Senator from Michigan (Mr. HART), just as I am sure he would observe and fight for the rights of any other Senator.

Mr. HART. Mr. President, though it would seem extremely ungracious of me, after having been given 15 minutes that I would not otherwise have been able to obtain, I must say that once we get over this hump and the emotionalism of this issue, I wonder if, in attempting to organize ourselves in an expeditious fashion for the purpose that I have supported, the desirability of which I understand; namely, earmarking 15 or 30 minutes for individuals, we are not getting ourselves into the position where a Senator's right to do what I sought to do with this resolution is being destroyed—or perhaps atrophied is the better word.

We can wind up such an orderly procedure here that we can have every one of those minutes in the first 2 hours for morning business earmarked, and then we might just as well repeal whatever this rule is that is intended to give Senators the right, if you will, to raise sometimes difficult issues such as apparently some feel are reflected in the resolution I have offered.

Let us not get in that bind now, but let us recognize that this is an example of what we are going to get into if we are not careful.

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. HART. I yield.

Mr. MANSFIELD. The Senator is absolutely correct. There is a grave danger involved in procedures that may prejudice Senators; there is difficulty involved—particularly when those procedures inhibit the rights and privileges of Senators under morning hour provisions and other rules that govern this body. Of course, we are attempting to accommodate all Senators and to provide efficiency. But we are all men who must work together in the Senate and as written, the rules provide, I think, for that degree of flexibility to protect the right of every Member of this institution. We will have to look into this again, because the point raised by the distinguished Senator is well taken, and if we do continue to operate too strictly under these new procedures and thereby inhibit, to a great degree, the rights of any Senator, then I think we may have gone too far in the name of efficiency and sacrificed a part of what is fundamental to this institution. I believe this all can be worked out but we must—as always—remain flexible in our approach.

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

Mr. HART. I yield.

Mr. BYRD of West Virginia. Mr. President, I cannot agree with the distinguished Senator from Michigan. In the first place, it is his right or the right of any Senator to object to a unanimous-consent request that any Senator or group of Senators be allotted time to the extent of 15 minutes each before the period for routine morning business begins. In each such case, time is allotted by a unanimous-consent order. The Senator can object to such requests so that the entire 2 hours under the morning hour would remain available for discussion of routine morning business under rule VII, including a discussion of the resolution which would come over under the rule.

I repeat that any Senator who wishes to protect his rights with respect to rule XIV, under which a resolution lying over for a day is laid before the Senate, can do so simply by objecting to any requests for unanimous consent that Senators may speak for 15-minute periods, thus consuming the whole or any significant part of the 2 hours under the morning hour.

Mr. HART. Mr. President, I do agree with the able Senator from West Virginia. I would hope we would not be compelled, in the interest of self-defense, to enter a standing objection. Let us not drive this thing to that point.

Mr. BYRD of West Virginia. Mr. President, if the able Senator will yield, I made no reference to the necessity for a standing objection to protect a Senator.

Mr. HART. No; but how can I or any of us be here for 2 hours to pop up and object every time a colleague, with good reason always, wants to block out 30 minutes?

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

Mr. HART. I yield.

Mr. BYRD of West Virginia. I would hope we would not leave the RECORD today implying—as I know the Senator from Michigan does not want to imply—the the procedures which have been put into effect on the recommendation of at least four distinguished Senators, two from each side of the aisle, are working in such a manner that at some future date, a Senator's rights under rule XIV—with respect to a resolution lying over for a day—would be violated or impaired.

I want again to emphasize that any Senator, at any point, can object when a request is made for a Senator to be recognized for 15 minutes preceding the period for the transaction of routine morning business, and thus preserve his rights as they have existed heretofore under rule XIV.

Also, any Senator may, on the day before, speak as long as he can stand on his feet with respect to the resolution that will lie over until the next day.

Finally, I know that the leadership on both sides of the aisle is going to do everything possible to accommodate both the Senators who want orders entered recognizing them for 15 minutes each before morning business as well as any Senator or Senators who wish to speak with respect to a resolution that has lain over for a day under the rule.

Mr. HART. That is the point that I cite this situation as perhaps putting into jeopardy. I support the leadership in the desire to organize the schedule in a fashion that does permit us to anticipate 15 minutes. With this I have no quarrel.

Second, I am not suggesting that in the allocation of times for tomorrow, there was on the mind of anyone any desire thereby to shuffle this pending resolution into the closet. But if we had allotted 15 minutes to each of two more Senators, it would have had that effect.

I say this is where, seeing the situation that can develop, all of us ought to review the bidding as to how, other than saying, "Well, if you don't like the allocation, be over here to object," we can have our cake and eat it, because this is a desirable objective.

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. HART. I yield.

Mr. MANSFIELD. The Senator has a point, in special circumstances; and if I had been wide awake and on my toes, I might have anticipated this for tomorrow, and perhaps should have taken the initiative. But, generally speaking, I think it has worked out pretty well and to the satisfaction of all.

In a circumstance like this, the Senator has a point and, from now on, the leadership will try to keep the interests of all Senators in mind when a resolution or a proposal of immediate importance and significance has come up, so that in that way we will be able, within the 2-hour morning hour period, to do our best to protect the rights of the sponsor of the resolution or the proposal before us.

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

Mr. HART. I yield.

Mr. ALLEN. I should like to point out to the distinguished Senator from Michigan that the rules have not been unkind to him with respect to his resolution, because he introduced the resolution just this morning, and at 12 noon on tomorrow he is going to have that resolution as the pending business before the U.S. Senate. How much speedier action could the Senator expect than to get a resolution in on 1 day and have it up as the pending business of the Senate the following day? That is a tribute to the rules of the Senate and the flexibility of the rules of the Senate, and the desire of those who promulgated the rules to see that each Senator does have an opportunity to be heard.

So I feel that the rules have been very kind to the Senator from Michigan.

Mr. HART. The Senator from Alabama has treasured certain of these rules from the day he got here. All of us recognize the skill with which he has applied them. Remembering some of those long periods when things have been pending before the Senate which have involved the Senator from Alabama and me, I say there is one whale of a difference between that and having something pend for 15 minutes before the Senate and then having the Senate act.

I think our point is made, from all points of view. What might distinguish the resolution we are now discussing is the clock. I hope that before it indicates many more minutes, the Supreme Court will have made the resolution moot. But if, when we assemble here tomorrow, those veterans are in the process of being moved off the Mall, surely we can decide within 15 minutes whether we agree with that action or not. I hope

that we will have the opportunity, not alone to discuss it, but to act.

Mr. ALLEN. I thank the distinguished Senator.

Mr. BYRD of West Virginia. Mr. President, will the able Senator from Michigan again indulge me for a further observation or so?

Mr. HART. I yield.

Mr. BYRD of West Virginia. First, had the majority leader moved to recess—rather than adjourn—the Senate today, the Senator from Michigan would have been deprived entirely of any rights under rule XIV on tomorrow, regardless of whether any orders had been entered for recognition of Senators for 15 minute speeches.

Second, if the Senator from Michigan or any Senator feeling strongly about a resolution—as does the Senator from Michigan in this instance—which is going to lie over for a day, wishes to place an objection with the leadership, that Senator will be protected, regardless of how the leadership feels regarding the issue involved, against any request for 15-minute speeches prior to the beginning of morning business and within the 2 hours in the morning hour. He would not be forced to remain on the floor constantly throughout the day to protect himself. The leadership would seek to honor his wishes.

So I think that we have the best of two possible worlds here, in that we have the new procedures which are working well and which do help us to program the time for Senators who wish to make speeches prior to morning business and which do also expedite the business and save the time of all Senators.

At the same time, with respect to a resolution which lies over for a day and comes up on the next legislative day under rule XIV, a Senator who wishes to speak on that resolution can be adequately protected.

ORDER FOR EXTENSION OF THE PASTORE RULE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow the Pastore rule, paragraph 3 of rule 8, be extended to cover a period of 7 hours, rather than the normal 3 hours.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, the program for tomorrow is as follows:

The Senate will convene at 10 o'clock tomorrow morning. Following the recognition of the two leaders under the standing order, the following Senators will be recognized for not to exceed 15 minutes each, and in the order stated: Mr. HUGHES, Mr. SAXBE, Mr. TAFT, Mr. HANSEN, Mr. BUCKLEY, and Mr. BYRD of Virginia.

At the close of the remarks by the Senators under the orders just enumerated, there will be a period for the transaction of routine morning business, with statements therein limited to 3 minutes, to close at 12 noon.

At 12 noon, the resolution coming over for a day will be laid before the Senate, and the distinguished Senator from Michigan (Mr. HART) will be recognized for not to exceed 15 minutes.

At 12:15 p.m. tomorrow, the morning hour will be closed, it having been extended under the order for an additional 15 minutes beyond the norm; and, upon the closing of the morning hour, at 12:15 p.m., the unfinished business, S. 1557, the emergency school aid bill, will be laid before the Senate.

Under the unanimous-consent agreement previously entered, time on the amendment offered by the able Senator from North Carolina (Mr. ERVIN), amendment No. 44, will be limited to 2 hours on tomorrow, to be equally divided and controlled by the author of the amendment and the manager of the bill, the Senator from Rhode Island (Mr. PELL), or his designee. Time on any amendment to amendment No. 44, will be limited to 10 minutes, to be equally divided between the mover of such amendment and the Senator from North Carolina (Mr. ERVIN).

Following the disposition of amendment No. 44, offered by the Senator from North Carolina (Mr. ERVIN), the amendment to be offered by the Senator from Mississippi (Mr. STENNIS) will be laid before the Senate; and the time on that amendment will be limited to 3 hours, to be equally divided and controlled between the Senator from Mississippi (Mr. STENNIS) and the Senator from Rhode Island (Mr. PELL) or his designee.

Any amendment offered to the amendment offered by Senator STENNIS will be limited to 10 minutes, to be equally divided between the mover of such amendment and the Senator from Mississippi (Mr. STENNIS).

Mr. President, I call to the attention of Senators that there will be at least two very important votes tomorrow, and doubtlessly they will be rollcall votes. There is a possibility that action on the bill itself may be completed late tomorrow.

I also call to the attention of Senators that morning business on tomorrow will not extend beyond a 30-minute period at the most, and that the rule of germaneness, the so-called Pastore rule, will cover a period of 7 hours tomorrow. So, Senators who wish to have morning business transacted should be on hand no later tomorrow than 11:30 a.m. Else they would have to wait until from 5 to 7 o'clock tomorrow evening to get additional morning business statements in the RECORD, depending upon when the operation of the Pastore rule is initially triggered.

ADJOURNMENT UNTIL 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 5 p.m.) the Senate adjourned until tomorrow, Thursday, April 22, 1971, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 21, 1971:

U.S. DISTRICT COURTS

William M. Byrne, Jr., of California, to be a U.S. district judge for the central district of California, vice a new position created by Public Law 91–272, approved June 2, 1970.

Leland C. Nielsen, of California, to be U.S. district judge for the southern district of California, vice a new position created by Public Law 91–272 approved June 2, 1970.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Laurence E. Lynn, Jr., of California, to be an Assistant Secretary of Health, Education, and Welfare, vice Lewis Butler.

U.S. ARMY

Chaplain (Brigadier General) Gerhardt Wilfred Hyatt, [redacted] Army of the United States (Colonel, U.S. Army), for appointment as Chief of Chaplains, U.S. Army, as Major General in the Regular Army of the United States and as Major General in the Army of the United States, under the provisions of title X, United States Code, sections 3036, 3224, 3442 and 3447.

The following-named officer for temporary appointment in the Army of the United States to the grade indicated under the provisions of title X, United States Code, sections 3442 and 3447:

To be Brigadier General

Chaplain (Colonel) Aloysius Joseph McElwee, [redacted] U.S. Army.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 21, 1971:

U.S. CIRCUIT COURTS

Donald Stuart Russell, of South Carolina, to be a U.S. circuit judge, fourth circuit.

U.S. DISTRICT COURTS

Robert E. Varner, of Alabama, to be a U.S. district judge for the middle district of Alabama.

Richard C. Freeman, of Georgia, to be a U.S. district judge for the northern district of Georgia.

DEPARTMENT OF JUSTICE

Jerris Leonard, of Wisconsin, to be Administrator of Law Enforcement Assistance.

G. Kent Edwards, of Alaska, to be U.S. attorney for the district of Alaska for the term of 4 years.

Sidney E. Smith, of Idaho, to be U.S. attorney for the district of Idaho for the term of 4 years.

Donald B. Mackay, of Illinois, to be U.S. attorney for the southern district of Illinois for the term of 4 years.

U.S. PATENT OFFICE

John Finley Witherspoon, of Maryland, to be an examiner-in-chief, U.S. Patent Office.

U.S. CIRCUIT COURTS

William E. Doyle, of Colorado, to be a U.S. circuit judge, 10th circuit.

James E. Barrett, of Wyoming, to be a U.S. circuit judge, 10th circuit.

Robert A. Sprecher, of Illinois, to be a U.S. circuit judge, seventh circuit.

Herbert Y. C. Choy, of Hawaii, to be U.S. circuit judge, ninth circuit.

U.S. DISTRICT COURTS

Raymond J. Broderick, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania.

Thomas R. McMillen, of Illinois, to be a U.S. district judge for the northern district of Illinois.

Walter T. McGovern, of Washington, to be a U.S. district judge for the western district of Washington.