the Battle of Stone River, Tennessee, December 31, 1862.

9. Richmond P. Hobson, Representative from the State of Alabama, 1907 for 4 terms. Organizer and President of the International Narcotic Education Association, 1923, Author of The Sinking of the Merrimac, 1899. Earned the Medal of Honor at Santiago de Cuba, Cuba, June 3, 1898 for gallantry in action.

10. Edward V. Izac (Isaacs), Representative from the State of California, 1937. Earned the Medal of Honor for bravery aboard the German submarine U–90 and while prisoner of war in Germany May 21, 1918. Author of book Prisoner of the U–90, 1919.

11. John H. Moffitt, Representative from the State of New York, 1887 for 2 terms. Earned the Medal of Honor at the Battle of Gaines Mills, Virginia, June 27, 1862. He was succeeded in office by Medal of Honor man Representative Newton M. Curtis (No. 6 above).

12. Charles E. Phelps, Representative from the State of Maryland, 1865 for 2 terms, Justice of Baltimore Supreme Court, 1882 to 1908. Earned the Medal of Honor for gallantry in the Battle of Laurel Hill, Virginia, May 8, 1864.

13. Philip S. Post, Representative from Illinois, 1887 for 5 terms until his death in 1895. Consul General to Austria-Hungary Empire, 1874 to 1879. Earned the Medal of Honor for bravery in the Battle of Nashville, Tennessee, December 15–16, 1864.

14. Daniel E. Sickles, Representative from the State of New York, 1857 to 1861. Member of the New York State Senate, 1856, Member of the New York Assembly, 1847. Minister to Spain, 1869–1875. Reelected to the House of Representatives from New York 1891. Earned the Medal of Honor for gallantry at the Battle of Gettysburg, Pennsylvania, July 2, 1863.

Research credits: Eugene V. McAndrews, Baltimore, Maryland, Jerry Erickson, Fullerton, CA and Rudolf J. Friederich, Highland Mills, NY. Compiled by Mr. Friederich, Editor, Medal of Honor Historical Notes.

SENATE—*Monday, April 17, 1972*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

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

Almighty God, to whom "a thousand years are but as a day, and as a watch in the night when it is past," help us to find Thee not only in the mystic hour of prayer but in the processes of history. Enable us to do our work in the knowledge that the ultimate victory belongs to truth over falsehood and righteousness over evil, for Thou art the transcendent Sovereign Lord of all life and history—

"This is my Father's world,
O let me ne'er forget
That though the wrong
Seems oft so strong
God is the Ruler yet."
—M. B. BABCOCK.

Help us to keep our little needs and small concerns of each day under the perspective of the Eternal—to work as though everything depended upon us and to trust as though everything is in Thy keeping.

And to Thee shall be all praise and honor. Amen.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, April 13, 1972, be dispensed with.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the joint resolution (S.J. Res. 117) asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day," with amendments, in which it requested the concurrence of the Senate.

WAIVER OF CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar under rule VII may be waived.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with "New Reports."

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

The PRESIDENT pro tempore. The Secretary will state the first nomination.

THE DEPARTMENT OF TRANSPORTATION

The second assistant legislative clerk read the nomination of John L. Hazard, of Michigan, to be an Assistant Secretary of Transportation.

The PRESIDENT pro tempore. Without objection, the nomination will be considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The second assistant legislative clerk proceeded to read nominations placed on the Secretary's desk in the Coast Guard.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that those nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations will be considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President I ask that the President be immediately notified of the confirmations of the nominations.

The PRESIDENT pro tempore. Without objection, the President will be so notified.

Without objection, the Senate will resume the transaction of legislative business.

TRIBUTE TO LAW ENFORCEMENT OFFICERS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate the amendment of the House of Representatives to Senate Joint Resolution 169.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the joint resolution (S.J. Res. 169) to pay tribute to law enforcement officers of this country on Law Day, May 1, 1973, which was to strike out the preamble.

Mr. HOLLINGS. Mr. President, in 1961, Congress designated each May 1 as Law Day, and for the past 10 years this program has been marked by various programs centered on national freedom and rights under law.

This year it is particularly appropriate that we reflect upon the debt of gratitude we owe to the law enforcement personnel whose efforts make possible the perpetuation of our rights and our freedoms. Our police officers and related enforcement personnel are without peer. They have helped the Nation through many troubled times in the past, and they continue to do so today.

In October of last year, I introduced Senate Joint Resolution 169, a joint resolution to pay special tribute to the law enforcement officers of this country on May 1, 1972. The resolution passed the Senate in February.

Now the House of Representatives has acted, too.

Mr. President, I concur in the amendments of the House of Representatives. I am hopeful that the resolution can clear the Congress quickly and go immediately to the President. May 1 is quickly approaching and it is imperative that we act now.

I look forward to the Nation uniting in tribute to its law enforcement personnel on the first of May.

Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

DECLARATION OF "NATIONAL HUNTING AND FISHING DAY"

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from New Hampshire (Mr. McINTYRE), I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 117.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the joint resolution (S.J. Res. 117) asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day", which were, on page 2, line 4, strike out "each September" and insert "September 1972."

Strike out the preamble.

And amend the title so as to read: "Joint resolution asking the President of the United States to declare the fourth Saturday of September 1972 'National Hunting and Fishing Day'."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendments of the House of Representatives en bloc.

The motion was agreed to.

LIMITATION OF STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements during the period for the transaction of routine morning business today be limited to not to exceed 5 minutes, instead of the usual 3 minutes.

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

The Senator from Michigan is recognized.

PEACE TALKS ON VIETNAM

Mr. GRIFFIN. Mr. President, the wires are carrying a story this morning that Hanoi is asking now for a resumption of the peace talks, either in secret or in private, at the highest level in Paris. Although there are conditions attached to the offer, it occurs to me that this is an interesting and welcome development following the events of the weekend.

Surely, this is a time for reason and dispassionate reaction on the part of those who speak in either the executive or legislative branches of the Government of the United States. All of us agree that the war in Southeast Asia is tragic in terms of the human suffering and lives lost; and most of us desperately want this war to be ended on honorable terms as soon as possible.

At this critical stage, when it appears so likely that President Nixon will be moving soon toward serious negotiations with Moscow and Hanoi, it is particularly important that all in this body be very conscious of the great responsibility we bear. I do not argue against enlightened debate or criticism, but I do suggest very strongly that this is not a time to play politics with the war in Vietnam.

Political exercises here on the Senate floor serve only to weaken the hand of the President—and to encourage the enemy—as the President enters these critical negotiations.

Those who are really for peace—instead of surrender—will consider seriously the importance of supporting the President at this very difficult time, or at least refrain from undercutting his ability to negotiate an honorable settlement.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be routine business conducted for 30 minutes, and each Senator is limited to 5 minutes, as previously ordered.

ESCALATION OF THE WAR IN VIETNAM

Mr. CRANSTON. Mr. President, I think the words of the distinguished Senator from Michigan were well chosen. I think we should act with great responsibility at this time. Political considerations should be far in the rear, and the best interests of our country and its people should be in the forefront of our thinking at this moment.

To place my remarks in a nonpartisan context, I start by asking a question:

After 3 years of Richard Nixon, is Lyndon Johnson back in the White House?

After 3 years of restraint and military deescalation, President Nixon has responded to North Vietnam-Vietcong actions by returning to the discredited Johnson policy of seeking military victory through massive use of American air power and large-scale bombing of military targets in such North Vietnamese population centers as Hanoi and Haiphong—many miles from the combat zone.

The Nixon policy is the Johnson policy with a difference, but the difference is beginning to seem more apparent than real. President Nixon has substantially reduced the number of American ground troops in Vietnam. I have applauded him for that. I have objected that the rate of troop withdrawal was too slow, and that the withdrawal method selected by the President was subjecting our remaining men to undue danger. But I have consistently made a point of commending President Nixon for reducing our involvement in ground combat.

But it is now clear that while the President has reduced the number of our Armed Forces on the ground in Vietnam, he has increased the number of our air and naval forces over and around Vietnam.

The number of ships and Navy personnel now off the coasts of Vietnam is the highest since Lyndon Johnson left office. The number of B–52's now flying combat missions in Indochina is the highest since Lyndon Johnson left office. Hanoi and Haiphong are being subjected to American air attacks for the first time since Lyndon Johnson left office. In fact, this is the first time in the history of this increasingly futile and tragic war that those population centers have been attacked by our heavy strategic bombers.

Is this the real meaning of Vietnamization? Is Vietnamization a policy under which the South Vietnamese will carry the brunt of the ground action while the United States will continue and, when deemed appropriate, escalate tactical and strategic bombing indefinitely? Will this continue until the North Vietnamese agree to peace terms? Will they ever?

Is this President Nixon's secret peace plan? Was the "light at the end of the tunnel" that President Nixon saw actually the flames of burning oil dumps in Hanoi and Haiphong? That is the same false vision of military victory that President Johnson saw and which consumed thousands of lives, billions of dollars, and his own political career.

The inability of the South Vietnamese military to "hack it," their turning their back to their enemy under combat, has forced President Nixon's back to the wall. His response has been to return our Vietnam strategy back to Johnson's.

If after 3 years of Vietnamization President Nixon still does not dare put Vietnamization to the test and let the South Vietnamese military stand or fall on their own, when will he dare? Ever? If the South Vietnamese are not ready to "hack it" now, when will they be? Ever?

And will President Nixon dare face up to the political, as well as the military, implications of what he is doing? President Johnson took himself out of a race for reelection in order to remove any hint of political motivation from his Vietnam strategy.

Will President Nixon do the same?

The PRESIDENT pro tempore. The Senator from Wisconsin (Mr. PROXMIRE) is recognized for 5 minutes.

LOEB ATTACK ON SENATOR PROXMIRE—PROXMIRE RESPONSE

Mr. PROXMIRE. Mr. President, Mr. William Loeb, the publisher of the Manchester Union Leader, responded last week to a letter I wrote him calling his attention to the transcript of a hearing before the Joint Economic Committee, in which Admiral Kidd, the chief of

naval procurement, testified on some very serious charges of waste in the Navy.

His response gave me an unusual opportunity to drive home to Mr. Loeb the fact that those of us who are critical of the military also want a strong American military force.

As a matter of fact this Senator thinks we should have the strongest military force in the world.

Mr. Loeb replied to my letter with a personal attack on me that is of no importance except that it indicates a blind spot that is weakening this country and that prevents men of influence like Mr. Loeb from having the kind of very useful effect they could have and should have in giving us a better and stronger military force.

Mr. Loeb, like all of us, has good and bad characteristics. He is a dedicated patriot. He obviously loves this country deeply. He is a shrewd, clever man who has the great advantage of speaking bluntly, plainly and with a real ring of conviction. And he owns a newspaper.

Now it should be a great thing for this country when a man with these exceptional talents and who deeply loves this country has this kind of rare influence. After all only a tiny fragment of a handful of the able men in this country own newspapers. Here is one who should be having a measurable effect on this country's military capacity. But he is not.

Why?

First, because Mr. Loeb has fallen for that most destructive and baleful philosophical illusion: That the end justifies the means.

Loeb is the kind of alley fighter who will never throw a clean, knockout punch to the chin when he could hammer half as effective a blow below the belt. Rather than toss a winning right cross to the gut, he would prefer to bring his knee up into his opponent's groin. Tactics like these may have a devastating effect, but they cannot sustain a reader's trust that the bully boy is really on the right track. And without the reader's trust a newspaper has nothing. It has the force of a butterfly's hiccup.

But Loeb has made a second and more serious blunder. I bring this to the attention of the Senate and the country, because this Loeb blunder is one that is very common indeed. It has not been answered forcefully. And it is time it was. If we can get this idea across now, then Loeb will have served a purpose. He will have contributed to a stronger military force after all.

The illusion is that those of us who have been raising hell about military waste are a bunch of unilateral disarmers, that we want to starve and enfeeble our military force, that we have tossed in the sponge on the nuclear age and would tremble and run in the face of Communist aggression.

Mr. President, those of us who criticize and, yes, harass the military do so from a variety of views, but some of us—and this Senator in particular—carry on this way because we believe that it is about time that someone stand up to the weakness that is developing in this great military force of ours and tell some blunt and painful truths.

Is our military force starved with too little? Or is it fat and soft with too much?

The trouble with the Loebs of this country is that they have forgotten that you do not make a man or an Army tough and hard and disciplined by pampering and petting and spoiling it.

Are those of us who have criticized waste really hurting this country's defense? In addition to the incredible waste on the C–5A just consider the litany of billions of dollars tossed away on one turkey after another: The Mark 48 torpedo, the main battle tank; aircraft carriers that will not be finished for years and are already obsolete; a B–1 bomber that will cost $20 billion and be worthless in the missile age; an F–14 fighter plane costing an incredible $15 million per copy and you cannot find a Navy pilot who would touch it in a dogfight against a Russian Mig that cost less than $1 million.

Mr. President, somehow I hope we can get it through the heads of the William Loebs of this country that this Senator is not criticizing our military primarily because of the cost and waste of our money in military hardware. I am criticizing it because, after spending billions and billions, the weapons do not work.

Mr. President, can any Senator imagine a more powerful indictment of this greatest military power on the face of the earth than its performance in Vietnam? In Vietnam we have not been facing Russian or Chinese troops, but the troops of a pitiful little country, with an economic power less than one one-hundredth of ours and a military power that is less than one one-thousandth of the power of this country.

Sure we have placed limitations on our military. Yes, indeed, we have not invaded North Vietnam. It is true we have not used our nuclear power. But no one can tell the American people that we have a smart, adaptable, efficient military force when even within the limitations we have imposed in Vietnam—I repeat, even within those limitations—we cannot prevail. And after 6 long years of the best U.S. military can do, our side continues to lose. In these circumstances how can those who criticize military waste and shoddy performance be accused of doing a disservice? And that is just what Loeb says in his letter to me.

Mr. President, the American people have the commonsense to know that one lesson of Vietnam that rings out loud and clear is that there is plenty wrong with our American military force, and we had better change it and fast.

Now you do not get change by following the kind of no harassment formula that Mr. Loeb prescribes. To change a huge, bureaucratic, habit-infested dinosaur like the U.S. military takes plenty of harassment. And those who dish it out should be joined in harassament by others who love this country and want a stronger military.

Of course, I do not expect to get Mr. Loeb's agreement on anything. But what I would like to see is one—just one—criticism by Mr. Loeb of our military force.

Mr. President, this is why I have taken the time of the Senate to tell about my argument with Mr. Loeb.

It is impossible to appreciate the flavor of Loeb's bullyboy tactics and why they call for this kind of a detailed response unless you hear them. For this reason, I will read the Loeb letter and my answer.

This is the Loeb letter, dated April 10:

DEAR SENATOR PROXMIRE: If you would spend more time lifting the military budget instead of your face, maybe we would be better off. Thank you for your letter of April 4.

You seem to think you are making points with some groups in the United States by your constant harassment of the military. Of course, any realist is well aware that waging war is expensive, but until we find a better way to defend ourselves from being conquered by our enemies, we have to depend upon the military.

I think that what you are doing is a great disservice to the United States and so wish you would stop it, or I wish the voters in Wisconsin would retire you.

DEAR MR. LOEB: You and I agree that this country must be number one militarily. So what do we agree about?

Not very much really.

We disagree on how to stay number one.

You don't like constant harassment of the military. Stop on that one for a minute. Consider. Why don't you?

Would the military be stronger without criticism?

Do you know any institution that is? In fact do you know any person who's stronger if he's flattered, petted, undisciplined?

Does William Loeb really think this makes a person *stronger?* Fatter maybe—softer, surely—lazier, without question—but stronger? Not unless you're talking about a new being. Because you know—as I know—that this just isn't true of a *human* being.

Sure this country has been losing its military advantage. Why? And think about this before you answer. Is it because we're starving our military?

Is it because we're not paying enough for planes like that five billion dollar turkey—the C–5A? Is it because we're not doling out enough foreign military assistance to scores of nations like India and Pakistan?

Won't you agree that there comes a time in the life of William Loeb and William Proxmire and everyone else—when we've had it too easy, and when someone: a father, a teacher, even a stranger—should stand up and say so? And say it loud and clear?

Enough questions. The American military force has many fine, tough, disciplined Americans serving in it. It's certainly no worse than the people who make up the country it defends.

But it's not poor. It's rich. It's not lean. It's fat.

You write me that I have harassed the military. Mr. Loeb, (as they say) "you ain't seen nothin' yet."

THE BOMBING OF HAIPHONG AND HANOI

Mr. KENNEDY. Mr. President, the President's decision to bomb Haiphong and Hanoi may well rank as the most senseless, the most unjustifiable, the most reckless decision in the history of our long involvement in Vietnam.

How can the President gamble this way with the danger of a wider war? How can he jeopardize his trip to Moscow and the SALT agreement we hope to reach? How can he jeopardize our hopeful new relations with China? How can he jeopardize

our prisoners? Above all, how can he gamble this way with the lives of millions of people, not only of Indochina, but throughout the world?

The decision to bomb Hanoi and Haiphong is a dangerous and extravagant exercise in brinkmanship to which the President should never have succumbed. We live in a nuclear age. The terrible danger is that by setting in train a sequence of events like this, we are taking the extreme risk of widening the war beyond all possible restraint. For if one bomb had gone astray, and destroyed a Russian ship or a Chinese ship in the harbor of Haiphong, the result might well have endangered the entire planet. My fervent hope is that in their own decisions on the war, the leaders in Hanoi, Moscow, and Peking will not be as irresponsible as President Nixon has been.

President Nixon bears a major share of the responsibility for the disastrous recent events in this shameful new turn in the war.

It was the United States that broke off the Paris talks a month ago. Yet, these talks are the only hope of peace we really have. How can we justify a situation where the only empty seat at the Paris peace table is the American seat?

By breaking off the talks, we set in motion the present shocking sequence of events in this sudden new deterioration of the war—first, the interruption of the peace talks, then the escalation in the new offensive by North Vietnam, and now the escalation in the bombing by the United States.

And while the bombs fall, we are compounding the fault by engaging in an unseemly harangue with the Vietcong and North Vietnamese over which side is responsible for the breakdown in the peace talks and over what conditions should be imposed before the talks can be resumed.

In unequivocal terms, I have condemned the new offensive by the North, just as I condemn the failures in our own policy that have led us to embrace a wider war.

Rarely—if ever—has there been a more clearcut illustration of the famous truth that "Those who cannot remember the past are condemned to repeat it." The bombing proves the point. We know that this is not the first time the North has been bombed. We know the history of years of bombing North Vietnam. We know that strategic bombing of the North will not make Vietnamization work. It will not bring back the American prisoners of war. It will not insure the safe withdrawal of U.S. troops. It will not help to end the war.

President Nixon is pursing the same phantom of military victory that has kept this Nation mired in death in Indochina since 1965. That futile search for conquest on the battlefield has already cost the lives of 55,000 Americans and the death of millions of Vietnamese.

In November 1966, as the Pentagon papers have so clearly revealed, a memorandum from Secretary McNamara to President Johnson concluded:

> Nor has the Rolling Thunder program of bombing the North either significantly affected infiltration or cracked the morale of Hanoi. There is agreement in the intelligence community on these facts.

In May 1967, after 27 months of bombing, after the Rolling Thunder operation by the B–52's and hundreds of thousands of tons of bombs had fallen, the CIA reported that the bombing missions "have had remarkably little effect on Hanoi's overall strategy in prosecuting the war, on its confident view of long-term Communist prospects, and on its political tactics regarding negotiations."

And 7 months later, the Institute for Defense Analyses provided yet another secret evaluation to the Pentagon, which concluded that bombing North Vietnam had "no measurable effect on Hanoi's ability to mount and support military operations in the South" and it had "not discernibly weakened" Hanoi's will to fight.

Yet, it took many more months before these conclusions were accepted and implemented in our policy, and we called a halt at last to the bombings of the North.

But, as events have shown, the bombing halt was only a transient time of hope. More bombs have now been dropped on Indochina since President Nixon took office than were dropped between 1966 and 1968. Since President Nixon's inauguration, more than 6 million tons of bombs have been dropped, more than the combined total dropped during World War II and Korea.

How long will it take for the President to understand that bombing North Vietnam is not the answer?

Today, we read the same stories of oil dumps in flames and military supplies destroyed that we read in 1966, 1967, and 1968. But the war goes on. The violence continues. More Americans die. More Vietnamese die.

When is the President going to keep his word to the American people?

It was on August 8, 1968, that the President accepted the Republican Party nomination. He said then:

> I pledge to you tonight that the first priority foreign policy objective of our next Administration will be to bring an honorable end to the war in Vietnam. . . . My fellow Americans, the dark long night for America is about to end.

President Eisenhower knew how to end a war, to realize America's dreams of peace. He came to office in 1952 on a pledge to end the Korean war. Less than 2 years later, the war was over. That is the example President Nixon should have followed in Vietnam. Instead, he has failed the Eisenhower legacy of peace.

I strongly urge that, instead of sending bombers to Hanoi and Haiphong, the President should send our negotiators back to the Paris peace talks, and send them back at once. Let us accept the invitation extended today by North Vietnam to resume the public and private talks. I strongly urge that the President halt the bombing of North Vietnam, and seek an immediate cease-fire by both sides, so that the Paris talks may resume under the most auspicious conditions possible.

I strongly urge that the President set a date certain for the complete and total withdrawal of all American troops from Vietnam—land, air, and sea—conditioned only on an agreement by the North Vietnamese for a return of U.S. prisoners of war. That is the only step which can possibly lead to a realistic negotiated settlement of the war, and it is a step America should have taken long ago.

It is time for Congress to play a more assertive role. I hope that in the coming days, we can immediately pass the legislation we need to demonstrate in unmistakable terms to the President and his administration that America wants peace now.

We must act, because the President's only plan is a plan for making war, not a plan for making peace. The new bombing shows the policy of the administration at its worst, lashing out in blind retaliation over the failure of its Vietnamization policy.

It is time to abandon this strategy of war, a strategy that has failed so often in the past. Instead, it is time for a strategy of peace, and I hope that the people of America and the nations of the world will unite in a call for peace that the President cannot ignore.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from Maryland is recognized.

(The remarks Mr. BEALL made on the introduction of S. 3500 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

BOMBING OF VIETNAM

Mr. TUNNEY. Mr. President, as a result of the activities of American bombers in Vietnam in the past few days, there is despair in the country. It is increasing. It is deepening. It is real. It is legitimate.

How many times, and in how many ways, must the American people demand an end to the war in Vietnam?

How many more people must be killed? How many more bombs must be dropped?

Mr. President, I recognize that this statement may sound, to some, like an anguished cry, but I feel that it is more than that. It is more than just a plea. It seems to me to be a rational and reasonable statement of national principle, of what it is that we must do in this country if we are to bind the wounds which have been caused by the war.

How clear can people be in their determination to end the war? How many more letters must be written? How many more miles must be marched? How many votes must be taken?

The people of this country want to get out of Vietnam. They want to return to the urgent problems here at home and in areas of the world which have some relation to America's legitimate national interest. They do not want to keep fighting in this senseless war. They are sick and tired of the bloodshed caused as a result of our activities. They are sick and tired of the "antiseptic" death that is being rained down on villages by American bombers at altitudes of 50,000 feet.

Mr. President, the people of the United States have made it demonstrably clear in recent elections that they want the war to end. They elected President Nixon

on his promise to end the war. He promised to bring the troops home. He said he had a plan. But the plan has either been lost or forgotten. President Nixon has already dropped more bombs than any other man in history. He has bombed Vietnam in 3 years more than President Johnson did in 5.

Last week the Washington Post called him "the greatest bomber in history." He has—if you can believe it, Mr. President—dropped more than a ton of bombs on Vietnam for every minute he has been in the White House.

When and how will he learn that his policy will not work? The bombing will not succeed. It will impair rather than protect the safety of Americans. It will hinder rather than facilitate our withdrawal. It will mean that our prisoners of war will remain where they are for more months and possibly more years. It will mean more war, not less. It will sustain the suffering. It will not bring peace. Yet it continues and expands.

It is time to get back to the negotiating table, and to stay there.

I think it is time, once and for all, to stop the needless destruction.

I was interested to note in the New York Times today an article written by Anthony Lewis entitled "Slaughterhouse Six."

He writes:

> But the most disastrous effects of the bombing escalation must be inside the United States. For no society can be at peace within when it begins to see itself as a destroyer outside.

Finally, Mr. President, in our own national interest we must realize that what this war has produced at home are divisions, the likes of which we have not known in 100 years.

There was some hope over the past 12 months that the President was going to deescalate to the point that maybe by the end of this year we would be out of Vietnam. But I think, as a result of the recent action taken in Vietnam, it is quite clear that the President's plan is to remain in Vietnam insofar as our bombers are concerned, and perhaps a residual force on the ground, until such time as the future of the Thieu government is guaranteed, to secure it for time immemorial.

If that is the case, then we are going to be fighting in Vietnam and we are going to have the divisions at home into the indefinite future.

I, for one, do not believe that our society can take much more of what we have seen as a madhouse in Southeast Asia.

First, it is clear that we have got to withdraw and get out, with the one contingency that our prisoners of war will be returned.

Second, it is also clear that it is time to make it very clear to the South Vietnamese that the peace negotiations must be Vietnamized. It is up to the South Vietnamese and to the North Vietnamese to settle their own differences.

Thank you, Mr. President.

Mr. GRIFFIN. Mr. President, when President Johnson terminated U.S. bombing of North Vietnam in 1968, it was done with the clear understanding that North Vietnam would recognize the DMZ.

Interestingly enough when the North Vietnamese flagrantly disregarded that understanding and recently marched across and through the DMZ, the voices of many who now deplore the bombing were strangely silent.

I wonder what the chances for a real and meaningful peace in the world would be if, just before the President goes to Moscow, there had been no response to the invasion by North Vietnam and to its blatant violation of that understanding.

I wonder what the chances for a real and meaningful peace in the world would be if the only reaction had been the abject surrender advocated by some.

Mr. President, some who have an emotional or political stake in surrender seem actually to be disappointed by any sign or indication that the Vietnamization program is actually working.

It is interesting to contrast the 1968 Tet offensive with the Communist offensive that is going on today.

In 1968, the Communists used guerrilla forces which enjoyed a certain degree of support from the local population. They were able to move quickly and seize Hue and a number of other cities. There was even fighting in the streets of Saigon.

In 1968, there were 540,000 U.S. ground troops in South Vietnam. U.S. troops carried a major portion of the fighting.

Mr. President, as we seek to evaluate the Vietnamization it is interesting to note the contrast with the situation today. The Communists are not using guerrilla forces, presumably because they cannot rely on support from local people. Instead, the North Vietnamese are employing conventional military forces in a massive way in violation of the understanding reached in 1968.

Instead of helping the Communists who came across the DMZ, refugees have been voting with their feet by walking south, instead of north. While the North Vietnamese were successful at one point in seizing up to about half of the city of An Loc, they have been driven out and have not actually captured any major city during this current offensive.

Mr. President, today, in contrast with the situation in 1968, there are not 540,000 U.S. ground troops in South Vietnam. The figure is closer to the 69,000 troop level goal announced by President Nixon for the end of this month.

Mr. President, unlike the situation in 1968, U.S. ground forces are not now engaged in the fighting. While it is true that the Vietnamization process has not progressed to the point where the South Vietnamese have been able to take over all of the air war, it is significant to point out that nearly one-half of the tactical air support sorties have been flown by South Vietnamese pilots.

Mr. President, I again urge all who really seek peace, instead of surrender, to consider seriously the importance of supporting the President as he moves now toward serious negotiations with Moscow and Hanoi, and to avoid, as much as possible, the impression of division in this country which could only encourage the enemy and delay peace.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

Report on NASA Employees Filing Reports Relating to Their Employment

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a list of NASA employees pertaining to their NASA and aerospace industry-related employment, for the fiscal year ended June 30, 1971 (with an accompanying paper); to the Committee on Aeronautical and Space Sciences.

Proposed Amendment of Rural Electrification Act of 1936

A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Rural Electrification Act of 1936, as amended, to enhance the ability of the Rural Telephone Bank to obtain funds for the supplementary financing program on favorable terms and conditions (with an accompanying paper); to the Committee on Agriculture and Forestry.

Plan for Meteorological Services and Supporting Research

A letter from the Assistant Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a plan for meterological service and supporting research, for fiscal year 1973 (with accompanying document); to the Committee on Appropriations.

Report on Approval of Loan to Dairyland Power Cooperative, La Crosse, Wis.

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting pursuant to law, on the approval of a loan to Dairyland Power Cooperative of La Crosse, Wis. (with accompanying papers); to the Committee on Appropriations.

Report on Stockpile of Civil Defense Emergency Supplies and Equipment

A letter from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, a report of actual procurement receipts for medical stockpile of civil defense emergency supplies and equipment purposes, for the quarter ended March 31, 1972; to the Committee on Armed Services.

Report of Federal National Mortgage Association

A letter from the President, Federal National Mortgage Association, transmitting, for the information of the Senate, a report of that Association, for the year 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Report of Defense Procurement From Small and Other Business Firms

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms, for July, 1971–January, 1972 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Notice of Proposed Sampling Plan on Children's Sleepwear

A letter from the Assistant Secretary of Commerce, transmitting, pursuant to law, a notice of proposed sampling plan on children's sleepwear, (with an accompanying paper); to the Committee on Commerce.

Proposed Amendment of Communications Act of 1934

A letter from the Chairman, Federal Communications Commission, transmitting a draft of proposed legislation to amend the Communications Act of 1934, as amended, with respect to commissioners and Commis-

sion employees (with accompanying papers); to the Committee on Commerce.

PART I OF NATIONAL POWER SURVEY

A letter from the Chairman, Federal Power Commission, transmitting, pursuant to law, part I of its 1970 National Power Survey (with an accompanying document); to the Committee on Commerce.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Payment Limitation Under 1971 Cotton, Wheat, and Feed Grain Programs Had Limited Effect on Reducing Expenditures", Agricultural Stabilization and Conservation Service, Commodity Credit Corporation, Department of Agriculture, dated April 12, 1972 (with an accompanying report); to the Committee on Government Operations.

PROPOSED CONTRACT WITH UNIVERSITY OF IDAHO

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with the University of Idaho, for a research project entitled "Solutions to Problems of Pollution Associated With Mining in Northern Idaho (with accompanying papers; to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT OF IMMIGRATION AND NATIONALITY ACT

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to provide for the expeditious naturalization of certain former alien employees of the United States who have been admitted to the United States for permanent residence (with an accompanying paper); to the Committee on the Judiciary.

INTERIM REPORT ON "THE PROCESS OF FUNDS ALLOCATION UNDER TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965"

A letter from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, an interim report on "The Process of Funds Allocation Under Title I of the Elementary and Secondary Education Act of 1965" (with accompanying papers); to the Committee on Labor and Public Welfare.

PROSPECTUSES FOR PROJECTS PLANNED WITHIN THE FEDERAL TRIANGLE, WASHINGTON, D.C.

A letter from the Acting Administrator, General Services Administration, transmitting pursuant to law, prospectuses for projects planned within the Federal Triangle, Washington, D.C. (with accompanying papers); to the Committee on Public Works.

PROPOSED AMENDMENT OF ATOMIC ENERGY ACT OF 1954

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, and for other purposes (with accompanying papers); to the Joint Committee on Atomic Energy.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

Resolutions of the Commonwealth of Massachusetts; to the Committee on Finance:

"TO ENACT LEGISLATION PROVIDING FOR THE SHARING OF A FIXED PERCENTAGE OF THE REVENUES DERIVED FROM THE INDIVIDUAL FEDERAL INCOME TAX WITH STATE GOVERNMENTS

"Whereas, The states have inadequate revenue sources to finance the burdens imposed upon them by mounting welfare, education and health costs; and

"Whereas, The federal government has greater ability to impose taxes without the problem of competing with other jurisdictions; now, therefore, be it

"Resolved, That the General Court of Massachusetts hereby respectfully urges the Congress of the United States to enact legislation providing for the sharing of a fixed percentage of the revenues derived from the individual federal income tax with state governments; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from the Commonwealth.

"Senate, adopted, April 3, 1972.

"House of Representatives, adopted in concurrence, April 6, 1972."

Resolutions of the Commonwealth of Massachusetts; to the Committee on Labor and Public Welfare:

"TO ENACT LEGISLATION ESTABLISHING HEALTH CENTERS FOR THE ELDERLY WITHIN THE OFFICE OF ECONOMIC OPPORTUNITY

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation establishing within the office of economic opportunity health centers which shall be reserved for elderly citzens of the nation; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from the Commonwealth.

"Senate, adopted, April 3, 1972.

"House of Representatives, adopted in concurrence, April 6, 1972."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. SPARKMAN), from the Committee on Banking, Housing and Urban Affairs, with amendments:

S. 652. A bill to amend the Truth in Lending Act to protect consumers against careless and unfair billing practices, and for other purposes (Rept. No. 92–750), together with individual views.

By Mr. ROBERT C. BYRD (for Mr. JACKSON), from the Committee on Interior and Insular Affairs, without amendment:

H.R. 7742. A bill to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket No. 332–A, and for other purposes (Rept. No. 92–751).

By Mr. ROBERT C. BYRD (for Mr. BELLMON), from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 6797. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Kickapoo Indians of Kansas and Oklahoma in Indian Claims Commission dockets No. 316, 316–A, 317, 145, 193, and 318 (Rept. No. 92–752).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. RANDOLPH, from the Committee on Public Works:

Peter G. Peterson, of Illinois, to be a members of the National Commission on Materials Policy.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BEALL:

S. 3500. A bill to establish a Commission on the Proper Roles of the Congress and the President in the Use of the Armed Forces Abroad and in Undeclared Wars. Referred to the Committee on Foreign Relations.

By Mr. ALLEN (for himself and Mr. SPARKMAN):

S. 3501. A bill to amend section 543(a) of the Internal Revenue Code of 1954 relating to the definition of personal holding company income. Referred to the Committee on Finance.

By Mr. HUGHES (for himself, Mr. CRANSTON, Mr. MONDALE, Mr. MOSS, Mr. JAVITS, and Mr. WILLIAMS):

S. 3502. A bill to amend subchapter III of chapter 83 of title 5, United States Code, with respect to the meaning of disability for civil service retirement, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. HARRIS:

S. 3503. A bill to prohibit the Tennessee Valley Authority from acquiring or utilizing, in carrying out its operations and functions, any coal mined by strip mining methods. Referred to the Committee on Public Works.

By Mr. MATHIAS (for himself, Mrs. SMITH, Mr. TOWER, and Mr. BENTSEN):

S. 3504. A bill to provide for the issuance of a special postage stamp in honor of Adm. Chester William Nimitz for valorous service on behalf of the U.S. Navy. Referred to the Committee on Post Office and Civil Service.

By Mr. BURDICK:

S. 3505. A bill to amend the Occupational Safety and Health Act of 1970 to delete the provision imposing penalties where violations are corrected within the abatement period prescribed. Referred to the Committee on Labor and Public Welfare.

By Mr. PROXMIRE (for himself and Mr. HART):

S. 3506. A bill to protect consumers from abuses relative to excessive charges for life, health, and accident insurance pursuant to consumer credit transactions. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BEALL:

S. 3500. A bill to establish a Commission on the Proper Roles of the Congress and the President in the Use of the Armed Forces Abroad and in Undeclared Wars. Referred to the Committee on Foreign Relations.

Mr. BEALL. Mr. President, for the past several weeks, the Senate has been engaged in a vigorous debate regarding the division of the so-called war power between the executive and legislative branches of our Government. During the debate, I proposed an alternate approach that I felt overcame many of the practical and constitutional objections that were raised to S. 2956. The Senate, in its collective wisdom, did not see fit to substitute the establishment of a National Commission on the Proper Roles of the Congress and the President in the Use of the Armed Forces Abroad and in Undeclared Wars for the provisions contained in the then pending bill.

We have now passed S. 2956 and it has been referred to the House of Representatives for whatever action the other body deems appropriate. But I would remind my distinguished colleagues that one of the reasons I opposed the approach contained in S. 2956 was the simple fact that I, as a recent member of the House of Representatives, strongly doubt that the other Chamber will act favorably on this bill this year. If this general assumption is correct, the bill will die with the adjournment of the 92d Congress and more importantly, the issue is likely to fade from public view. If public interest in clarifying the apportionment of warmaking powers declines as the American combat role in the Vietnam conflict diminishes, then the 93d Congress will probably not resurrect the issue and we will not be any better off than we are today.

Even though the Senate has decided to proceed with the approach outlined in the committee bill, I believe that we should consider the wisdom of having a "back-up" vehicle that will contain the machinery needed to give this vital issue the kind of continuing public visability and scholarly research that is needed to resolve such a complex problem. For this reason, I am sending to the desk a bill that embodies the basic concepts contained in my amendment, No. 1099. This bill, if enacted, would establish a 24 member bipartisan Commission composed of 12 members appointed by the President of the United States, some of whom would be appointed from within the executive branch and others from private life.

Among those who might serve are former Presidents, former Secretaries of State, diplomats, historians, constitutional lawyers, and so forth, in an effort to bring together the finest minds in our land to tackle one of the most difficult constitutional problems confronting our Nation today. The remaining 12 members of the Commission would be appointed by the President of the Senate and Speaker of the House of Representatives. This Commission, mandated by law, would have up to 1 year to study, in a deep and scholarly way, the constitutional intricacies of warmaking powers. At the conclusion of its study, the Commission's recommendations and conclusions, clearly outlining the pros and cons of the complex issues involved, would be laid before the 93d Congress for whatever action it chose to pursue.

Mr. President, during the debate on amendment No. 1099, I raised a dozen practical and hypothetical situations in hope that the sponsors of the then pending bill would respond in such a way as to reassure me that S. 2956 was a sound piece of legislation that would, if enacted, operate harmoniously within the framework of our national interests. Unfortunately, the proponents of this bill chose not to come to grips with the questions I put to them, thus leaving me with a lingering doubt as to the wisdom of their approach. Mr. President, I ask unanimous consent that the 12 questions I raised during the debate on my amendment relative to the practical application of S. 2956 be printed at the conclusion of my remarks, along with the seven constitutional legislative questions regarding the wisdom of the committee's approach.

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

(See exhibit 1.)

Mr. BEALL. Mr. President, in closing, let me simply say that my proposal is designed to bring the "war powers" issue into greater public view and increase in both depth and breadth the studies that have been conducted with regard to this matter. I believe that the enactment of this proposal would bring about a greater awareness and understanding of the complexity of this issue in the minds of the American people. I think our Nation's interests are best served when thorough public hearing is given to a proposal of this sort. It is essential that adequate time be spent listening to the various legal, constitutional, historical, and diplomatic points of view, in an obviously objective manner, so that we can effectively come to grips with these problems. Such an approach will help to create the type of national consensus that is needed to truly bring about an agreement on the best way to achieve the balanced distribution of warmaking powers that all of us seek.

EXHIBIT 1

TWELVE QUESTIONS RAISED BY SENATOR J. GLENN BEALL, JR. REGARDING THE PRACTICAL APPLICATION OF S. 2956

First, the sponsors of this bill, during the recent debate on the perfecting or technical amendments which were approved by this body last week, provided that American forces that were in the process of being disengaged could continue to defend themselves after midnight on the 30th day if they were "fighting their way" out of a possible entrapment, and so forth. I am somewhat uncertain as to whether or not the President would be allowed to continue to conduct military activities if the personnel so entrapped were not military personnel but were instead civilians. American businessmen, or missionaries, or passengers on board a hijacked plane, and so forth might remain in the hands of a potentially hostile force. Also there is the distinct possibility that a spreading conflict might involve Americans in neighboring areas during the latter days of the 30-day presidential commitment, thus leaving the President with little opportunity to provide for their safety.

Second, I am wondering how free the President would be to protect these entrapped American military personnel in the process of being disengaged. Would he have the latitude to order retaliatory attacks or to undertake any type of offensive activity to protect these personnel?

Third, during the discussion of the amendment regarding American vessels on the high seas, I was wondering what would happen if an American ship were seized but no American personnel were endangered. This could come in the unlikely event that the crew was totally made up of non-American Nationals or one might also envision a circumstance where a ship could be seized and the Americans could immediately be released unharmed leaving the vessel in hostile hands and the President with unclear authority to take appropriate actions.

Fourth, another interesting potential situation that developed recently was when a Cuban gunboat seized a foreign flag vessel in the territorial waters of the Bahamas. On board this vessel was an American National who, I believe, is still being held by the Cuban authorities. I was wondering whether or not the provisions in S. 2956, even as amended, would provide for the protection of American citizens under such circumstances.

Fifth, in another area, the bill seeks to define when Americans may participate in integrated commands and I am afraid that two problems seem to be developing—one would be the simple defining of what is a "high level" military command and the other would be to determine at which point in a top-to-bottom integrated military command you would draw the horizontal line of demarcation below which American personnel could not participate in military activities. If the Americans had been deeply involved in planning and logistics, and so forth, prior to the outbreak of hostilities, this might prove to be extraordinarily disruptive to the unified military command. A third point along the same lines will be the inability of American personnel to participate in long-range planning when either they were not authorized to engage in hostilities or when their engagement was possibly of only a 30-day duration.

Sixth, on a wider scope involving hypothetical, although possible, circumstances that could develop in today's world, excluding for the time being attempts to make long-range predictions as to what our national security needs will be like in the coming decades, let us look at several of the trouble spots that have flared since 1960 or which could become troublesome in the coming months or years; the 81st Congress enacted Public Law 81–329 which permitted the United States to furnish military assistance to certain other nations. In accordance with this public law, President Truman negotiated an executive agreement providing for mutual defense assistance to Indochina. This agreement, known as the pentalateral agreement, which was signed in Saigon on December 23, 1950, established a framework for U.S. assistance to flow to the four Indochina states. Under the provisions of this law and this executive agreement, American military advisers in South Vietnam numbered 680 at the end of 1960. President Eisenhower, as expressed in his book "Mandate for Change" stated his desire to see America's commitment to Indochina limited primarily to low level military and economic aid plus the training of some military personnel in the United States. During the first year President Kennedy held office, he increased our military assistance advisory group to 3,200 military men, an increase of approximately fivefold. In light of the existence of Public Law 81–329 and the executive agreement negotiated in accordance with it, I question whether legislation such as S. 2956, had it been in effect in the early 1960's when we deepened our involvement to the defense of South Vietnam, would have or could have prevented such an increase in advisory personnel. Prior to 1961 our presence was clearly in accord with the Geneva agreement and even had the approval of the international control commission, 1961 was also a significant year in that at that point American helicopter and air support was provided in South Vietnam as well as the assignment of U.S. advisers down to the battalion level.

Can we assume that legislation such as this war powers bill would have prevented the gradual, almost inpreceptible change in our commitment which occurred in the period of 1961–62?

If this is the case, how would such a restriction affect our commitments pursuant to the pentalateral agreement—based on Public Law 81–329—and the SEATO treaty?

Seventh, if you assume that the basic premiss which I have outlined in my immediately preceding remarks are correct, then one must assume that sufficient American air, naval and ground personnel were

in combat areas so as to make an incident such as the shelling of the barracks at Pleiku or the Gulf of Tonkin occurrence almost unavoidable, such an incident obviously invokes the President's right to repel a sudden attack and it also gives him the perfect political moment to come to the Congress and receive congressional approval and support for the "determination of the President as Commander in Chief to take all necessary measures to repel any armed attack against the United States and to prevent further aggression." The point I am making, Mr. President, is that the events which took place in Indo-China during the early 1960's, leading to our long and costly involvement could well have happened even is legislation such as S. 2956 was the law of the land over a decade ago.

Eighth, as we all know, war broke out in the Middle East in June of 1967. The United States has no formal treaty agreements with any of the nations in that area and there were relatively few American nationals or military personnel in this region that would clearly warrant large scale U.S. intervention under the provisions of this legislation. Yet the President of the United States moved the American fleet and other forces into position to exert an influence on the participants in this conflict, which has become known as the Six-Day War and the U.S. Soviet hot line was employed to advise the Soviets that we did not want to become involved in this conflict but would do so if they intervened. As we all know, this war did not last very long and the Soviet Union stood aside while the Arab states took a very severe beating at the hands of Israel. While one might argue that the Soviets did not have the wherewithal in the immediate vicinity to effect the outcome of such a short conflict, I am inclined to think that they might have tried harder to do so if the United States had shown less firmness and determination at the outbreak of the crisis. I am wondering whether the existence of legislation, such as S. 2956, would have impaired the President's ability to move decisively at this critical moment in the history of the Middle East.

Ninth, since 1967, the Middle East has remained a very tense and potentially explosive area but we now find that the Soviet Union has established a very considerable and credible military force in the eastern Mediterranean. Soviet military personnel in Egypt alone number between 15,000 to 20,000 and they are serving not only as advisers but as active military participants in a number of ways. I have been advised that they man missile defenses—although the missile batteries along the Suez Canal appear to be manned primarily by Egyptians—they pilot at least some of the aircraft in the Egyptian Air Force, and they have considerable personnel in command positions in the Egyptian air defense system. If the cease-fire were to break down in the Middle East, we would find the Egyptians resuming the war of attrition along the Suez Canal. The Israelis could be expected to pursue such hostilities with their usual vigor and it is conceivable that the Egyptian position might well deteriorate before the onslaught of the Israeli counterthrusts. If this course of events develops, the Soviets might be placed in a position of assuming an active role in shoring up the position of their Egyptian allies. If this happened, would the President of the United States have the flexibility to respond to such developments in a credible and decisive way, thus containing a very dangerous situation?

Tenth, in September of 1970 King Hussein of Jordan sought to suppress the Palestinian guerrillas that were a threat to his government as well as to the State of Israel. During this internal conflict, forces of neighboring Syria crossed the Jordanian border and threatened the continued existence of the Hashemite kingdom. President Nixon moved the American fleet into the Eastern Mediterranean and clearly established in Damascus—and in Moscow—our determination to prevent such outside intervention in a purely Jordanian internal affair. The Israeli Government also mobilized forces to take action if the situation deteriorated further, and because of a combination of factors—not the least of which was vigorous Jordanian resistance—the Syrians withdrew and the crisis subsided. I for one would hate to see the President's freedom of action in such a crisis limited as it might well be by the passage of this legislation.

Eleventh, during the much talked of Dominican Republic crisis of 1965, we remember that approximately 2,500 Americans were in the Dominican Republic when the government of that nation advised the United States of its inability to protect the safety of American citizens. The landing of American forces enabled us to evacuate over 1,000 Americans plus 1,400 people of other nationalities. While this action on the part of former President Johnson remains highly controversial, I am not sure that S. 2956 would have prevented it nor am I at all certain that Congress would have withheld approval in the light of the presence there of a sizable American community as well as a diverse international community that was clearly endangered by the breakdown of civil order.

Twelve, we are all concerned at this point in history about what is going to be the relationship of the United States with the other countries of the world. Our country has been the greatest free country in the world in recent years. We have been the protector of liberty throughout the world. We have given great encouragement and comfort to other countries who have or want to have a democratic form of government so that they can be free from encroachment by other foreign powers. Our military forces have been a deterrent to war.

I would hope that we would want to participate as a full fledged member of the world community as the greatest free country on the face of the earth and that we would not go into a period of isolationism. We have responsibilities to ourselves as well as to other countries in the world to maintain our position as an active participant in the world community.

Now, Mr. President, I should like to speculate for a moment or two as to what might happen. I do not know how the thought processes work of the other leaders who profess ideologies different from ours, but it would seem to me that in the past, as certain countries around the world would look to possible encroachment upon the territorial rights of another country, they would have serious questions to take into consideration before they did so. One of those considerations would be the presence of the United States. We have used our Navy, for instance, as an extension of our foreign policy. When we have seen trouble brewing in different parts of the world, seeing one country trying to encroach upon another's territory, we have been able to move our Navy into that part of the world and its mere presence has caused them to stop, look, and listen for a little bit.

SEVEN CONSTITUTIONAL AND LEGISLATIVE QUESTIONS RAISED BY SENATOR J. GLENN BEALL, JR., REGARDING THE WISDOM OF THE APPROACH OUTLINED IN S. 2956

Mr. President, after considerable study and reexamination, I have concluded that the passage of S. 2956 is unwise and undesirable for the following reasons:

First, there is considerable evidence that the other body will refuse to approve a bill such as the one that is presently pending before the Senate. The chairman of the House Foreign Affairs Committee's Subcommittee on National Security Policy and Scientific Developments recently stated that even if the Senate passes S. 2956—

"It is very unlikely that war powers legislation will be taken up again."

He went on to say that the Senate bill—

"Presents a number of constitutional and practical difficulties which make its passage undesirable."

Today the Washington Post contains an editorial which, needless to say, endorses the concept of the War Powers bill but it concedes that—

"To become law, of course, the bill must not only pass the Senate, but the less independent-minded House; if that happens, a presidential veto could be anticipated."

Mr. BEALL. Mr. President, second, we cannot overlook the issue of this bill's constitutionality. The constitutionality question, which hangs like a cloud over S. 2956, is in itself an interesting "double edged sword." Either we are significantly curtailing the powers of the President as Commander in Chief—thus running the risk of violating his constitutional mandate or else we are leaving his powers as Commander in Chief intact which means we are failing to substantively alter the President's ability to "make war." Since 1789, Chief Executives have deployed American Forces abroad over 150 times without a congressional declaration of war. The absence of significant legislative or judicial efforts to define or curb this Presidential power lends credence to the argument that our forefathers meant to invest the President of the United States with broad authority to make and carry out our Nation's foreign policy. On an issue of this magnitude, it is important for us to do more than simply "posture" the Senate. We must ultimately decide upon a course of action that is clearly constitutional, completely compatible with our national security interests, and unquestionably credible to the people of this Republic.

Third, I believe that there is a possibility that we could see an "extended debate" develop in this body over the merits of this "war powers" legislation. Since this is a presidential election year, the Congress must complete its important tasks between now and early July. Since even its supporters doubt that this proposal stands any serious chance of being enacted into law in 1972, I suggest that it would be prudent for us to follow the course of action I have outlined in my proposed substitute amendment and then proceed with the other pressing measures that directly affect the health, safety, and welfare of our 200 million people.

Fourth, the power of the President, in foreign affairs and military matters stems from the recognition that he is Chief of State, Chief Executive of the Government, and Commander in Chief of our armed services. I am inclined to believe that the President, or any of his 35 predecessors, would be very reluctant to sign this measure into law. The President is responsible for preserving the prerogatives and integrity of the Presidency.

Fifth, I believe that this bill is an aftermath of the tragic conflict in Southeast Asia even though its sponsors have seriously tried to detach the two. In spite of the care taken by the drafters of this bill, I do not believe that we have or can divorce it from the emotionalism that has resulted from the conflict in Indochina. I do not believe that we can constructively legislate on a matter of such importance under present circumstances and I fear that we may all regret such action should it become law. The National Commission, composed of outstanding scholars, would study this issue in a scholarly way and make recommendations that would be free from the political pressures that are at work on the Congress. With a balanced study clearly laying out the pros and cons of this issue, the 93d Congress would be in a far better position to

define the division of the warmaking power than we are today.

Sixth, as I have studied this legislation, I have tried to determine whether S. 2956 is going to seriously tie the President's hands in a highly undesirable way or whether we are simply posturing the Senate without truly altering the power of the Commander in Chief to "make war." Either outcome, in the extreme, would be undesirable and we must never underestimate its impact on foreign powers, who could misinterpret our actions and thus miscalculate in terms of their dealing with us in the future.

Seventh, lastly, I believe that the Congress has lost much of its say in shaping our foreign policy because we have not used the authority granted to us in the Constitution. We have abused our power by failing to use it in the vigorous way envisioned by the Framers of the Constitution. The Senate and the House can begin today to take meaningful steps designed to restore the balance between Capitol Hill and the White House on matters of foreign and military policy. For instance, we could:

First, we can avoid the open ended—blank check—resolutions, such as the Middle East resolution, the Formosa resolution, and so forth, that have remained in effect long after the initial crisis has subsided, thus forming the base for future presidential actions.

Second, we can avoid the indiscriminate use of the national security waiver which has become a current device for allowing the Congress to appear to be making a foreign policy decision when such is not the case. For example, the Congress recently voted to terminate aid to Greece when everyone in this body was certain that the President would invoke the waiver. Thus we postured ourselves but we did not really add credibility to the claim that Congress contributes to the making of foreign policy. We asserted ourselves on the issue of the importation of Rhodesian chrome ore and the foreign policy of the United States was adjusted in accordance with the will of the Congress.

It is substantive actions on the part of the Congress that will redress the current imbalance in power between the legislative and executive branches of our Government. I believe that the pending bill is a substitute for meaningful congressional action. We will not recover our authority by standing on the beach and telling the tide to recede.

Mr. President, we are dealing with an extremely volatile matter, with its passionate fires fanned by the issues of the day. This is no ordinary piece of legislation. What we have before us is, in effect, a de facto amendment to our Constitution. Such an important step, I believe, demands that we not hasten into a course of action which may well come back to haunt us at some future date.

In today's Washington Post column entitled "'Hot-Stove' Legislation—bill would curb warmaking power of past presidents," Kenneth Crawford reminds us that earlier Congresses have responded to similar pressures by enacting legislation based on hindsight that proved to be detrimental in a rapidly changing world. In his article he states that—

"After the first world war and a Senate investigation of "merchants of death," the House and Senate wrote a set of neutrality laws to prevent President Wilson, then long dead, from involving the U.S. in a European war. The effect of these laws was to hamstring President Roosevelt in his attempt to help contain Adolph Hitler before the Nazis could overrun all of Europe and precipitate another world war. Obviously, Hitler posed a different and more serious threat to the world than Kaiser Wilhelm had. Fortunately, Roosevelt, before it was too late, found ways through, over and around the neutrality laws".

By Mr. HUGHES (for himself, Mr. CRANSTON, Mr. MONDALE, Mr. MOSS, Mr. JAVITS, and Mr. WILLIAMS):

S. 3502. A bill to amend subchapter III of chapter 83 of title 5, United States Code, with respect to the meaning of disability for civil service retirement, and for other purposes. Referred to the Committee on Post Office and Civil Service.

Mr. HUGHES. Mr. President, I am today introducing legislation to amend the Civil Service Retirement Act to delete from the act language which, by barring recognition of alcoholism as a disabling disease, leads to widespread inequities in the treatment accorded to Federal employees who have become disabled by reason of alcoholism.

On December 31, 1970, the President signed into law the landmark Public Law 91–616, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, which I had introduced in this body. Passed unanimously by both houses of Congress, this law recognized that alcoholism is properly regarded as an illness or disease and, as a public health problem, is appropriately and effectively handled only through medical and rehabilitative treatment. It created an institute through which a broad range of prevention, training, rehabilitation and research programs would be developed.

Recognizing that the Federal Government, as the Nation's largest employer, should set an example to the rest of industry in its handling of alcoholic employees, the act required that no Federal employee should be discriminated against with regard to any facet of his employment because he has an alcohol problem, but that the alcoholic employee have the same rights and protections as an employe suffering from any other disease.

The Civil Service Retirement Act now prohibits the granting of disability retirement if the disability is due to "vicious habits, intemperance, or willful misconduct" during the preceding 5 years. This language is repeated in the medical forms to be submitted by the examining physician. As a result, depending upon the physician's personal views and attitudes toward alcoholism, a subject on which most physicians have little professional training, he may hide the alcoholism behind references to such concurrent diseases as liver or brain damage, which would support the application for disability retirement, or record the disability as alcoholism and regard an affirmative answer to the question relating to "vicious habits, intemperance, or willful misconduct," thus denying the financial protection to the applicant and his family which may have been earned throughout many years of efficient job performance.

Under Public Law 91–616, the Civil Service Commission has made great progress in developing an enlightened program for the early identification and treatment of employees who suffer from alcoholism. I believe that this bill would continue to the success of that program by removing one of the fears which may hinder the employee from seeking help as soon as his disease begins to manifest itself and at a stage when treatment and rehabilitative efforts have the greatest chance of restoring the alcoholic to health and productive service.

By Mr. HARRIS:

S. 3503. A bill to prohibit the Tennessee Valley Authority from acquiring or utilizing, in carrying out its operations and functions, any coal mined by strip mining methods. Referred to the Committee on Public Works.

TVA SHOULD BE PROHIBITED FROM USING STRIP-MINED COAL

Mr. HARRIS. Mr. President, I have lately held ad hoc public hearings in east Tennessee and east Kentucky on the exploitation of people and natural resources which is inherent in the strip-mining of coal. I have expressed to the Senate Interior and Insular Affairs Committee, now considering this matter, my strong opinion that strip mining should be absolutely prohibited. The counties of east Tennessee and of east Kentucky where strip mining is being done are counties with some of the richest natural resources and some of the poorest people in America. They are dominated by huge landholdings, and more and more deep mining jobs have been lost to the big machines. Strip mining permanently ravages the hills and valleys. There can be no real reclamation. Moreover, the streams are ruined by run-off acids, and flooding is becoming worse and worse because of the sediment in the stream beds.

One of the worst offenders is the Tennessee Valley Authority, because of its large purchases of strip-mined coal. I believe that the late Senator George Norris and others who envisioned TVA as an agency which would protect the hills and waters of Appalachia, uplift the lives of the people of the area and stop the awful flooding which had been a central feature of its history, would be greatly saddened today to know that, because of its almost insatiable appetite for cheap coal, TVA is one of the originators of strip mining and is today one of its strongest supporters.

I believe that strip mining should be absolutely prohibited. Then we could seriously consider alternative energy sources, including an increase in deep mining with stricter safety requirements. This would provide many, many more jobs.

In the meantime and at the very least, I believe the Government should set an example. I believe TVA should be prohibited from purchasing strip-mined coal. This would go a long way toward righting the awful wrongs now being done to the land and people in coal country, including my own State.

TVA consumes about 35 million tons of coal each year. In 1970 and 1971 approximately 60 percent of this coal came from surface mines.

Strip mining is increasing at an alarming rate. We must stop it now before America begins to look like the mountains of the moon, while the people of the areas involved become poorer and

poorer and huge coal, oil, and gas and other large landowners and strip miners become richer and richer.

Accordingly, I am today introducing a bill to prohibit TVA from acquiring or utilizing, in carrying out its operations and functions, any coal mined by strip-mining methods. I urge its favorable consideration by the Senate.

Mr. President, I ask unanimous consent that the bill be printed in full at this point in the RECORD. I further ask unanimous consent that various articles concerning this matter be printed at this point in the RECORD.

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

S. 3503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) on and after the effective date of this Act, the Tennessee Valley Authority shall not acquire or utilize in connection with the carrying out of its operations or functions any coal which has been mined by strip mining methods.

(b) As used in this section, the term "strip mining" means all or any part of the process followed in the production of coal from a natural coal deposit whereby the coal may be extracted after removing the overburden therefrom or mining by the auger method or any similar method which penetrates a coal seam and removes coal therefrom directly through a series of openings made by a machine which enters the coal seam from a surface excavation.

SEC. 2. This Act shall take effect upon the expiration of the ninety-day period following the date of its enactment.

[From the Sierra Club Bulletin, February 1971]

THE STRIPMINING OF AMERICA

(By Wayne Davis)

Kentucky is being destroyed by stripmining. Not slowly and surely, but rapidly and at an ever accelerating rate. And the disease that affects Kentucky soon may spread to more than half our other states.

Most Sierrans are aware of the problem of acid mine drainage. Sulfur impurities in coal, when excavated and exposed to the air, invite invasion by bacteria which manufacture sulfuric acid. The result is streams with a pH so low that nothing survives but bacteria. The damage is permanent; some sickly red streams run dead a hundred years after mining operations have ceased, with little prospect of improvement in sight.

The extent of the problem is enormous. Keith O. Schwab, of the Federal Water Quality Administration in Cincinnati, has data showing 12,000 miles of degraded streams from mine acid drainage in the Appalachian states. "We can ill afford to lose more streams to mining pollution," he said, "but this is exactly what is happening."

Acid mine drainage has been with us as long as we have been mining coal. It comes from deep mines and surface mines. It has long been accepted by most local people as a price they must pay for an economy which removes the coal and burns it up as quickly as possible. Progress means removing the wealth, destroying it, and leaving the land and streams permanently impoverished.

Acid mine drainage, considered one of the most vicious of industry by-products, is trivial however compared to the massive onrush of destruction caused by the incredibly rapid move to surface mining.

In surface mining heavy machinery removes the soil, including trees, grass and everything else on the surface, to expose the coal seam beneath. In the steep hill country of Eastern Kentucky, this means pushing massive amounts of spoil down the mountainside. Even the largest trees are broken and pushed over. The magnitude of the devastation is difficult to imagine for anyone who has not seen it. Man's ever accelerating technology, now rushing forward faster than the speed of thought, has designed machinery which will move 100 cubic yards of dirt with a single bite. Such shovels, standing as high as a 12 story building, are used around the clock, as is the smaller equipment at many of the mountain stripping sites. With profits running as high as 50 percent annual return on the dollar invested and the minimum price of Eastern Kentucky coal having doubled over a 6 month period last year, the rush is on while the getting is good. Western Sierrans who watched the timber barons' frenzied efforts to cut as many big trees as they could before Congress established a national park will understand the rape of Kentucky. As stripping grows and as people become more informed, the opposition forces encompass an ever larger segment of the public.

When rain falls upon a strip mine site massive quantities of mud wash into the streams. A study by the U.S. Forest Service in Kentucky showed streams carried as much as 46,000 ppm of suspended sediment, compared to a maximum of 150 ppm in adjacent forested watersheds. Stream bed burdens of as much as 66,500 cubic feet of sediment per square mile of watershed were observed in the stripped areas. In addition to the stream beds the woodland flood plains were also made a muddy mess from silt. Subsequent rains not only brought down more silt but moved part of the previous loads on downstream, affecting more of our watercourses.

Bethlehem Steel Corporation has mined the high quality low sulfur coal needed for processing steel from deep mines in Eastern Kentucky for many years without arousing the displeasure of conservationists. However, their decision in 1969 to strip 40,000 acres in several counties changed them from an acceptable responsible corporation into the number one target and rallying point for the anti-stripping forces. Stripmining not only puts permanent scars on the mountainsides, but it also kills the streams, which are public property.

Silt kills streams by destroying the nature of the bed. Many aquatic invertebrates upon which fish feed live beneath stones in the gravel-covered bottom of a stream. A fine load of silt from the clay-banks above glues down the stones, making them inaccessible and preventing the free movement of oxygen-carrying water among the gravel and beneath the stones.

The effect upon spawning of fish is similar. Most species of game fish lay eggs in the gravel of the stream bottom. If a fine layer of silt washes off the strip mine spoils and covers the eggs, they are deprived of sufficient oxygen for development and fail to hatch. Thus the stripminers rob the public of a valued resource.

Although land destruction occurs, acid mine drainage and silt are the best known effects of stripmining, a less known but equally dangerous factor may be the raising of the mineral ion concentration of the water effecting its usability by man and his industries. The U.S. Public Health Service sets standards for drinking water quality and the various industries have their own tolerance levels depending upon the purpose of the water they use.

The U.S. Forest Service has done studies on the effects of stripmining on water quality in Eastern Kentucky. In a report they point out that although the U.S. Public Health Service's Maximum Permissible Level for sulfates in water is 250 ppm, on severely disturbed watersheds in Eastern Kentucky they found concentrations ranging up to 2100 ppm. Whereas the tolerance level for manganese is 0.05 ppm, concentrations of up to 74 ppm were found, and for iron, whose recommended maximum level is 0.3 ppm, concentrations ranged up to 88 ppm.

Why the tremendous increase in stripmining activity? Many reasons have coalesced to result in today's frenzy.

The use of electrical power, pushed along by Madison Avenue's request that we live better electrically, have been growing at 7 percent per year, a rate which doubles consumption every 10 years. Coal is a major energy source for power generators.

Even with nuclear reactor power generators increasing at a rate that doubles their numbers every 2.4 years, with this rate expected to continue at least through 1980, the demand for power is increasing so fast that coal powered generators also are being built.

The scarcity of natural gas, which caused gas companies in the East to deny service to many new industrial customers in 1970, and ever increasing dependency of this country on foreign oil sources, has increased the interest in coal, one resource which is still in abundant supply.

The new mine safety law has helped push operators out of deep mining into the stripmining business. Stripping produces three times as much coal per man as an underground operation and requires less machinery and investment. It is safer for the workers and more profitable to the operators. The result has been that the strip mine has risen from 29 percent of the production 10 years ago to 36 percent today. In the steep Appalachian hills of 9 states strip mine benches now extend for 20,000 miles. Since only 4.6 billion of the estimated 108 billion tons of strippable coal have been harvested, one can see what the future holds.

As the acceleration of stripmining proceeds, attempts to regulate it are frustrated. Although Kentucky has a fairly good mining reclamation law and some honest, conscientious people in the Division of Reclamation, law enforcement has broken down. An employee of the Division told me that during the summer of 1970 permits were issued to over 100 new operators. Since anyone who can borrow enough to get a bulldozer into operation can go into business and get rich now, there is a flood of new people into stripmining. The enforcement officer said that some of these inexperienced operators could not operate within the law even if trying to do so and spills of spoil onto public highways and into the streams are the result.

The business is so lucrative that an operator has been quoted as saying that if we will leave him alone for just two years he doesn't care if we outlaw stripmining, for by that time he would be rich enough to retire.

Operators are getting rich and selling out to the big corporations. The giants of oil and steel, smelling the killing at hand, have been rushing into the fray like a pack of sharks to a bleeding swimmer. The major stripmining operations are subsidiaries of such corporations as Gulf Oil, Humble Oil, U.S. Steel and Bethlehem Steel. TVA is also heavily involved.

If you think coal mining is only a problem for Kentucky and such well known coal states as West Virginia, Pennsylvania and Illinois, you are in for a surprise. A total of 26 states have strippable reserves of coal. We easterners will not even be in the running when the big time arrives, because the states with the largest reserves of strippable coal are North Dakota, Montana and Wyoming. If we draw a line from Pennsylvania to the coal-

laden northwestern tip of Georgia, every state west of the line except Wisconsin, Minnesota and Hawaii has some coal deposits. With the industry's trend toward building power plants where the coal is, the destruction of parts of your state may be even now on the shallow horizon.

Stripmining as a big business has moved into Ohio. Ben A. Franklin of the *New York Times* reports that 5 billion tons of low grade fuel, long considered too marginal for mass mining, lie near the surface in Ohio, and the boom is on from Cincinnati to the east-central border to recover it. In 346,000 acre Belmont County alone 200,000 acres have been sold, leased or optioned to the strippers.

Two giant electric shovels, each 12 stories high, scoop up farms, barns, silos, churches and roads to uncover the coal, piling the rubble into strip mine spoil banks. Franklin quotes Ohio Congressman Wayne Hays, whose home is in Belmont County, as saying "They're turning this beautiful place into a desert," but Ford Sampson, head of the Ohio Coal Association is credited with the line, "Are we going to cut off the electric power because some guy has a sentimental feeling about an acre of coal?"

Perhaps a better example of what we are up against is illustrated by the opinion of James D. Riley, a vice president of Consolidation Coal Company, who spoke to the American Mining Congress in Pittsburgh in 1969. To the thunderous applause of the assembled strip miners, Mr. Riley declared that the conservationists who demand a better job of land reclamation are "stupid idiots, socialists and commies who don't know what they are talking about. I think it is our bounden duty to knock them down and subject them to the ridicule they deserve."

What can be done? First we must insist that Americans take their heads out of the sand and recognize the fact that power demand cannot continue to rise as it has been. Nothing—whether the power demand, the production of coal, the number of people, the number of cars, or the gross national product—can continue indefinitely to rise at an exponential rate in a finite world. The sooner we face reality on this the sooner we can begin to attack the problems.

So the next time the power tycoons tell you they must double power capacity by 1980 you should reply, "Nonsense—long before 1980 we must plan and put into practice a program to level off power consumption at something like present levels or less."

Second we must have federal regulations of mining practices. Any local efforts to regulate this or any other industry encounter the standard and somewhat justified reply that regulation would put them at a disadvantage with their competitors in other states.

Dr. Robert Kuehne says that in Kentucky we could not have designed a better system to ruin the maximum number of streams in a shorter period. Instead of mining watersheds that are already destroyed until all the coal is gone, the economic system assures that we skip around in such a way as to kill all our streams in the coal country.

The Committee on Resources and Man of the National Academy of Sciences-National Research Council has pointed out that the culmination of oil production in this country is now at hand and the culmination of natural gas will arrive at the end of this decade. We are now dependent upon foreign sources for 20 percent of our oil supplies, and by the end of this decade this is expected to rise to 40–45 percent. Although coal reserves are much greater, we should not continue to treat them as the common enemy to be destroyed with all speed by the system found to be so effective in getting rid of our oil and gas.

We simply cannot afford to continue the present pattern of exploitation of the fossil fuels.

[From the Nashville Tennessean, Sept. 19, 1971]

SOME BLAME TVA: STRIP MINED POOR LOOK FOR VILLAIN

(By William Greenburg)

LA FOLLETTE, TENN.—When residents of this five-county area where the strip mining of coal ravages the land and impoverishes ordinary people looking for "the villain" responsible for their plight, they search in several directions.

They point their finger in the direction of the absentee landlords who own most of the land and reap huge profits which they take out of state, and sometimes out of the nation.

They point their fingers at the strip mine operators who lease the land and rip it open to steal its mineral wealth—then leave the gaping wounds to threaten the environment.

And they point to the federal agency which is the largest single coal purchaser in the area—the Tennessee Valley Authority.

It may sound strange to some to hear that the TVA is considered "the villain" anywhere in Tennessee. After all, the TVA has long been considered a boon and a provider of a healthy economy that helped all the people of the state.

TVA OFTEN TARGET

Th TVA has provided low-cost electric power, flood control, increased river traffic and created vast recreational waterways. In most of the state of Tennessee this has made the TVA something of a hero.

But in the mountains around here TVA is sometimes cursed and often criticized.

The reason: Last year the agency purchased about four million of the eight million tons of coal produced in Tennessee. Of that four million tons, 2.3 million were strip mined.

Strip mining is an enemy of the people of the area.

They live in poverty despite the fact that the strip mining takes millions in wealth from the area each year. The landowners and strip miners pay a pittance in property taxes, thus increasing the tax burden of other residents.

But most of all the strip miners rape and ravage the land, leaving it an ecological disaster area. And since TVA pays to have much of that coal strip mined, TVA is a villain in the eyes of the people around here.

Several days ago a reporter-photographer team visited the site of the Emory River across the stream from where Fred Wall is stripping coal from steep heights under a TVA contract. At least one major landslide could be clearly seen, dropping a sheet of brown down the lush green mountainside.

A resident of the area pointed up and said: "That is what TVA is doing to us. They tell us they are making the strip miners grow it back. They can never make that mountain green again. And they can never take that slop out of our river again."

Of all agencies of the federal government TVA has worked to build a "public service" image. But here in this five county area that image suffers.

FORK CATCHES TVA

The reason? TVA is locked into a dilemma. On the one hand it must buy coal as cheaply as possible. On the other hand it must protect the environment.

By law TVA is required to buy coal on competitive bids. This means the lowest price. Moreover TVA is now charged with the directive to operate its power division so that it pays its own way—without government appropriations.

At the same time TVA policy is to require those strip miners with which it contracts to reclaim—which means to heal the deep scars strip mining leaves in the land.

It isn't working—yet. And some residents of this area like the man on the banks of the Emory last week don't think it ever will work.

WAGNER DEFENDS COST

TVA introduced reclamation provisions into its coal contracts beginning in 1965. The provisions have since been updated. Aubrey Wagner, chairman of the TVA, says they have been strengthened.

"We believe the cost of reclamation is a legitimate part of the cost of coal," Wagner said, explaining the TVA board policy. "We believe the cost of reclamation is not excessive and that successful reclamation can be done."

Frank Smith, another member of the three-man TVA board, says that the reclamation provisions have not been in the TVA contracts long enough to provide an adequate test as to whether they will work.

"It is impossible to have instant reclamation," said Smith, pointing out that the ravaging of the mountains has gone on for too long to reverse the trend in six years.

"It is difficult to enforce the provisions of the contract. But we are not throwing up our hands. I'm not claiming that TVA has been perfect by any means. But we are working at reclamation."

According to Smith a major problem is that TVA has no control over the land which produces the coal the agency then buys.

There is a traditional frontier spirit that still holds in the American mind that if you don't own land you can't control the use of it—particularly if you are the federal government.

"A change in that philosophy is beginning to take place," said Smith. "The people of the country are beginning to become sensitive to the need to use the land more advantageously and to allow some direction from government with regard to its use. But it is a slow process, he says.

Smith maintains, not unlike TVA board chairman Wagner, that there is no validity to the argument that reclamation is curtailed because the agency must buy low-dollar coal and be competitive.

Smith said "It is still too early to conclude that land reclamation won't work."

This is the general view held by the directors of the TVA.

DEBATE FROM WITHIN

But within the agency there is debate from various sections. There are the conservationists within the TVA who hold that the agency doesn't take enough force in demanding that the strip mined lands be re-developed. A few, in candid moments, wonder if reclamation is impossible after the land has been robbed of its coal. Still others, in the fuel purchasing division, are not concerned about reclamation. Their job is buying coal at the cheapest price to provide adequate electric power—an increasing problem—at the lowest consumer rate possible.

Most people within TVA feel that the full burden of reclamation has fallen on their agency shoulders and that nobody else in other branches or levels of government are interested in taking any responsibility.

It is true that the Tennessee Department of Conservation operates a skeleton staff to inspect and oversee strip mining operations. The strip miners laugh among themselves that no state officials ever seem interested in how they treat the land—or even whether there are license plates on the trucks that haul the coal. And usually there aren't.

"We have a program and we are working at it," says Frank Smith. "The Tennessee Department of Conservation is more interested in courting the wealthy sportsmen in the state than in worrying about land reclamation. They could help."

But Smith, as most others in TVA, do not believe that speedy corrective action will come unless the federal government passes

stringent laws controlling strip mining activities.

While some in TVA say that there is still a chance that reclamation contracts will help cure the ailment, the cost of coal continues to create problems for the agency.

It remains a fact that TVA must be competitive in its bidding. Still, it must require those from whom it buys coal to charge more for it because they must reclaim the land.

Economists would suggest this can only eventually increase the price of electric power. Indeed last year there were increases as the price of coal skyrocketed.

There was one period last year when TVA was caught short and the price of coal temporarily reached $10 a ton. Still TVA paid a $4.50 a ton average in 1970 and has paid $5.90 in 1971. Prices per ton since 1965 have ranged between $3.96 and $5.90. A check of the long term contracts that TVA awarded last April shows that both strip and deep mine coal is running between $7 and $8 a ton. TVA continuously buys spot coal, which is presently running between $5 and $6 a ton.

More important than the price TVA pays for a ton of coal is the price it pays for the heat value.

If one lump of coal gives off more heat than another lump of coal then less of the first kind of coal is needed to produce the heat required to generate electricity. The measure of heat is called the British Thermal Unit and is another way of saying calories. The British Thermal Unit is known as the BTU.

The price TVA has been paying per million BTU has steadily increased and the number of BTUs in a pound of coal has been steadily going down.

The largest drop in number of BTUs per pound occurred between 1969 and 1971 when the number went from 11,356 to 10,796. This is about the time that strip mining began to build to its present peak.

TVA LOSING QUALITY?

During this two year period TVA paid an increase of seven cents per million BTUs the largest increase since records were kept in 1946. The question is what all this will do to the famous TVA low cost electric power yardstick.

This big decrease in the BTU content of coal may mean that TVA is not getting the quality of coal it needs, and an added burden is the disposal of ash in the coal that will not burn.

The means that the mining companies use to deliver less than the required quality of coal was called capping. The term has been softened and is now called blending.

The strip mine operators load their trucks with poorer quality coal, sometimes outright dirt, and cover it with good coal.

A TVA official said that this practice has ceased, but a talk to officials at the Kingston Steam Plant indicates otherwise.

ASH CREATES PROBLEM

Kingston manager A. O. Spencer said the ash content of the coal the plant is receiving averages about 18% and is sometimes as high as 20%.

"The coal operators are not trying to fool us," Spencer said. They say they are bringing in 20% ash and that's what we get. Once in a while someone trys to sneak a bad load by."

Kingston coal is not supposed to be more than 16% ash.

The more ash, which is dirt that will not burn, there is in coal the more coal is needed to reach the desired heat. Also, the greater the ash content, the more difficult it is to dispose of it.

Spencer said that it takes about 5% more coal to produce 200,000 kilowatts due to increased ash content.

Critics of TVA have suggested that the agency has the organization which would permit it to buy coal in such a manner that would include careful planning to insure an adequate supply for electric power generation and at the same time protect the environment.

While TVA officials challenge that, it is apparent TVA's reclamation provisions are not helped by the need to buy coal at the lowest possible price.

PRICE NEARLY DOUBLED

TVA chairman Wagner said he is not qualified to determine just what the cost of reclamation is. TVA officials say such information is not available now because it will vary from strip mine to strip mine. They added that one purpose of TVA's special study contract for strip mining in Campbell County is to come up with guidelines of the cost of reclamation.

'We have felt that when the price of new coal nearly doubled on us a little over a year ago it was not clear that the cost of reclamation or mine safety measured up to the increase in price,'" Wagner said.

There are already at least four landslides on the TVA model strip mining contract with the Long Pit Mining Co. in Campbell County.

Another large contract in Campbell County, with the Spradlin Coal Co., has demonstrated that the area is not suitable for growing after strip mining. Arthur Wardner, TVA forester, said on a tour of the strip mine that the agency knew of soil conditions before stripping began.

STATE LAWS WEAK

Then there is the Emory River operation mentioned earlier in this article. Fred Walt, the strip mine operator on that job had a stripping job a few miles away on the Obed which was closed down last year because of environmental damage.

Wagner said he believes it is important to bring state strip mine law and TVA regulations into line with each other to insure enforcement, State laws are weak and such as they are, remain unenforced.

Wagner said it would take several years for TVA to switch from strip mined coal to deep mined coal. He said a ban on strip mining would deprive TVA of 40% of its power production.

He said he did not know what portion of TVA's strip mined coal comes from the areas with steep mountains like East Tennessee.

TVA official said later that 25% of TVA's strip mined coal comes from the sides of steep mountains.

A check of records of the TVA division of fuel purchasing showed that approximately 17.5% of TVA's total coal supply is strip mined off the sides of steep mountains.

With such an involvement in the purchasing of strip mined coal it is not surprising that TVA is sometimes called "the villain" in the five county region where the coal cuts have left gaping wounds in mountainsides and streams clogged and polluted.

But TVA is aware of its image.

Its officials insist they are doing all they can to improve more than their image—they want to improve land reclamation. It is too early to tell—as their officials say—whether they will succeed in either the effort to improve their image or the effort to improve the land.

TVA COAL BUYING AGAIN UNDER FIRE

(By George Vecsey)

KNOXVILLE, TENN., March 31.—When Frank Smith confirmed that he would not be reappointed a director of the Tennessee Valley Authority, his critics barely took time to notice this week. They were too busy planning ways to keep the pressure on T.V.A.'s coal-purchasing policies.

Mr. Smith, who is returning to Mississippi to run for Congress again, insists he has taken a pro-conservation role within the agency. But others identify him with the authority's increasing use of surface-mined coal to provide electricity since he was appointed by President Kennedy in 1962.

"He has been a calamity," said Harry M. Caudill, one of the leaders in the fight against surface mining. "Frank Smith has betrayed every liberal instinct he may once have had."

Mr. Caudill's office in Whitesburg, Ky., was the meeting place last Wednesday as 25 Appalachian leaders discussed T.V.A. and other contributors to the growth of surface mining. Another goad to the agency may come next Thursday when Senator Fred Harris, the Democrat from Oklahoma who is not running for re-election, will hold an unofficial tour and hearing in eastern Kentucky as part of his involvement in a "new populism."

ONCE HAILED AS SAVIOR

"T.V.A. was originally set up to protect and enrich the countryside," said Senator Harris after a recent tour near here. "But anybody who has seen the mountains and walked in the valleys can see what T.V.A. is doing."

Often hailed as the savior of the Tennessee River watershed with its dam building and soil conservation of the 1930's T.V.A. is now frequently accused of subsidizing the destruction of neighboring coal-region watersheds. Originally built on hydroelectric power, the agency now produces around 80 per cent of its power from 11 coal-powered plants.

Since Mr. Smith became a director, the authority's purchases of surface-mined coal have risen to 15 per cent of the total produced in seven states. It is the largest consumer in those states.

Since 1965, T.V.A. has also been the only consumer that imposes reclamation standards upon its suppliers, and Mr. Smith says he has quietly pressed for strong Federal legislation. Yet he did not make his opinions public until recently.

TWO POSITION PAPERS

The spokesman for T.V.A. has generally been Aubrey J. Wagner, the chairman and a long-time T.V.A. official, who was reappointed as a director in 1969. The third director, Don McBride of Oklahoma, was appointed in 1966. When Mr. Wagner recently delivered a T.V.A. position before a Senate hearing, Mr. Smith issued his own position paper urging reforms.

"I felt it was time to point some differences," Mr. Smith said.

The delivery of these opinions on Feb. 24 was accompanied by rumors that Mr. Smith would not be reappointed by President Nixon when his term ended on May 18. Mr. Smith recently confirmed that he was "cleaning out my desk"—blaming "politics by that great conservationist in Washington."

The T.V.A. directorship pays $38,000 a year for the nine-year term and the Administration is expected to appoint a Republican. William Jenkins, the Tennessee commissioner of conservation, is frequently mentioned for the post.

Although he expressed unhappiness over the lack of support for his reappointment, Mr. Smith stressed T.V.A.'s conservation efforts and defended its purchase of coal.

REQUIRES RECLAMATION

"We're always the whipping boy," he said. "Perhaps the reclamation wasn't always adequate, but we're still the only ones who require it. Maybe some areas ought not to be stripped. But others are not exactly primeval virgin lands, either. They can be improved through responsible stripping and reclamation."

Mr. Smith said he would soon return to Mississippi and file for the Democratic primary for the Congressional seat being vacated by 68-year-old Thomas G. Abernethy. Mr. Smith was a Representative for 12 years.

Jim Branscome, the young director of Save our Kentucky, an environmental group, has

publicly equated Mr. Smith's policies with "racists and profit-mongers who stalk this land."

But even more moderate voices have criticized the T.V.A. director. These includes Leslie Dunbar, executive director of the Field Foundation in New York, who attended the meeting in Whitesburg this week.

"I'm a long-time friend of Frank Smith," Mr. Dunbar said, "but I don't think he's done enough about strip mining. My hunch is he's the only one of the three directors who gives a damn. But he has defended the indefensible—and not very well."

[From the New Republic, Jan. 15, 1972]

COAL'S CONGRESSMEN

(By Ward Sinclair)

Strip-mining is ripping up the land at the rate of a little more than a square mile a day. By 1965 it had torn up enough terrain to make a solid belt three miles wide from New York to Chicago. By 1980 that belt will have widened to 11 miles. House and Senate Interior subcommittees are talking about legislation early in 1972. The bills they mark up will be the product of hearings last fall that were distinguished by high absenteeism, shallow staff preparation, deference to the mining industry, inane utterances and little perspective on the human side of strip-mining.

Coal, because it is so abundant and because we use so much of it, is the principal villain. Three decades ago only 10 percent of the country's coal came from strip mines. Reliant on cheap prices of strip coal, public utilities generate more than half our electricity with coal. High and steady mining profits have lured the oil companies into the field and they now control a majority of the 50 largest coal firms. The major oil companies are cornering the entire energy market—coal, uranium reserves, synthetic gas and crude oil research subsidies, taking leases on millions of acres of mineral-rich public lands—and threaten to wipe out all vestiges of competition. The exploding demand for coal at home and abroad, the absence of real regulation and the development of monstrously large mining machines have contributed to the rapid growth of stripping, which next year for the first time will account for more than half of all US coal mined.

That's not all. There is every expectation that the robust coal industry will become even healthier in the near future as federal funds, voted by Congress last year, spur development of the coal gasification process—the conversion of coal to gas, which banks on the availability of the billions of tons of strippable coal reserves in the far western states. The process, when perfected commercially, will live or die on ready access to federally owned coal lands, on not very demanding reclamation requirements and on the cheapest and most expedient mining method—stripping.

With no federal control and little or no state policing, stripping until now has remained hidden largely in the recesses of Appalachia's closet of social and environmental horrors, defiling forested hillsides and befouling river systems with silt and acid pollution. Coal lands in Iowa, Wyoming, Montana, North Dakota and the Southwest are being opened to the strip machines and the devastation will be seen in all the 27 states where coal is known to exist.

The stripping technique (or surface mining, as the industry calls it) is relatively simple. It means merely peeling the surface off a mineral deposit—be it phosphate, limestone, copper, iron ore, sand and gravel or coal. Unless reclamation is attempted, the mess is left behind. The stripper cuts and runs. The huge machines now available to the strippers (some can gouge down nearly 200 feet) are making underground mining less and less attractive. Those machines, of course, make underground miners obsolete as well, but the United Mine Workers (UMW) of Tony Boyle is so reliant on welfare-fund royalties from stripped coal that it feverishly opposes the ban on strip-mining that is proposed by Rep. Ken Hechler (D, W. Va.). The square-mile statistics don't begin to depict the devastation. Water tables and drainage patterns are altered. Erosion is hastened as forests and slopes are denuded, and flash-flooding becomes common in places where it never was a problem. In the mountains of Kentucky, Virginia and West Virginia, massive landslides of strip-mine residue block highways and engulf homes. Wildlife habitat is destroyed. Acid and silt snuff out aquatic life in the streams; ponds and reservoirs are poisoned. Ugly highwalls—man-made cliffs where mountainsides are stripped—ruin the scenery and threaten the tourist potential of the industry-poor Appalachian states, which have little other hopes of income.

Congressional hearings, particularly on the House side, have given little exposure to the human side of strip-mining. The damage to people, communities and tax bases and the threat to future economic development of stripped-out regions have been muffled by the apparently more overriding concern that Los Angeles, Chicago and New York not suffer electricity shortages.

A House subcommittee, headed by Rep. Ed Edmondson (D, Okla.), merits separate study for its bull-headedness. Hearing dates on strip-mining were scheduled, then postponed; scheduled, then again postponed. A supposed series of field trips was cut down to one—to a model reclamation project in Ohio—on the grounds that time ran short. (Three subcommittee members then found time enough to junket for a week in Spain.) The idea of touring the lunarscapes of Kentucky, the largest strip-coal state, apparently wasn't even contemplated. Four eastern Kentuckians, including writer-lawyer Harry Caudill, one of Appalachia's best-known advocates, asked to be heard but never were, because none of them received confirmation letters the subcommittee insisted had been mailed. The other anti-strip witnesses who did get to testify were received caustically, as though the burden of proof rested with them. Rep. Hechler himself was greeted like an enemy. He likened the hostile questioning to "a determination of some members to drive the evil spirit out of me . . . to get me to recant." The subcommittee denied him the privilege of inserting certain material in the hearing record and denied the use of expert-witness assistance, a subcommittee rule that changed when others took the stand.

A Hechler backer, Rep. John Seiberling (D, Ohio), of the tire-making Seiberlings, got a similar reception. Chairman Edmondson, a likely Senate candidate whose success could depend on the Oklahoma oil industry's warmness toward him, wondered if Seiberling would endorse a ban on "pollution-causing" auto tires as keenly as a ban on strip-mining. In all his days, the Ohioan responded, he'd never heard that auto tires were a significant source of air pollution but, of course, if they were, he'd be opposed to them. Rep. Craig Hosmer (R, Calif.) who owns a pile of oil and electric-utility stocks, warned Seiberling, "You are going to kill a lot of my people when you don't let coal come up from the mines . . . don't tell me it's [a ban] not going to cost human lives."

When James Branscome, director of a Kentucky anti-strip-mine coalition, warned that strippers were "making revolutionaries out of mountain people" ex-FBI agent Edmondson went for the jugular. "Are you one of those revolutionaries?" he demanded. Edmondson would not let him continue until he heard the denial. The chairman finally gaveled Branscome into silence when Branscome refused to explain why he felt Hechler had been mistreated. Give the press a copy of my complaint and I'll answer you, Branscome said. "You're excused! We don't take terms from witnesses," Edmondson said with a whack of the gavel.

So it went. The best came from the Interior subcommittee member whose state has been hurt most by strip-mining. Rep. James Kee (D, W. Va.), who talks like a member of the Washington Coal Club, which he is, said it like a true industry flunky: "You ban strip-mining and America will be relegated down to a fifth, sixth, and seventh-class nation because we will have to go hat in hand for fuel in foreign lands." Stripping, as he sees it, is a "blessing in disguise," providing sunshine for the wildlife and halting fires in the strip-cleared forests.

His colleagues sat in respectful awe as Kee barked at witness Si Galperin, Jr., a West Virginia state senator whose futile effort to get a ban on stripping there set off a wild furor this year: "I don't find any people hollering about abolishing strip-mining. Quite the contrary." Depends on the clubs one joins.

[From the Kentucky Post, July 13, 1971]

CONGRESSMAN-CRUSADER GETS TOUGH WITH STRIP MINERS

(EDITOR'S NOTE.—Ken Hechler is a crusading congressman who has touched off an intense environmental issue by sponsoring a bill to outlaw strip mining. The proposed action has emotional and economic overtones to conservationists in Kentucky. Hechler, a Democrat, makes his home right across Kentucky's border in Huntington, W. Va., Carl West of our Washington Bureau visited the embattled congressman to find out why he thinks strip mining should be banned and what he's doing to see that it is. The interview follows.)

Q. Why should someone who doesn't live in an area where there is strip mining be concerned about the effects of it?

A. Strip mining destroys a lot of the nation's wealth while extracting temporary wealth which is the coal. Once the coal is gone the land is gone, the forests, the hills, the streams are polluted and this has an effect on the entire nation, even those areas where people are living that are not strip mined. When you take away from the national wealth, you hurt everybody.

Q. You have proposed a bill that would ban strip mining within six months of its enactment. This means federal control. Why can't states cope with the problem? Why can't states enact controlling laws?

A. In the first place, I think there has to be a uniform standard throughout the nation. If you have varying standards then your strip miners will simply shift to those states that have the weaker laws and continue their operations.

And, second, traditionally, as in all legislation, the state regulation has been very effective. There have been loopholes, not only in the legislation, but more particularly in the enforcement of the strip mines in states which have laws.

It is much easier for a very powerful lobby to approach a state administrative agency than it would be to approach a federal agency.

Q. What would your bill do to lands already stripped?

A. It would provide for reclamation for those areas only if the Environmental Protection Agency indicated that those areas are worth reclaiming and would provide a 90 per cent federal contribution to be matched by 10 per cent state contribution to reclaim those lands.

Q. Do you have a price tag, or cost estimate?

A. No. The decision still has to be made by EPA. This depends on which lands EPA in its wisdom decides are worth reclaiming.

Q. Is EPA supporting your bill?

A. All I can say is there are many people

within the Nixon Administration that are rather ashamed of the administration bill which puts the regulatory bill in the Department of Interior which I consider to be more of a production-orientated agency than an agency devoted toward the protection of the land.

The EPA is headed by a very aggressive administrator, William Ruckelshaus, who I think has done a remarkable job in administrating air and water pollution control legislation. I'm not going to try to embarrass the EPA into saying whether they support or oppose it. I know that informally and behind the scenes they can give a lot of support.

Q. What is your argument against the Nixon Administration bill other than the fact it puts control in hands of the Interior Department?

A. In the first place it provides a two-year lag during which states may submit their plans and suggestions as to how to control strip mining. This is a license for two years to speed up strip mining until there are controls.

What it does, in effect, is escalate the devastation of strip mining in all areas of the country where it is being carried on.

In the second place, it puts the responsibility primarily on the state, rather than the federal government. And this is subject to the argument that I was making before that the pressure of strip miners, coal operators, utilities, railroads and other interests is so strong on state legislatures and state administrative agencies that I don't think you can get effective legislation.

Every time that a state legislature like West Virginia, or Pennsylvania or Kentucky says "now we've passed a good, effective, strong strip mining law that requires reclamation" as West Virginia did in 1967, we discover that it is ineffective both from a legislative language standpoint and an administrative standpoint. All these things are of course embodied in the Nixon Administration bill which allows a two year lag during which states may propose plans for the regulation of strip mining and then at some indefinite future date after that, if the federal government doesn't like those plans it can interpose a federal standard.

Q. What do you feel has been the reason for the increase in strip mining?

A. First is the apprehension on the part of strip miners that sooner or later the people are going to get so fed up with this devastation that they are going to insist on enactment of strict laws that will prohibit strip mining.

Q. Why aren't people fed up with it already?

A. I think they are. I think many of them are. I think the state legislatures and the Congress are not up with the people on this. They are disturbed about it and they are being subjected to tremendous propaganda campaign on part of the strip miners themselves to try to get across the point that there is an energy crisis, that you can reclaim this land, and thirdly, it means loss of jobs.

These three arguments are being used very effectively. A lot of money is being spent, particularly in West Virginia, on radio, TV, newspapers ads, women running around with signs, writing letters.

Q. Was there a proposal in the legislature to ban strip mining?

A. Yes.

Q. You introduced your bill in February which is the toughest of any in the federal hopper and equal to any proposed at the state level. You have been in a good position to evaluate the thrust of interests trying to convince you and others that your bill is bad. What have the lobbyists from coal companies, railroads, utilities done to promote opposition to your proposal?

A. There is a tremendous propaganda effort mounted against it to convince others it is extreme, or will cause heart and kidney machines to turn off for want of electricity.

Q. Has there been any personal harassment of you?

A. The state legislature has virtually redistricted me out of office. My district has been split into three parts as a result of action of the state legislature and I no longer have a district to run in 1972.

My hometown has been put in with a number of other counties that are represented by another Congressman with most of constituents being in his own district.

Q. What are some of the attempts of the strip mining interest to influence your thinking on your bill?

A. Well, of course this is done a little more delicately these days than it used to be in the past when strong-armed methods were used. It's done perhaps differently than when United Mine Workers used to attack me when I was criticizing Tony Boyle in the Boyle-Yablonski campaign.

Yet, there are very strong attempts in public statements and I'm sure campaign efforts will be used in 1972 in attempts to defeat me in any office I run for.

But virtually every speech that the president of the National Coal Association, Carl Bagge, makes, denounces my bill as a totally irresponsible proposal, and one that would cause an energy crisis.

Q. What chance do you give of passage of your bill in the House?

A. It's chance will depend pretty much on the extent of public support and interest between now and the time the bill comes to a vote. It is in the subcommittee of the Interior Committee, chaired by Cong. Ed Edmonson of Oklahoma and I fully expect that hearings will be held on this in September, after which we will have an opportunity to vote on either the administration bill or some modification of it, or have an opportunity also to vote on my bill at the time those are brought up.

Q. There has been some speculation that Congress will come up with a compromise measure "stiffening the present rules." What are the present rules?

A. Well, there are no real rules now at the federal level. There is really no adequate control of strip mining at the federal level.

Q. What do you project for a compromise?

A. I don't project a compromise. I still feel, and I feel this very strongly and sincerely, that I can generate enough public support to force Congress to pass the kind of legislation that will effectively ban the strip mining of coal in six months.

Q. Do you think it will be of the same magnitude as the anti-SST crusade?

A. Yes I do. I believe it will also be effective for that reason. There is going to be a great deal of activity at the grass roots. There is going to be great deal of activity as to advising members of Congress that when this bill is voted on it will be counted as an important vote to determine whether or not these organizations will support congressmen in the 1972 elections. This in itself gressmen will pay attention to when they is a very important yardstick that many conare determining whether or not to support my legislation.

[From the New York Times Magazine, Dec. 12, 1971]

APPALACHIA—LIKE THE FLAYED BACK OF A MAN

(By James Branscome)

LEXINGTON, KY.—Dan Gibson sold his squirrel gun last month. He sold it for $30 and an old British .303 Endfield to two of his young admirers. Gun buying, trading or swapping is less than unusual in the hills of eastern Kentucky, but Dan Gibson's rifle and what he did with it a few years ago are unusual. With only that rifle as a companion, Gibson, who is in his 80's stood off 17 state policemen and a coal-mining company. He held them off because the miners were going to strip-mine his son-in-law's property and the state police were there to back them up. He was finally arrested, but not before he had won his point. The strip miners did not come back.

What made Dan Gibson angry is a relatively new, cheap and easy method of mining coal. It is cheap and easy for the coal operators but expensive and difficult for the people who live in Appalachia. Because it is cheap and easy in the short run, strip-mining this year is expected to account for half of the coal produced in America. The coal will fuel power plants that light the sprawling suburbs and the dying cores of American cities. As a result, the hills and mountains of Appalachia will be irreparably scarred. The Appalachian people will be forced to flee their homes because of landslides and flooding. The entire region will look more and more like the flayed back of a man, the lifeless or heavily damaged pulp of a miscreant who sinned against industrial America.

Of the 429 million tons of coal produced in Appalachia last year, more than 154 million tons were mined by stripping methods. Nationwide, stripping accounted for 264 million of 602.9 million tons, or 44 per cent of the nation's total output.

In Kentucky, 48 per cent of 1970's coal production—67.8 million out of 129.3 million tons—was extracted by stripping. This led to the destruction of an estimated 17,300 acres in eastern Kentucky alone. The tonnage gouged from the beautiful and heavily populated Appalachian region is expanding even though there are abundant alternative sources of coal in the vast, less populated plains of the West: some 77 per cent of the coal that could be mined economically lies west of the Mississippi River. Moreover, operators are turning increasingly to the voracious stripping techniques, even though all of the nation's coal-produced electricity could easily be met by conventional underground mining.

The "area" strip-mining done in the rolling hills of western Kentucky leaves its own panorama of destruction—and causes its own erosion and pollution problems. But land at these lower altitudes is potentially easier to reclaim than in mountainous Appalachia, where "contour" strip-mining is the technique used.

The process of extraction is frightening in itself. After prospecting has determined that a minable coal seam lies among the other rock strata of a hill or mountain, the strip miners cut a road through the timber so they can haul to the site their heavy equipment—bulldozers, earth movers, power shovels and front-end loaders. The trees, plants, earth and rock covering the seam are called "overburden." This intricate web of life and life-support is blasted loose and pushed by bulldozers down the hillside, becoming, as the seam is exposed, a massive, unstable apron at the base of the hill that has been named, appropriately, "spoil bank." The spoil bank never stops where it lands but slowly, by inches, or in the leaps and bounds of a landslide, obeys the law of gravity. Sometimes it merely uproots trees in its path and blocks streams and roads. But sometimes these masses of rock and earth avalanche into homes or farms. Sometimes a family may be driven from home because a spoil bank perches unsteadily above the house.

After the overburden has been removed, the result is a flat bench, resembling a roadbed, along the side of a mountain. Towering vertically over the bench is a man-made cliff, or high-wall, sometimes 100 feet high. The high-wall and the bench form a ring around a hill, or a ridge line, with islands of vegetation remaining precariously on the top of the hill. To expose the coal the strippers have created a gash in the hillside. They have removed the earth from the coal.

Recently it has become more and more common for strip miners to decapitate an entire hill to expose the layers of coal. The

hilltop, scraped and blasted away in layers, is shoved over the hillside. As the techniques of strip-mining are improved, the ribbon scars on the hillsides today may seem more and more like innocent wounds compared to the possibilities technology has in store. Present techniques allow strippers to dig only about 185 feet beneath the surface, but someday it may be possible for them to dig as deep as 2,000 feet.

When the coal seam is exposed, it too is loosened with explosives. Then power shovels and front-end loaders scoop it up and load it into 30-ton trucks which, carrying their heavy burden, warp, crack and pulverize roads and highways, seldom with any reprimand from public officials.

If the operator is in a hurry, he may not even expose the coal seam from the top. Instead, his bulldozers cut a narrow bench until the edge, or outcrop, of the seam is exposed. Then giant augers, sometimes seven feet in diameter, bore into the seam as far as 200 feet into the side of the mountain and spiral out the coal. Auger mining is also done in conjunction with strip-mining if the operator wants to retrieve the coal that remains in the high-wall. Augering is practiced after stripping because sometimes a seam lies too far down the side of a mountain for the operator to remove, economically and speedily, all the millions of tons of overlying mountain.

Power shovels and draglines have long been used in building and road construction, but the country's demand for coal has bred a strain of giantism into earth-moving machines. A generation ago, these earth movers took about 40 cubic yards to a bite, but now they can scoop up as much as five and a half times that. "Big Muskie," wide as an eight-lane highway and standing 10 stories high, is the largest earth mover in existence. Such a machine is now stripping away Belmont County, Ohio, at the rate of 220 cubic yards a scoop.

In underground mining, the size of the equipment is severely restricted by the height of the coal seam; the limitations on strip-mining equipment are comparatively few. A generation ago no underground miner could have imagined that his shovel and small coal car would be replaced by these monsters, some of which can scoop up at one time the equivalent of three city buses. Even today's miner, with his large chainsawlike cutting machines, is a mere termite compared to the strip miner with his machinery.

Strip-mining on a large scale is a very recent phenomenon, although as far back as 1832 Pennsylvania miners worked above ground with explosives, picks and shovels to mine an anthracite seam. The development of machines like Big Muskie in the nineteen-fifties provided one impetus for strip-mining. Another was the increase in demand for coal created by the invention of the cyclone furnace for steam power plants.

The cyclone furnace, an inverted cone which feeds coal under tremendous pressure into the combustion chamber, burns the fuel more efficiently and quickly than older coal-fired furnaces. Its development was spurred by this country's insatiable demand for electricity, which is now increasing at the rate of 10 per cent a year. Electric utilities, including the Tennessee Valley Authority—assured by forecasts that coal would be a competitive energy source for some time to come—began letting contracts for the poorer-grade, dirt-scarred coal produced by strip-mining.

While coal was once in demand mainly to power the nation's railroads and for home heating and cooking purposes, the major market dramatically shifted to the utilities. What had been a fly-by-night method of mining, full of risks and uncertainty, became fantastically profitable. Strip-mine coal now generates one-third of the nation's electric power.

A study by Prof. Samuel Brock, an economist at West Virginia University, showed that in 1969 one strip-mine operator made a net profit of 126 per cent and another 102 per cent. Pikeville, a small mountain town of 5,000 that serves the coal hinterland of eastern Kentucky, has 50 millionaires, not a few of whom were made by strip-mining. This is in a county where more than half the people are classified as poor by Federal poverty program standards.

Strip-mining produces coal much faster than deep-mining—and with one-fifth as many men. Last year in Kentucky, for example, 7,200 men were employed in strip-mining, while 21,000 worked in deep mines. It costs a company about 50 cents in wages to produce a ton of strip-mined coal and about $2.75 a ton for deep-mined coal. The average price charged for stripped coal is usually one $1 less per ton than for deep-mined coal. That means the companies made extra millions last year in Kentucky, while depriving the local economy of increased wages that could have been paid to miners who work underground.

Lured by the opportunity for profit, the oil corporations that brought us the Santa Barbara oil leaks and may soon be featuring the trans-Alaska pipeline, are stampeding into the coal business because of the potential for producing synthetic natural gas and crude oil from coal. Oil interests already own 30 of the 50 largest coal producers and control 35 per cent of coal production in the U.S. Humble Oil alone has bought six million tons of strippable coal reserves. No less disturbing, United States Steel and Bethlehem Steel hold extensive Appalachian coal fields in readiness for their furnaces. In 1969, Bethlehem, for example, decided to stip 40,000 Kentucky acres, instead of deep-mining the low-sulphur coal, as the corporation had previously done. The American Association, an English landholding corporation with 90 per cent of its stockholders in London, leases acreage in eastern Tennessee and Kentucky to operators who are bulldozing down mountains in both states. More and more local and marginal strip operators are selling out to the larger corporations. William Sturgill, one of the few mountain natives ever to own a large strip operation, is said to have got $10-million when he sold out to the Falcon and Seaboard Oil Company of Texas.

One strip miner has said that in two years he will be rich enough to retire—and he will not then oppose a ban on stripping. But the people who live in the region cannot afford such a luxury. The true cost of strip-mining is payable after the strippers have gone away and left their scars. The Corps of Engineers has estimated, for example that it would cost the public $26-million to restore the extensively strip-mined Coal River watershed in West Virginia. This is an amount approximately equal to the private profit taken by the mining companies from the watershed.

The history of the region is a saga of destruction in the pursuit of commerce. Disaster has been visiting Appalachia in joblike quantities ever since the virgin hardwood forest was bought out and cut down by East Coast timber buyers late in the 19th century. Then coal was discovered and the sacrifice of underground miners began. Today the sacrifices are usually small, only two or three dead at a time, but those accidents are often punctuated with mine explosions and cave-ins killing many more, as in the blasts at Farmington, W. Va. (78 dead in 1968) and Hurricane Creek, Ky., (38 dead in 1970). Black lung and crippling mishaps add to the toll, forcing miners to retire early, shortening their lives or condemning them to long years of subsistence living.

The region has been economically blighted for decades. The ups and downs of coal prices, the mechanization of the deep mines and a job scarcity in other fields have sent Appalachians by the hundreds of thousands to Cincinnati, Dayton, Cleveland, Louisville, Chicago and Baltimore. Now those who would have chosen to stay are having the land and the economy ripped out from under them. The deep-mining industry, still the employer of more than 100,000 miners, is on the decline in Appalachia because of the competition from strip-mining. Underground operators, pressed to a frenzied production pace to avoid losing contracts to strip miners, are ignoring the most fundamental safety precautions. The director of the U.S. Bureau of Mines, Elburt F. Osborn, normally a coal-industry defender, called the mine safety situation "deplorable" this year in a speech to the Kentucky Coal Association.

Appalachia receives heavy rainfall throughout the year, averaging around 45 inches. When it rains, the 20,000 miles of strip-mine benches in nine mountain states become chemical factories. The exposed rock and soil are rich in iron, manganese and sulfates, which combine readily with water to form corrosive compounds and acids that sterilize streams and poison wells.

Dr. Wayne Davis, a biologist at the University of Kentucky, has reported, "Iron and manganese in the Kentucky River at Hazard rose from 0.02 and 0.00 parts per million, respectively, in 1963, to 2.1 and 0.8 parts per million in 1962. The U.S. Public Health Service's maximum tolerance levels for these substances in drinking water is 0.3 and 0.05 p.p.m., respectively.

Erosion of stripped areas has been measured at a rate 1,000 times greater than from nearby natural lands. The comparison between unstripped Helton's Branch and heavily stripped Cane Branch, adjacent watersheds of the Beaver Creek Basin in eastern Kentucky, is a case in point: A research project conducted by the U.S. Geological Survey between 1955 and 1966 showed that Helton's Branch yielded 27 tons of sediment per square mile of undisturbed land, while Cane Branch produced 30,000 tons of sediment per square mile of strip-mined land.

Silt and acid have already degraded 12,000 miles of streams in Appalachia. If strip-mining continues unabated, all of the region's extensive watersheds will suffer the fate of the Beaver Creek Basin. The Beaver Creek study concluded: "Strip-mining of coal in the Beaver Creek Basin in south central Kentucky has significantly increased the acidity and mineralization of surface and ground water, and increased the sediment content of the stream in the mined areas. These effects in turn have reduced or eliminated the aquatic life of the streams." The study reported that vegetation on a spoil bank in the basic area was 95 per cent "nonexistent."

Taken together, barren hillsides of unstable rock and soil, streams clogged with silt and hot with acid, offer ideal conditions for flooding. Mud and rock slides have frequently blocked stream beds, diverting the flow into cellars, yards, gardens and homes. Heavy rains then add to the danger of overflow.

As strip-mining continues, as more and more hillsides become barren piles of slate and sandstone, many of Appalachia's valleys eventually will be awash with silt-laden, acid-dead, dirty yellow creek and river waters. Flooding from rains in late winter and early spring is commonplace in the region.

In January, 1957, the town of Pound, Va., nearly disappeared under more than 20 feet of water after a long period of rain. That same month across the border in Kentucky, the towns of Hazard and Pikeville, and portions of Letcher, Harlan, Pike and Perry Counties were flooded. Two days of heavy rains in March, 1963, flooded Harlan, Pikeville, Hazard and a number of other smaller communities. Communities that can hardly maintain public services with heavy Federal

support see their public improvement efforts go swirling down the rivers after the spring rains. The Corps of Engineers says that it cannot guarantee the safety of the 6,000 residents of Hazard even when the Carr Park Dam upstream is completed.

It takes little imagination to envision the massive flood that is possible from the combination of erosion, clogged waterways and rain. That threat comes closer with each cut of the bulldozer's blade. Even if there is no great flood, each year smaller ones and landslides will continue to bury the homes and land of Appalachia.

Because strip-mining damage is permanent, and disfigures a landscape inhabited by people who are close to the land, the lonely resistance of Dan Gibson and his squirrel gun, which kept the state police and the strip miners off his son-in-law's property, has become a legend in eastern Kentucky. The people have a history of resourceful resistance to outsiders—notably the Government—whom they view as invaders. The new rebellious spirit is encouraged by a society and an economy that values electricity more than respect for the people and the land. It is a spirit rooted in doubts that the strip-mine rape of Appalachia will ever be settled legally.

Gibson is one of the founders of the Appalachian Group to Save the Land and the People, the organization that has fought the strip miners in eastern Kentucky since the early nineteen-sixties. He spoke the feelings of many eastern Kentuckians recently when he told a cheering meeting of strip-mining foes in Hindman, the mountainous home of U.S. Representative Carl Perkins, "If everbody did what I did, we wouldn't have to have these meetings."

The spirit is reflected in the conversion of another Appalachian resident, 50-year-old Warren Wright, from Goldwater Republican to anti-Establishment radical. Since 1960, Wright has waged a legal battle against the strip mining of his property in Letcher County. He lost the legal battle but got his revenge last May when, with a rifle and pistol, he ran strip minners back across his property line. The coal company, a subsidiary of Bethlehem Steel, said it had entered his property "accidentally," but in 10 years of legal battle Wright doesn't believe in coal-company accidents. He says, "The courts are puppets of the coal industry. Maybe it's worse than that. The companies don't even pull the strings now; the courts intuitively decide in favor of coal. Here in southeastern Kentucky we've got such a corrupt, Baal-worshiping system that the only thing people can do to protect their property is to get a gun and fight for it."

Wright is former director of the Council of the Southern Mountains, a nine-state poor people's organization, and the founder of Save Our Kentucky (SOK), a statewide anti-strip-mine coalition of community and environmental groups. His views are no oddity in the mountains. Bessie Smith, a mother of nine, a SOK board member and a vice president of the Appalachian Group, brought nonviolent confrontation to the mountains of Knott County last spring when she stood in a road blocking trucks hauling stripped coal. She was joined by William Cohen, poet-in-residence at Alice Lloyd College in the same county. She is no longer convinced that nonviolent tactics will work: "Stopping coal trucks just doesn't do much of anything, except give you a chance to get run over. I don't know what can be done exactly but I know it isn't going to be done by the politicians in Frankfort (the state capital) or those old men in the courts. The people are going to have to stop stripmining. And we're going to do it soon."

The reason that Bessie Smith has little faith in legal change is that Kentucky courts continue to enforce the "broad form deed," a medieval piece of legality that allows strip-mining of property based on agreements with the ancestors of the present owners. It was used at the turn of the century to buy up mineral rights throughout Appalachia. The boilerplate language contained a clause allowing the operator to use whatever means necessary to get the coal, without compensation to the landowner or liability for damages. Many of the deeds were signed with an "X" by illiterate mountaineers.

The broad form deed was the first contact many mountaineers had with complicated legalisms and slick businessmen. To the isolated mountaineer the 25 to 50 cents an acre he was offered for mineral rights was a small fortune. He had no way of knowing the value of coal beneath his corn and tobacco fields. And he certainly did not envision strip-mining because it had not yet been invented. He gave away permission for underground mining, not strip mining.

Kentucky is the only coal state which still recognizes the deed in spite of several court battles over this form of contract. The first decision sustaining the deed was made by the Kentucky Court of Appeals 15 years ago, but it has been challenged 14 times since. In response to one court challenge three years ago, Appellate Judge Edward P. Hill, a rarity on the Kentucky bench, called the deed "shocking" and "appalling," but he was in the minority on the seven-judge panel.

The essence of the broad form deed is contained in the phrase that says coal may be removed ". . . in any and every manner that may be deemed necessary or convenient for mining. . . ." That phrase, taken from a Knott County man's deed, has been construed as allowing all the chicanery going on today. The Kentucky courts have, in effect, said that the law is on the side of those who stand to benefit most economically; since they have declared that the minerals are more valuablee than the land itself, they have ruled in favor of the strip-mine companies.

In 1962, with public-relations fanfare, Bethlehem Steel deeded 860 acres of its land to Letcher County for recreational purposes. An enterprising reporter for an antistrip-mining weekly in Whitesburg, The Mountain Eagle, this year discovered that Bethlehem retained control of mineral rights in the deed. The company also kept the right "to dump, store and leave upon said land any and all muck, bone, shale and other refuse deemed necessary or convenient by (the company) . . . and the right to use, divert, dam and pollute the water and water courses on said land." Letcher County paid only $1 for the acreage, but considering the sweeping rights retained by the company the land was overpriced: Bethlehem will no longer have to pay taxes on the land but can get the coal whenever it wants, however it wants.

Early this year Bethlehem Steel ran full color ads throughout the country proclaiming the virtues of Fishpond Lake in Letcher County. The man-made lake, which is in the same area as the corporation's gift in Letcher County, conveniently covers an abandoned strip mine and, according to Bethlehem's ad, is teeming with fish. In fact, the fishing is lousy, the freshly planted trees are unhealthy and, as one local resident said, "I wonder why they didn't just truck in some plastic grass and shrubbery and get it over with."

At present, more than 25 per cent of strip-mining in eastern Kentucky is done under the broad form deed. It has been estimated that in the seven most heavily stripmined eastern Kentucky counties (Floyd, Pike, Perry, Harlan, Letcher, Knott and Bell) at least 90 per cent of the mineral rights have been separated from the surface rights in perpetuity—forever—under such contracts. That means that very few acres of mineral rights in the coal fields of eastern Kentucky are actually held by the land owner.

The words and actions of the inhabitants bespeak their bitterness and anger over strip-mining. Joe Begley, 55-year-old grocer from Blackey who formed his own grass roots organization—the Citizens League to Protect the Surface Rights—has this to say:

"Every time a rattlesnake strip miner drives his D-9 bulldozer across a property line he has got the law behind him, whether or not he was invited. The broad form deed allows the stripper to invite himself where he isn't wanted, to take what isn't his. If people in Kentucky are to continue to live under the rule of law, they must believe that the law is a protection and not a threat."

Harry Caudill, autnor of "Night Comes to the Cumberlands" and a member of the SOK board, sums up the feelings of most mountaineers when he says: "I lament the utter ruination of the hills of my homeland and the assault surface mining has made on people of my blood and name. I have seen once-clear streams choked with mud, and lawns and gardens layered with foul sediments from the spoil heaps. And I have seen wells that once brimmed with crystalline water filled to the top with yellow mud and flecked with coal. I have visited the homes of widows and work-worn old men whose basements and cellars reeked of sulphurous slime from the spoil banks. I have seen the shattered roofs, the broken gravestones and the fences that tell of the blasting that "cast the overburden' from coal seams."

Broken gravestones are a grim reality for Mrs. Bige Ritchie, a SOK member who stood on her front porch and watched bulldozers, with the sanction of the broad form deed, rip up her family's graveyard to get coal for the Tennessee Valley Authority. The miners would not listen to her shouts that the graves of her children lay under their blades. "I thought my heart would bust in my breast when I saw the coffins of my children come out of the ground and go over the hills," she later told Kentucky's Governor.

The massive environmental destruction is abetted by Federal participation in strip-mining, through the Tennessee Valley Authority. T.V.A. is required to buy the cheapest coal it can for cheap power. That means strip-mine coal. Last year, the authority purchased 35 million tons of coal, 71 per cent of it from Kentucky, T.V.A. also brought half of the coal mined in Tennessee, where, out of a total of 4 million tons, 2.3 million tons came from strip mines.

Long the pride of politicians who viewed it as a benevolent, people-serving agency, T.V.A. is, in effect, stripping away the birthright of the people it was created to serve. Even more ironic is the possibility that the authority's flood-control projects and man-made lakes will be rendered less effective or useless by strip-mine debris, as Harry Caudill has suggeted. Every contract T.V.A. writes requires reclamation, but the state of that art is worse than primitive. Authority board member Frank Smith claims that the six years during which reclamation has been required in T.V.A. contracts for the purchase of coal is not enough time to tell whether reclamation will or won't work.

While Frank Smith waits, anger in the mountains is begnining to focus on T.V.A. as the most visible instrument of strip-mine destruction. The smoke palls and fly ash from T.V.A. power plants burning Appalachian coal make it visible enough. But the fact that it is an agency of the Federal Government is what angers most mountain people. The region always expected more mercy from Washington than from the state houses. Pictures of John F. Kennedy are kept in many homes, and his promise during the 1960 West Virginia primary to "do something" for the people is wistfully remembered. However, the memory of a long-ago campaign will not stand against T.V.A.'s coal appetite and a war on poverty that has ended in a full-scale rout.

Tremendous profit means tremendous political power. The coal companies have managed to win their share by keeping T.V.A.

happy and by supplying a large part of the nation's energy. They are accustomed to being influential.

In West Virgina last year, coal interests beat back an attempt to ban stripping by mounting a media campaign that threatened economic doom and by swamping the Legislature with lobbyists. During the campaign for Governor in Kentucky last summer, the Democratic candidate, Wendell Ford, met with a group of strip-mine operators in the town of Wise, Va.—putting him out of reach of Kentucky's campaign-contribution laws. A Louisville Courier-Journal investigation found that the meeting, gossiped about for weeks, did take place, but was unable to confirm whether or not money changed hands. The common assumption is that Ford (who eventually won the election in November) walked out loaded with cash. But observers are more amazed that he got caught, while his opponent, supported by a coal-influenced incumbent administration, did not. No one I know in the mountains of Kentucky seriously doubts that strip-mine operators invested heavily in both candidates.

Far from being defensive, the strip-mining operators wrap themselves in the cloak of patriotism or imply that their assault on the land is beyond the reach of the law. James D. Riley, a vice president of the Consolidation Coal Company, famous for the Farmington, W. Va., mine disaster and the stripping of large tracts of mountain land, has declared that strip-mining opponents are "stupid idiots, socialists and Commies who don't know what they are talking about. I think it is our bounden duty to knock them down and subject them to the ridicule they deserve."

The battle will be fought in the courts and legislatures—unless it is once again demonstrated to the mountain people that, when it comes to coal, they have no friends in established institutions.

At the Federal level, a bill to abolish strip-mining has been introduced by Congressman Ken Hechler of West Virginia, but its chances of passage are slim. The hostility of the House subcommittee hearing testimony on the bill is rather obvious. When I testified in October on behalf of the Appalachian Coalition, a multistate association of groups opposed to strip-mining, subcommittee chairman Ed Edmondson of Oklahoma and the rest of the panel heard me say essentially what I have said in this article—and dismissed me without any questions. The strip-mine operators who also testified were questioned at length and thanked for their "helpful contribution."

Unless there is some dramatic change in the Senate subcommittee debating the bill, the members of which are all from Western states, any Federal legislation on strip-mining will almost certainly be either the Administration bill, which gives the states two years to develop regulations, or the bills introduced by Congressmen Wayne Aspinall of Colorado and Wayne Hays of Ohio that would require Federal permits for strip-mining, but would in no way apply to Appalachian states, which have had regulations and a permit system for as many as 20 years. Indeed, it is a distinct possibility that Federal control of strip-mining could weaken the already dismal state-regulation system in Appalachia.

Though a bill to abolish strip-mining will be introduced in the Kentucky General Assembly, the powerful interim committee which will consider the legislation has already announced that the only problem with strip-mining is that the state enforcement division does not have enough employes. When the Legislature convenes in January, members of SOK and its support groups will be there to let the powerful know that the powerless are fed up. If lobbying proves futile, then we are prepared to take more direct action to dramatize our outrage. Harry Caudill, like some other eastern Kentucky supporters, has publicly called attention to "the propensity of mountain people to settle their differences with dynamite" when all else fails.

No one in SOK seeks violence. Despite the odds against them and their growing anger, most people in Appalachia are relying on legal tactics. Joe Begley's Citizens League to Protect the Surface Rights has filed a suit demanding that the mining permits of 30 companies be revoked because of numerous violations of Kentucky's strip-mining regulations, ranging from pollution of streams to personal property damage. All of the companies have at least five recorded violations, several have 15 and one has 33. Not one permit has ever been revoked by the Kentucky Division of Reclamation, the agency which oversees strip-mining.

Essentially the suit is an harassment tactic; there is no great hope that even one of the companies will be forced out of business. Harassment in the courts and through newspapers and television coverage is about the only weapon we have which is legal.

The harvest of generations of exploitation may be a rebellion in Appalachia. It is being borne out by the simple conviction of such people as 76-year-old Katherine Haynes, who believes, that "God never meant for the land to be torn up like it is"; Mrs. Haynes' son, Joe, a SOK member, stopped strippers on her property with a shotgun. It is also borne out of the perception of those like Joe Begley who know that "people in eastern Kentucky are sitting on a gold mine, and they're starving to death." The mountain people care little about someone else's profits. They certainly do not care about providing cheap energy for New York, Washington and Philadelphia. (A total ban on strip-mining in Appalachia would cost the average consumer 15 cents a month more on his utility bill—$1.80 a year—according to an estimate by a House subcommittee.) The people want only to save their land from destruction, for themselves and for their children.

For whatever reasons, respect for land or a sense of social injustice. I believe the day is coming when America must repent its wrongs in the Appalachian Mountains.

By Mr. MATHIAS (for himself, Mrs. SMITH, Mr. TOWER, and Mr. BENTSEN):

S. 3504. A bill to provide for the issuance of a special postage stamp in honor of Adm. Chester William Nimitz for valorous service on behalf of the U.S. Navy. Referred to the Committee on Post Office and Civil Service.

ADM. CHESTER WILLIAM NIMITZ

Mr. MATHIAS. Mr. President, at a time when national goals are obscured by dissension and national aspirations are assailed by doubt, it is useful to remember that skill, confidence, boldness, and initiative are still able to overcome great difficulties and to revive national hope and national pride. It is in this spirit, rather than in reviving the feuds of World War II, that I call to mind the decisive battle of Midway, and its hero, Admiral Nimitz.

June 4 marks the 30th anniversary of that battle, one of the greatest naval engagements in history. With victory at Midway came the bitter privilege of fighting from island to island until the final battle was won. Without victory at Midway the protracted agony of the Pacific is difficult to imagine.

In the decisive battle of Midway, June 4–6, 1942, under the command of Admiral Nimitz, our forces destroyed four of the enemy's aircraft carriers, the *Kaga, Akagi, Soryu,* and *Hiryu,* plus the heavy cruiser *Miguma.* This helped to restore the balance of forces that had been tipped at Pearl Harbor and restored the chance to engage on a competitive instead of a suicidal basis.

I am introducing today a bill which would provide for the issuance of a commemorative stamp as a tribute to the wise and courageous leadership of Admiral of the Fleet Chester Nimitz.

Born on February 24, 1885, in Fredericksburg, Tex., Admiral Nimitz graduated seventh in his class from the U.S. Naval Academy in 1905. After seeing submarine duty in World War I, followed by various sea assignments in post-World War I years, Chester Nimitz was assigned as commander in chief of the Pacific Fleet on December 17, 1941. By August of 1945, he was the commander of the greatest armada under one flag in history. He strategically guided the sea forces in the Pacific while General MacArthur commanded the ground forces. History must regard him as one of the greatest naval officers of all time.

I think it would be a small but appropriate tribute if, on June 4, a stamp in honor of this remarkable man could be made available to the public. Truly, it would be a tribute not only to Admiral Nimitz, but to all those men who fought so bravely with him in order to obtain the peace of victory. Their safety and welfare were always uppermost in his mind.

The late President Dwight Eisenhower once paid tribute to Admiral Nimitz with these words:

> Admiral Nimitz was one of the most distinguished officers of World War II. The entire nation will always owe him a debt of gratitude for his brilliant service in World War II. He was a good friend whom I admired and respected deeply.

Former President Lyndon Johnson said of this great man:

> Admiral Nimitz loved his country and the sea. His devotion to one inspired the other, earning for his quiet courage and resolute leadership the undying gratitude of his countrymen and an enduring chapter in the annals of naval history.

By Mr. PROXMIRE (for himself and Mr. HART):

S. 3506. A bill to protect consumers from abuses relative to excessive charges for life, health, and accident isurance pursuant to consumer credit transactions. Referred to the Committee on Banking, Housing and Urban Affairs.

CONSUMER CREDIT INSURANCE ACT

Mr. PROXMIRE. Mr. President, today I am introducing with the Senator from Michigan (Mr. HART) a bill to curb excessive charges for credit life insurance. The bill also covers credit health and accident insurance and is identical to S. 1754 which Senator HART and I introduced in the 91st Congress. The performance of the credit life insurance industry and its impact on the consumer merit close attention by those concerned with protecting the public interest. Latest statistics on the credit life insurance industry reveal continued overcharges to the American consumer. During 1970 these insurance companies over-

charged their customers by at least $276 million, and that overcharge could be as high as $454 million. This is despite repeated assurance by the industry that inflated charges were being reduced in response to State legislation.

The facts indicate exactly the opposite. Persistently high overcharges demonstrate the total inadequacy of State efforts at regulation of the credit life insurance business. As in so many areas involving consumer protection, it is evident that attempted State regulation is not enough. What is needed are Federal standards and enforcement provisions if we are serious about ending this outrageous gouging of the American public. One vehicle for doing this is the proposed Consumer Credit Act. I ask unanimous consent to have this bill and an article on "Credit Insurance Gouges" written by Sidney Margolius, printed in the RECORD at the end of my remarks.

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

(See exhibits 1 and 2.)

Mr. PROXMIRE. Mr. President, it was 5 long years ago that Senator HART's Antitrust and Monopoly Subcommittee conducted a penetrating investigation of credit life insurance sales and exposed the exorbitant level of credit life insurance rates. And 3 full years have elapsed since Senator HART and I submitted legislation to correct this situation. If it was badly needed then, there is even greater need for such a remedy today.

In the absence of Federal legislation, many lenders and sellers of credit life insurance will continue to make windfall profits at the expense of the average consumer. Credit life, health, and accident insurance are commonly sold by finance companies, auto dealers, banks, and other creditors in connection with a loan or credit sale. The insurance pays off the loan in the event the borrower dies or becomes disabled. Significantly, sale of the credit life insurance is incidental to the main credit transaction. As a rule the person who buys the insurance is anxious to obtain credit and is in a poor condition to bargain over the cost of credit insurance.

Because of this captive market, many creditors sell their borrowers high cost credit life insurance and pocket the excess charge in the form of kickbacks from the insurance company. These kickbacks can run as high as 80 percent of the borrower's premium. Thus current credit life insurance practices protect the creditor to a great extent while also permitting him to earn a far higher interest rate than the borrower is aware of.

Mr. President, it is clear that the current practice operates to the detriment of the American consumer. The creditor, not the borrower, chooses the credit life insurance company. Creditors naturally seek to do business with companies charging the highest premiums in order to obtain a bigger kickback. The outcome is competition in reverse—forcing prices up at the expense of the consumer.

Moreover, the overcharging practice particularly hits the low-income consumer and needy borrower who can least afford it. Many finance companies loaning funds to hard-pressed borrowers are able to sell credit life insurance on over 90 percent of their loans, undeniable proof of the captive nature of the market.

Let me cite the relevant facts and figures. First, we are discussing an industry of major proportions. At the end of 1970 credit life insurance in force totaled $88 billion which represented 88 percent of consumer installment debt. We are also speaking of an industry where abuse is flagrant. One indication of overcharging in this area is the low percentage of premiums paid back by credit life insurance companies to their policyholders in the form of benefit payments. The higher the overcharge, the lower the payback ratio. Even the most conservative estimate of credit life insurance overcharge—which assumes that companies should pay back 70 percent of their premium dollars to their policyholders—shows that the American public was overcharged by $276 million in 1970. This is compared to a $265 million overcharge in 1969; $249 million for 1968; and $225 million for 1967.

The situation is much worse if we apply the 90 percent payback ratio which exemplifies the return on premium dollars paid by companies in the group life insurance business. Since credit life insurance is sold primarily on a group basis, it is appropriate to apply the 90 percent payback ratio characterizing group life insurance companies. When this is done, the overcharge paid by the consumer for credit life insurance in 1970 adds up to a staggering $454 million.

Mr. President, the fact is that instead of paying back 90 percent of their premiums as do group life insurance companies, or even a conservative 70 percent, credit life companies actually returned only 52 percent of their premiums in benefit payments in 1970. And despite the industry's forecast of improved performance, the 1970 payback ratio is identical to the ratio characterizing the industry in 1967. Moreover, the credit life insurance industry has an even more dismal record if the figures for five reputable low-charge companies accounting for 20 percent of the credit life business are subtracted from the industry-wide totals. When this is done, the payback ratio for the remaining four-fifths of the industry drops to 46 percent.

It is obvious, Mr. President, that the Congress was sold a bill of goods by the credit life insurance companies when industry witnesses predicted during 1969 Senate hearings that payback ratios would increase as a result of recent State legislation. Those who claimed State regulation would improve the situation have been proven wrong. The situation today is no better—in fact it is worse. Each year the overcharge paid by the American consumer increases. We can no longer afford to delay action and permit the public to be victimized by the credit life insurance racket.

There is a pressing need for Federal regulation as the only sure method for stopping the overcharge.

The Consumer Credit Insurance Act is designed to meet this need. It would establish a Federal regulatory process. Under the bill's provisions the Board of Governors of the Federal Reserve System would be authorized to limit the maximum premiums which consumers may be charged directly or indirectly for life, health, and accident insurance, when such insurance is provided in conjunction with a consumer credit transaction. To correct current abuses, rates established by the Board of Governors would be based on a ratio of losses to premiums which is reasonable and which protects consumers against excessive premium charges.

I should also note, Mr. President, that no State regulatory apparatus need suffer from the legislation. Our bill provides for exemption of State regulated charges wherever the Board of Governors determines that the State has established comparable restrictions on such charges and has an adequate enforcement mechanism. I fully concur in the desirability of active State concern for consumer protection. However, the fact indisputably remains that State efforts have been far too little and for too late. Each year that we delay passage of Federal legislation costs the consumer hundreds of millions of dollars in excessive charges. It is an intolerable situation to which the Congress should put an immediate halt. Enactment of the Consumer Credit Insurance Act will go a long way toward alleviating the problem and will give substance to our often-voiced concerns for protection of the American consumer.

EXHIBIT 1

S. 3506

Be it enacted by the Senate and House of Representaitves of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Credit Insurance Act".

SEC. 2. (a) Title I of the Consumer Credit Protection Act is amended by adding at the end thereof the following new chapter:

"Chapter 4.—CONSUMER CREDIT INSURANCE

"Sec.
"151. Findings and declaration of purpose.
"152. Regulation of maximum premiums.
"153. Exemption of State regulated charges.

"§ 151. Findings and declaration of purpose

"(a) The Congress finds that substantial increases have occurred since World War II in the volume of consumer credit (the rate of growth of such credit having exceeded that of the national economy), and in the percent of family income used to repay such credit, making the repayment of debt by consumers on a timely basis essential to the well-being of the national economy. It is in the public interest, therefore, to reduce impediments to strong and effective competition among grantors of consumer credit in order that the payments required to liquidate such credit be kept to a minimum.

"(b) Congress further finds that life, health, and accident insurance provided or arranged for in connection with consumer credit transactions is an increasingly important element in the total cost of consumer credit and that in the marketing of such insurance the inferior bargaining position of the debtor prevents effective competition and results in excessive premium charges, thereby raising the total amounts of repayments pursuant to consumer credit transactions, and accordingly, obstructing commerce and prejudicing consumers and the sound functioning of the credit structure.

"(c) In view of the foregoing, and in order

to enhance economic stability and promote effective competition among financial institutions and others extending consumer credit, the Congress declares it to be in the national interest to regulate the maximum premiums which may be charged for life, health, and accident insurance when such insurance is provided or arranged for by a creditor pursuant to a consumer credit transaction.

"§ 152. Regulation of maximum premiums

"(a) Not later than one year following the date of enactment of this chapter, the Board shall, by regulation, limit the maximum premiu..s which may be charged consumers directly or indirectly for life, health, and accident insurance when such insurance is provided or arranged for by a creditor pursuant to a consumer credit transaction. In prescribing such regulations, the Board shall ensure that the maximum premiums so established are reasonable in relation to the benefits conferred and that consumers are adequately protected against excessive premium charges.

"(b) Maximum premiums established under this section shall be based upon a ratio of losses to premiums which is reasonable and which protects consumers against excessive premium charges as determined by the Board. In determining such a ratio, the Board shall consider:

"(1) The ratio of losses to premiums experienced by other lines of insurance marketed on a group basis; and

"(2) The ratio of losses to premiums experienced by creditors who provide life, health, and accident insurance pursuant to consumer credit transactions in which the cost of such insurance is included in the finance charge paid by the consumer and is not a separate charge paid by the consumer; and

"(3) The actual losses and expenses experienced by insurance companies and the actual incremental administrative expenses experienced by creditors in the sale of such insurance; and

"(4) Such other factors as the Board determines are relevant to achieving the purposes of this Act.

"(c) The Board may prescribe such maximum premiums for particular creditors, classes of creditors, or transactions based upon the loss ratio determined under subsection (b) and actual loss experience.

"(d) The Board shall from time to time raise or lower the maximum premium charges permitted for such insurance for any particular class of creditor or class of transactions whenever the Board determines that the actual loss experience for the particular creditor, class of creditor, or class of transactions produces a ratio of losses to premiums which differs substantially and systematically from the loss ratio established by the Board under subsection (b). In order to implement this subsection, creditors shall, under regulations of the Board, file an annual report with the Board setting forth data pertaining to actual losses in relation to premiums and such other information as may be required by the Board to further the purposes of this Act. Such information shall be made available to the general public upon request.

"§ 153. Exemption of State regulated charges

"The Board shall, by regulation, exempt from the requirements of this chapter charges for life, health, or accident insurance in any State where the Board determines that the State has established substantially similar ceilings on such charges and that such ceilings are being adequately enforced.

"§ 154. Reports

"The Board shall report annually to Congress on its responsibilities under this Act."

(b) The chapter analysis at the beginning of title I of the Consumer Credit Protection Act is amended by adding at the end thereof the following:

"4. Consumer Credit Insurance..... 151".

EXHIBIT 2

[From the Machinist, Feb. 3, 1972]

CREDIT INSURANCE GOUGES

(By Sidney Margolius)

One of the sharpest practices in the installment-purchase and personal-loan business today is charging excessive fees for credit life insurance which pays off the rest of your debt if you die while still owing the money.

Almost every family, that buys on time or takes out a loan, gets trapped by these overcharges into paying a hidden extra charge on its debts. Some 88% of all installment debts include such insurance, Sen. William Proxmire of Wisconsin estimates.

The rates are set so high that about half the money the credit sellers and insurance companies collect for this coverage is ever paid out to the policy holders. Lenders and installment sellers charge anywhere from 50 cents to $1 for each $100 of the original amount of debt. The coverage provided usually is an inexpensive kind called decreasing term insurance, much like the mortgage insurance which pays off your remaining mortgage. I figure it worth about 30–35 cents per $100 of coverage.

REGULATION LAX

An especially shocking aspect of these overcharges is that the state insurance commissioners are aware of them, as some have admitted in Congressional hearings.

Senators Proxmire and Hart, of Michigan, have been trying for some years to get federal legislation to prevent excessive charges for credit life insurance, and for the health and accident insurance some dealers and lenders also sell to borrowers and installment buyers.

But, Senator Proxmire now charges: "Congress was sold a bill of goods by the credit life insurance industry in 1969. Those who said state regulatory will improve the situation have been proven wrong. The situation today is no better—in fact, it is worse. Each year the overcharge increases. We can no longer afford to sit back and permit the public to be victimized by the credit life insurance racket."

In 1966, Proxmire points out, the state insurance commissioners' association had recommended that credit insurance companies return in benefits at least 50% of the premium. This is a bad enough deal for buyers. But four years later four-fifths of the credit insurance companies are not paying out even this much.

Contrary to the promises of fairer treatment for borrowers, Proxmire finds that the 1970 payback ratio was only 52%—the same as in 1968 and not even as good as the 1961 ratio of 54%.

Theoretically you don't have to buy life insurance to cover your loan when you borrow or buy on time. But the pressures to buy it are always there. "The signer of an installment contract is easily persuaded that 'for a few cents more' on monthly installment his heirs will not have to pay the balance," Elmer Roessner, nationally syndicated business writer, recently announced. "Some venders simply figure in credit insurance without giving the buyer an option. Venders usually collect a commission for selling this insurance."

KICKBACK TO BANKS

You bet they do, Mr. Roessner. Some of the banks who push it even get a double kickback. A letter in the files of Proxmire's committee, writen by an official of the Standard Life Insurance Co. of Indiana to the Imperial Bank in Los Angeles, offered this profitable deal: The bank would get a commission of 37½% of the premium. The insurance company also would leave 55% of the premiums on deposit with the bank in a non-interest bearing account. Thus, participating banks get a very high sales fee for selling the insurance, plus the use of a large part of the take to make further interest-bearing loans at no interest cost to themselves.

Some insurance companies pay kickbacks to lenders and dealers of as much as 80% of the borrwer's premiums. The result is a kind of reverse competition, since installment dealers and lenders thus seek to do business with the companies charging the highest premiums in order to get a bigger bickback, Proxmire reports.

On the basis of the largest figures from *Spectator*, an insurance trade magazine, James Hunt, former Vermont insurance commissioner, who has been urging lower rates, estimates that the credit life insurance industry overcharged consumers two hundred, seventy-six million dollars in 1970, and possibly as much as four hundred, fifty-four million dollars.

MILLION-DOLLAR PLOY

You can refuse to deal with dealers and lenders who charge high fees and try to talk or coerce you into buying credit insurance. In the past, many families have let themselves be gulled by very transparent tactics. In 1967, *Home Furnishings Daily* reported the John Alden Life Insurance Company owned by the Gamble-Alden mail-order firm mailed out credit insurance certificates to 2,500,000 Alden customers saying "now you're insured." The mail-order company's captive insurance company had expected 10% of the customers to refuse the insurance. Instead, only 18 customers out of 2,500,00 said no. That's right—only 17 families knew enough to reject this costly ploy. The insurance company made $1,000,000 a year from this maneuver.

A lure this company has used to get customers to open credit accounts, which would enable them to be insured, according to the trade paper, was a special catalog insert offering big discounts on well-known brands of merchandise.

Note that credit unions, as well as at least a few banks, do not charge extra for credit life insurance. It's basically inexpensive enough for them to provide it as a safeguard for themselves as well as their borrowers.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTION

S. 2556

At the request of Mr. ALLOTT, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 2556, a bill to establish a municipal mine demonstration plant.

S. 2675

At the request of Mr. RANDOLPH, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Indiana (Mr. BAYH), and the Senator from Alabama (Mr. ALLEN) were added as cosponsors of S. 2675, a bill to amend certain provisions of the Federal Coal Mine Health and Safety Act of 1969, relating to payment of black lung benefits.

S. 2956

At the request of Mr. JAVITS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2956, the War Powers Act.

S. 3131

At the request of Mr. BOGGS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 3131, a bill to amend

the Rail Passenger Service Act of 1970 in order to restore certain rights to free or reduced rate rail passenger transportation granted by railroads to employees upon retirement and to clarify the intent of such act with respect to the preservation of such rights.

S. 3338

At the request of Mr. TALMADGE, the Senator from Delaware (Mr. BOGGS) and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 3338, a bill to amend title 38, United States Code, to increase the rates of compensation for disabled veterans, and for other purposes.

S. 3420

At the request of Mr. KENNEDY, the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. MAGNUSON), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Alaska (Mr. STEVENS), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 3420, the Voter Registration Assistance Act of 1972.

S. 3459

At the request of Mr. MILLER, the Senator from Idaho (Mr. JORDAN) was added as a cosponsor of S. 3459, a bill to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation.

S. 3476, S. 3477, S. 3481

At the request of Mr. MATHIAS, the Senator from Delaware (Mr. BOGGS) was added as a cosponsor to the following bills: S. 3476. A bill to extend for 3 years the authority of the Secretary of Commerce to carry out fire research and safety programs; S. 3477. A bill to provide financial aid for fire departments in the purchase of firefighting suits, self-contained breathing apparatus and firefighting equipment; and S. 3481. A bill to establish a National Fire Data and Information Clearinghouse, and for other purposes.

SENATE JOINT RESOLUTION 180

At the request of Mr. ROTH, the Senator from Hawaii (Mr. FONG) was added as a cosponsor of Senate Joint Resolution 180, to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month."

SENATE CONCURRENT RESOLUTION 76—SUBMISSION OF A CONCURRENT RESOLUTION TO STOP THE BOMBING OF NORTH VIETNAM

(Referred to the Committee on Foreign Relations.)

Mr. MUSKIE. Mr. President, I am introducing this resolution today because I believe the Congress must put itself on record immediately as opposing this latest escalation of the bombing of the North. A sense-of-the-Congress resolution is the most appropriate vehicle for reflecting the sharp disagreement of the majority of both Houses with the policy of escalation. It will also serve to build up the momentum for renewed efforts to set a statutory deadline for the complete termination of all U.S. military activities in Indochina conditional only upon an agreement for the safe return of our prisoners and an accounting of those missing in action. I strongly support legislation to set such a date certain of 30 days, including an immediate end of all bombing except that which may be absolutely necessary in South Vietnam to protect our withdrawing troops.

The resolution reads as follows:

S. CON. RES. 76

Resolved by the Senate (the House of Representatives concurring), That, it is the sense of Congress that:

(1) All American military activity, whether land, sea or air, against the territory of North Vietnam be terminated at once;

(2) The President now order our representatives at the Paris peace talks to resume negotiations, in order to achieve the return of our personnel held captive in Indochina and an accounting of all those missing there, in return for the total withdrawal of American military forces from Indochina and the cessation of all American military activity in that region; and

(3) Meanwhile there be no interruption in the withdrawal of American military forces from Indochina.

SENATE RESOLUTION 293—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE COMMITTEE PRINT ENTITLED "HUNGER AND THE REFORM OF WELFARE: A QUESTION OF NUTRITIONAL ADEQUACY"

(Referred to the Committee on Rules and Administration.)

Mr. HART submitted the following resolution:

S. RES. 293

Resolved, That there be printed for the use of the Select Committee on Nutrition and Human Needs five thousand additional copies of its committee print of the Ninety-second Congress, second session, entitled "Hunger and the Rerform of Welfare: A Question of Nutritional Adequacy."

RURAL DEVELOPMENT ACT OF 1972—AMENDMENTS

AMENDMENT NO. 1120

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

Mr. ELLENDER submitted an amendment intended to be proposed by him to the bill (S. 3462), a bill to provide for the development of rural areas.

AMENDMENT NO. 1121

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

Mr. ALLOTT. Mr. President, I send to the desk an amendment to S. 3462, the so-called "rural development bill."

Mr. President, title IV of this bill offers amendments to the Water Shed Protection and Flood Prevention Act, as amended. I propose to add another project purpose—ground water recharge—to the new purposes that are proposed in this bill, to wit, "development, recreation development, water quality management, or the conservation and proper utilization of land."

I am certain those Senators who represent the arid Western States can speak to the growing need to focus attention upon the recharging of underground water. The great Edwards Plateau aquifer in Texas and the huge Ogalalla aquifer extending from Texas and New Mexico on through Oklahoma, Colorado, Kansas, and up into Nebraska and Wyoming are cases in point. Recent agricultural development in States such as Colorado, New Mexico, Arizona, and California, while producing tremendous agricultural production gains and economic growth through irrigation has, where irrigation wells are utilized, drawn the level of underground water supplies to a dangerously low point.

My amendment simply would allow the Soil Conservation Service to take into consideration the need to recharge underground water aquifers in their watershed protection projects.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 999

At the request of Mr. CHURCH, the Senator from Nevada (Mr. BIBLE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of amendment No. 999, intended to be proposed to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 1074

At the request of Mr. CASE, the Senator from Michigan (Mr. HART), the Senator from Idaho (Mr. CHURCH), the Senator from Rhode Island (Mr. PELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. STEVENSON), the Senator from Minnesota (Mr. MONDALE), the Senator from Washington (Mr. MAGNUSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Illinois (Mr. PERCY), the Senator from California (Mr. CRANSTON), the Senator from Wisconsin (Mr. NELSON), the Senator from Utah (Mr. MOSS), the Senator from Hawaii (Mr. INOUYE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Arkansas (Mr. FULBRIGHT) were added as cosponsors of amendment No. 1074, intended to be proposed to the bill (S. 3108), to authorize appropriations

during the fiscal year 1973 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

AMENDMENT NO. 1075

At the request of Mr. CASE, the Senator from Michigan (Mr. HART), the Senator from Idaho (Mr. CHURCH), the Senator from Rhode Island (Mr. PELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. STEVENSON), the Senator from Minnesota (Mr. MONDALE), the Senator from Washington (Mr. MAGNUSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Illinois (Mr. PERCY), the Senator from California (Mr. CRANSTON), the Senator from Wisconsin (Mr. NELSON), the Senator from Utah (Mr. Moss), the Senator from Hawaii (Mr. INOUYE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Arkansas (Mr. FULBRIGHT), were added as cosponsors of amendment No. 1075 to the bill (S. 3200) to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations.

ANNOUNCEMENT OF HEARINGS BY DISTRICT COMMITTEE ON NOMINATIONS TO THE DISTRICT OF COLUMBIA CITY COUNCIL

Mr. EAGLETON. Mr. President, I wish to announce that a public hearing will be held on Wednesday morning, April 19, at 9 a.m. in room 6226, New Senate Office Building, on the nominations of Mr. John A. Nevius to be Chairman of the District of Columbia City Council, and Mr. Sterling Tucker, to be Vice Chairman of the Council. Persons wishing to present testimony before the Committee should contact Mr. Robert Harris, Staff Director, D.C. Committee, room 6222, New Senate Office Building, before the close of business on April 18, 1972.

ADDITIONAL STATEMENTS

LONG OVERDUE BOMBING

Mr. GOLDWATER. Mr. President, I take this occasion to express publicly my great admiration for President Nixon for the courage he has shown in finally taking the steps so necessary to bringing about a quick end to the war in Indochina and a speedy return of Americans held prisoner in that conflict.

It seems to me that in bombing military targets in Haiphong and around Hanoi the United States has at long last spoken to the North Vietnamese and their Soviet suppliers in the only kind of language they understand.

What happened in Vietnam is very clear to anyone who wants to look behind the headlines of some liberal publications and discount the interpretations of some of our more liberal commentators. In effect, the events of the past 2 weeks have been comparable to the events that occurred in June 1950, when the North Koreans invaded the South and in October 1962, when the Soviets made an attempt to place long-range missiles on the nearby island of Cuba.

The Communist invasion—I might say the massive Communist invasion—of South Vietnam by troops of the Hanoi government, armed with equipment sent to them from Russia, was another instance of the Soviet Union attempting to alter the world balance of power by remote control.

The Soviets called for one of two things by encouraging the invasion of South Vietnam, first, the complete capitulation of the South Vietnamese Government and her American backers or, second, an all-out attempt to end the ceaseless supplying of Hanoi with the equipment needed to kill more Americans and more of America's allies.

I notice that some of our liberal publications are already saying that President Nixon has taken the United States to the "brink" of a head-on confrontation with the Soviet Union. The situation is just the opposite. The Soviet Union, by supplying and encouraging the Communist invasion across the DMZ, took events in Indochina to the brink of a head-on collision with the United States.

Mr. President, we are in a war, and we have been ever since President Kennedy sent troops to South Vietnam with orders to return enemy fire if necessary. Things cannot always be cozy and comfortable and safe in the conduct of a war. We know that from long, long experience. We have tried the easy way, we have tried to win our point in Vietnam in a way that would not endanger one Soviet supply ship or cause the Kremlin planners one lost night's sleep. It has not worked in any respect. All it has done has been to prolong the war and to convince the Soviets that the United States did not have the will nor the determination to do what was required to fulfill our commitment.

Well, Mr. President, I for one, am happy that the time of pussyfooting and cowtowing to every Soviet threat is over. We hear a lot about the risks run by the President in ordering the bombing of supply dumps and other targets in Hanoi and Haiphong. There is no denying this. Every single thing a major power does in the conduct of a war involves risk of some kind. But unless we are willing to back our foreign commitments with decisive action, the ultimate risk will be to freedom everywhere in the world. Surely President Nixon took a risk, and I thank God that he had the courage to take it before it was too late.

The tradgedy of the situation is that this kind of decisive action was not taken 8 or 10 years ago—at a time when it would have settled the situation in Indochina once and for all and without the heavy cost to the United States in lives, money, and material that it has extracted.

CITIZEN EXCHANGE CORPS

Mr. GRAVEL. Mr. President, I wish to commend the Citizen Exchange Corps for its sustained service in bringing about greater understanding between the U.S.S.R. and ourselves. Theirs is a citizen-to-citizen counterpart program involving visits to the Soviet Union and private meetings with persons there who have similar interests to visiting Americans. Historically, the Soviets have reciprocated and the Citizen Exchange Corps has done an extensive job of hosting visiting Russians in a nonofficial effective fashion. In short, it has credibility on both sides and its contacts with Soviet citizens are probably wider than any other groups, private or public.

With this record behind it and the likelihood of holding a "World Congress" in Moscow during 1973 on the subject of international education and private citizen exchanges the CEC has launched yet another effort—a "China Corps." Similarly, the idea here is to promote private exchange visits between citizens of the People's Republic of China and our own citizens in the interest of peaceful coexistence and increased understanding. Accordingly, CEC has "enrolled" hundreds of interested U.S. citizens who would travel to China when that becomes possible. As is the case of CEC visitors to the U.S.S.R., these persons will be nonpolitical persons from all walks of life but will include interpreters and professors who will work in cooperation with their host country counterparts to arrange lectures, discussions and counterpart visits to homes, educational institutions, industries, and the like.

The idea is a good one—and like most good ideas, deceptively simple. As a longtime advocate of normalizing relations between the United States and the People's Republic, I hope others will join me in applauding the new CEC initiative and wish them well in this enterprise

ENERGY AND POWER CRISIS

Mr. HANSEN. Mr. President, at long last the news media of this area—even the Washington Post and the New York Times—have recognized the existence of an energy crisis in the United States.

Heretofore, the oil news coverage in these two great newspapers was concerned mostly with what some of the perennial detractors of the petroleum industry were saying about the oil import program, natural gas shortage, antitrust hearings, depletion allowance and pollution but very little about the true facts of an energy shortage.

Suddenly, and certainly to their credit, both of these newspapers have seen the light and devoted many columns of news coverage to the growing dependence of this Nation on foreign sources of energy. Oil and gas furnish more than three-fourths of all our energy demands which, in spite of anything we can do, will continue to increase and for the next 10 to 15 years must be met principally with oil and gas.

Mr. President, I plan to discuss the

energy problem and its solution in more depth during coming weeks, but as preface to such a discussion, I shall place in the RECORD several recent articles from the Washington Post and the Washington Evening Star.

The first of these articles in the Washington Post, "U.S. Energy Crisis: Light Dims at End of the Tunnel," was not very encouraging about solutions to the problem either short or long term.

I do not agree with the permise accepted by the writer of the article and many others that this country has no choice but to become increasingly and substantially dependent on foreign sources of oil and gas. I shall address that premise in some detail later. I hope I may be joined by some of my distinguished colleagues from both oil producing States as well as those who are entirely dependent on distant sources of these vital fuels whether domestic or foreign.

I believe and hope to convince my colleagues that we have huge undeveloped deposits of oil and gas both onshore as well as offshore that can add significantly to our reserves if we are willing to support the efforts needed to find and develop them.

In fact when all factors are considered, domestic oil and gas promise to be our lowest cost source of dependable energy for the foreseeable future.

Following the article of Friday, April 14, the Post published two articles Sunday, April 16, on oil, energy, and ecology and the same day the Washington Star carried a front page story on the power crisis and the effects of lawsuits by environmental and other public groups.

In releasing its national power survey report, the FPC forecast recurrent and spreading power shortages and placed much of the blame for delays in construction of badly needed electric generating plants on lawsuits by environmental and other public groups.

The FPC warned that there is a balance necessary between the Nation's energy resources and environmental protection needs:

> The nation cannot move overnight to correct all the environmental wrongs of the past or to implement all the environmental needs of the future. It would bankrupt itself if it were to attempt to do so. . . .

Echoing the conclusions reached in the FPC study, an article in the Sunday Washington Post of April 16 was headed "Ecology: 'Environmentalists May Be Among the Chief Wreckers.'"

This article, by Peter F. Drucker, professor of social sciences at the Claremont Graduate School, Claremont, Calif., is in my opinion, the best assessment I have seen or heard of the environmental crusade. I would recommend it to my colleagues who may have missed it.

A few quotations will illustrate the thoughtful study and analysis the author has made of our efforts to curb pollution:

> Yet the crusade is in real danger of running off the tracks, much like its immediate predecessor, the so-called war on poverty. Paradoxically, the most fervent environmentalists may be among the chief wreckers. Many are confused about the cause of our crisis and the ways in which we might resolve it. They ignore the difficult decisions that must be made; they splinter the resources available for attacking environmental problems. Indeed, some of our leading crusaders seem almost perversely determined to sabotage their cause—and our future.
>
> Consider, for example, the widespread illusion that a clean environment can be obtained by reducing or even abolishing our dependence on "technology." The growing pollution crisis does indeed raise fundamental questions about technology—its direction, uses and future. But the relationship between technology and the environment is hardly as simple as much anti-technological rhetoric would have us believe. . . .
>
> The second and equally dangerous delusion abroad today is the common belief that the cost of cleaning the environment can be paid for out of "business profits." After taxes, the profits of all American businesses in a good year come to $60 billion or $70 billion. And mining and manufacturing—the most polluting industries—account for less than half of this. But at the lowest estimate, the cleanup bill, even for just the most urgent jobs, will be three or four times as large as all business profit. . . .
>
> No matter how desirable a de-emphasis on production might be, the next decade is the wrong time for it in all the developed countries and especially in the United States. The next decade will bring a surge in employment-seekers and in the formation of young families—both the inevitable result of the baby boom of the late Forties and early Fifties. Young adults need jobs; and unless there is a rapid expansion of jobs in production there will be massive unemployment, especially of low-skilled blacks and other minority group members. In addition to jobs, young families need goods—from housing and furniture to shoes for the baby. Even if the individual family's standard of consumption goes down quite a bit, total demand—barring only a severe depression—will go up sharply. If this is resisted in the name of ecology, environment will become a dirty word in the political vocabulary.

Another article in the same Sunday issue of the Post, entitled "Oil, Foreign Policy, and the Energy Crisis," emphasizes the need for a national energy policy.

While I cannot agree with the author that the petroleum industry has the political clout attributed to it, nor on some of the other conclusions, Marilyn Berger, has done an excellent job of putting the issue in perspective and I certainly agree that "everybody is talking about the energy crunch, but nobody is doing much to solve it."

The article is well worth reading for a better understanding of the overall energy problem.

Mr. President, I ask unanimous consent that the three Washington Post articles and one from the Washington Star be printed in the RECORD.

And, as I said, I plan to discuss the energy situation and possible solutions in more detail during the coming weeks.

I fully agree with the recent comments of the head of Standard Oil Co. of Indiana, John E. Swearingen, who said that North America still has a large petroleum resource to draw upon "if we are willing to support the efforts needed to find and develop new reserves."

This view is shared by the American Association of Petroleum Geologists and has been widely aired in comments by my good friend and past president of AAPG, Bill Curry of Casper.

I hope to be able to convince more of my colleagues that development of our own abundant oil and gas deposits, both offshore, onshore, and in Alaska as well as a common energy policy with our good neighbor Canada is the only sensible and safe solution to our short-term energy problems. During that period we must be looking to our long-term energy needs—coal gasification, oil and gas from shale, the new family of atomic reactors, solar energy and even more sophisticated forms of energy.

But in the meantime, we have a choice—develop our own supplies of oil and gas or become substantially dependent on foreign sources.

The cost will be high either way but considering the source of the oil and gas for our escalating needs, do we need to put our head in the lion's mouth?

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

[From the Sunday Star, Apr. 16, 1972]

POWER CRISIS, SUITS LINKED

(By Stephen M. Aug)

The Federal Power Commission today forecast "recurrent and spreading power shortages," and placed much of the blame for delays in construction of badly needed electric generating plants on lawsuits by environmental and other public groups.

"Despite increasing efforts of public agencies and the industry itself to protect the environment," the FPC said in a 460-page report, "today more than ever before the construction of new power facilities is being challenged on environmental grounds.

"Some vitally needed power projects have been delayed or blocked on this account, while the growth in demand for electricity has continued unabated. Something has to yield in such a situation, and what has been yielding has been the margin of assurance of electrical service."

The commission recalled that voltage reductions and a few localized blackouts have occurred in several major urban areas during recent years and "the end is not yet in sight in certain critical areas," although generating reserves improved last year and will continue to improve "if current construction projects can be completed on schedule."

PRICE RISE SEEN

At the same time the commission, in its "National Power Survey"—the work of six years—said the cost of meeting anticipated growth and environmental concerns is going to raise the price of electricity.

The five-member agency, however, rejected the so-called "no growth" school. "Aside from those few who, heedless of the implications and oblivious to the impracticality of trying to put an industrialized society to pasture take a 'who needs it, let's go back to nature' attitude toward electricity, no one these days questions the importance of this highly adaptable form of energy," the report said.

"Deterioration of the quality of electrical service would of itself and through its economic repercussions, degrade our national life. That is the crux of the power issue facing the nation today. . . . In a very real sense electric power is the lifeblood of a modern nation."

The FPC, which regulates transmission of electricity and natural gas across state lines and licenses hydroelectric projects, issued its power survey as a long-range guide to planning for electric power needs through 1990.

The commission said that while many call for curtailment of power growth "in the interests of environmental protection, the best judgment of those whose business it is to study demand trends is that the nation's electrical requirements will very nearly quadruple between 1970 and 1990." An FPC

official said the prediction comes from the electric power industry, several advisory committees composed of industry officials and the commission's own staff.

The report said that even if Americans "were willing to cut corners in their use of electricity in the home, which remains to be demonstrated, this of itself would not fundamentally alter the national demand outlook." A 10 percent reduction in today's household consumption would be required to reduce by 2.5 percent today's total consumption, the report said.

ECOLOGY EFFECT NOTED

It contended that further measures needed to upgrade the nation's environment "are creating substantial new requirements for electricity." These include recycling scrap paper and wastes; sewage treatment plants, and prospects for electric rapid transit in large cities to reduce auto congestion and air pollution.

At the same time, the FPC pointed out that the electric power industry's operations interact with all the principal elements of the environment "that are troubling the nation today: air quality, water quality, land use and resource consumption." It concluded that "the best efforts can only reduce, not eliminate, the environmental impact of needed electric supply."

The FPC warned that there is a balance necessary between the nation's energy resources and environmental protection needs. "The nation cannot move overnight to correct all the environmental wrongs of the past or to implement all the environmental needs of the future." It would bankrupt itself if it were to attempt to do so. . . ."

"SERIOUS IMBALANCES"

It contended "the danger of serious imbalances, especially at this early formative stage of the nation's environmental crusade, is that when the costs begin to be counted and the true magnitude of the national needs begins to be appreciated, the public may be shocked into backing off from the understanding, leaving some of the most important tasks undone.

"It would be tragic in the extreme if the heavy emphasis currently being placed on the environmental aspects of electric power should have this effect, or if, by failing to maintain a proper balance between environmental values and vital community energy needs, the end result is to diminish, rather than improve, the over-all quality of the human environemnt.

The FPC said "the common sense of the average citizen as much as any other factor may be the key."

In considering the costs of electricity, it noted that by 1970 the price of electricity began to reverse after a 25-year period of declining prices.

A $1,158 BILL IN 1990

It said the average actual costs of 1.54 cents per kilowatt-hour in 1968 will increase to about 1.83 cents by 1990 measured in terms of the 1968 dollar. Allowing for only a 3 percent annual rate of inflation annually, this cost would balloon to 3.51 cents.

At the same time, the commission predicted that the average all-electric home, where 20,000 kilowatt-hours of electric power are consumed today, will consume about 33,000 hours by 1990. On this basis, the consumer with an all-electric home who paid about $308 as an annual electric bill in 1968, will be paying about $1,158 a year by 1990, assuming a 3 percent annual rate of inflation (in the Consumer Price Index).

Prominent among the influences causing this increase, the FPC said, are added costs for environmental protection and "enhancement features" (such as underground wiring and other esthetic matters), higher costs of borrowing and sharply increasing competition for available fossil fuels gas, oil, coal—that can meet increasingly stringent environmental regulations.

NUCLEAR ROLE

The commission made clear that in its plans much of the electricity needs for 1990 will be met by nuclear plants. It predicted that while coal now supplies 54 percent of fuel for use in generating electric power, by 1990 nuclear power would supply 53 percent. The sharpest declines would be in use of natural gas—29 percent at present to 8 percent in 1990, and residual fuel oil, 15 percent now to 9 percent in 1990.

Again, however, the FPC pointed to long delays in construction of nuclear plants. At a briefing for reporters last year, FPC Chairman John N. Nassikas pointed out that two recent court decisions—one of them last year involving the Calvert Cliffs plant on Chesapeake Bay—"have a substantial adverse impact upon the development of needed generating facilities."

Nassikas urged that the Atomic Energy Commission be authorized to grant interim licenses to nuclear power plants so they may be placed into operation while studies continue on their effects on the environment. If a study concludes that environmental dangers outweigh the advantages of the plant, then the facility would be shut down.

CONCERN ON FINANCING

The commission also expressed concern over the ability of the electric power industry to obtain financing to meet needs for new facilities. The FPC said that between 1970 and 1990 the industry will need between $400 billion and $500 billion, of which $240 billion to $300 billion will have to be obtained from investors in the open market in competition with other investments.

At the same time, it warned that while electric utilities are no longer a favorite with investors. The reasons are that they have had to raise huge sums of money in recent years at high interest rates and they face larger financial needs in the future, problems the industry has had with respect to adequate supplies of power and uncertainty of investors over the problems of environmental impact.

The FPC said, too, that the attractiveness of the industry's securities to investors depends on public utility regulation—especially as it affects profits. In the recent period of high interest rates and sharply rising costs investors "have been understandably concerned" over the fact that utility regulating agencies have not been quick to grant rate increases.

"It is a paradox of regulation," the commission said, "that significant delays in permitting higher costs to be reflected in higher rates may ultimately result in higher costs of capital and higher rates. It is therefore important that state and local regulators as well as this commission exercise diligence in minimizing regulatory lag."

The commission listed what it termed six "major imperatives" of the national power situation:

For the American people to recognize that the problems facing the power industry today are of a critical nature and that it is the nation's and their well-being as individuals, not merely that of the industry, which is at risk."

The need to distinguish between short-range problems and long-range objectives. "Too often . . . those who oppose the construction of new generating or transmission lines blur together two quite separate considerations—(1) the specific effects the particular installation will have on its environs, and (2) the potential environmental impact of building a large number of equivalent units . . ." The FPC said a result is that urgently needed power facilities often are delayed by issues that belong in the realm of long-range policy making— especially utilities that today have inadequate reserve generating capacity or inadequate ties with other systems.

The need for improved site selection procedures. Procedures followed in the past for selecting power plant sites and related transmission lines "are inadequate." The commission urged establishment of state or regional power plant sitting authorities, and requirement of utilities to make ample advance disclosure of their plans.

Need for a national energy policy. The public, government and industry must determine the nation's power needs after weighing both economic and environmental factors in balance.

Need for intensified research and development. This includes development of fast breeder reactors—these would vastly increase the nation's nuclear fuel. Achievement of economically practical undergrounding of high voltage lines; further research on the environment to reinforce present knowledge on the extent of the effects and biological consequences of industrial operations on air and water quality.

Financial imperatives. The rate of return achieved on utility common stocks has been on a gradual downward trend since 1967. "If allowed to continue, a downward trend in utility financial performance would create increasing difficulties for utilities both in attracting equity (stock) investment and in raising capital—and this at a time when their capital requirements promise to be larger than ever before.

[From the Washington Post, Apr. 16, 1972]

ECOLOGY: "ENVIRONMENTALISTS MAY BE AMONG THE CHIEF WRECKERS"

(By Peter F. Drucker)

Everybody today is "for the environment." Laws and agencies designed to protect it multiply at all levels of government. Big corporations take full-color ads to explain how they're cleaning up, or at least trying to. Even you as a private citizen probably make some conscientious effort to curb pollution. At the same time, we have learned enough about the problem to make some progress toward restoring a balance between man and nature. The environmental crusade may well become the great cause of the Seventies—and not one moment too soon.

Yet the crusade is in real danger of running off the tracks, much like its immediate predecessor, the so-called war on poverty. Paradoxically, the most fervent environmentalists may be among the chief wreckers. Many are confused about the cause of our crisis and the ways in which we might resolve it. They ignore the difficult decisions that must be made; they splinter the resources available for attacking environmental problems. Indeed, some of our leading crusaders seem almost perversely determined to sabotage their cause—and our future.

Consider, for example, the widespread illusion that a clean environment can be obtained by reducing or even abolishing our dependence on "technology." The growing pollution crisis does indeed raise fundamental questions about technology—its direction, uses and future. But the relationship between technology and the environment is hardly as simple as much anti-technological rhetoric would have us believe.

The invention that has probably had the greatest environmental impact in the past 25 years, for instance, is that seemingly insignificant gadget, the wire-screen window. The wire screen, rather than DDT or antibiotics, detonated the "population explosion" in underdeveloped countries, where only a few decades ago as many as four out of five children died of such insect-borne diseases as "summer diarrhea" of malaria before their 5th birthday. Would even the most ardent environmentalist outlaw the screen

window and expose those babies again to the flies?

The truth is that most environmental problems require technological solutions—and dozens of them. To control our biggest water pollutant, human wastes, we will have to draw on all sciences and technologies from biochemistry to thermodynamics. Similarly, we need the most advanced technology for adequate treatment of the effluent that mining and manufacturing spew into the world's waters. It will take even more new technology to repair the damage caused by the third major source of water pollution in this country—the activities of farmers and loggers.

Even the hope of genuine disarmament—and the arms race may be our worst and most dangerous pollutant—rests largely on complex technologies of remote inspection and surveillance. Environmental control, in other words, requires technology at a level at least as high as the technology whose misuse it is designed to correct. The sewage-treatment plants that are urgently needed all over the world will be designed, built, and kept running not by purity of heart, ballads, or Earth Days but by crew-cut engineers working in very large organizations, whether businesses, research labs, or government agencies.

WHO WILL PAY?

The second and equally dangerous delusion abroad today is the common belief that the cost of cleaning the environment can be paid for out of "business profits." After taxes, the profits of all American businesses in a good year come to $60 billion or $70 billion. And mining and manufacturing—the most polluting industries—account for less than half of this. But at the lowest estimate, the cleanup bill, even for just the most urgent jobs, will be three or four times as large as all business profit.

Consider the most efficient and most profitable electric-power company in the country (and probably in the world): the American Electric Power Co., which operates a number of large power companies, including the government's own TVA. Yet cleaning up American Electric Power's plants to the point where they no longer befoul the air and water will require, for many years to come, an annual outlay close to, if not exceeding, the company's present annual profit of $100 million. The added expense caused by giving up strip mining of coal or by reclaiming strip-mined land might double the company's fuel bill, its single largest operating cost. No one can even guess what it would cost—if and when it can be done technologically—to put power transmission lines underground. It might well be a good deal more than power companies have ever earned.

We face an environmental crisis because for too long we have disregarded genuine costs. Now we must raise the costs, in a hurry, to where they should have been all along. The expense must be borne, eventually, by the great mass of the people as consumers and producers. The only choice we have is which of the costs will be borne by the consumer in the form of higher prices, and which by the taxpayer in the form of higher taxes.

It may be possible to convert part of this economic burden into economic opportunity, though not without hard work and, again, new technology. Many industrial or human wastes might be transformed into valuable products. The heat produced in generating electricity might be used in greenhouses and fish farming, or to punch "heat holes" into the layer of cold air over such places as Los Angeles, creating an updraft to draw off the smog. But these are long-range projects. The increased costs are here and now.

REDUCING OUTPUT

Closely related to the fallacy that "profit" can pay the environmental bill is the belief that we can solve the environmental crisis by reducing industrial output. In the highly developed affluent countries of the world, it is true that we may be about to de-emphasize the "production-orientation" of the past few hundred years. Indeed, the "growth sectors" of the developed economies are increasingly education, leisure activities, or health care rather than goods. But paradoxical as it may sound, the environmental crisis will force us to return to an emphasis on both growth and industrial output—at least for the next decade.

There are three reasons for this, each adequate in itself.

1. Practically every environmental task demands huge amounts of electrical energy, way beyond anything now available. Sewage treatment is just one example; the difference between the traditional and wholly inadequate methods and a modern treatment plant that gets rid of human and industrial wastes and produces reasonably clear water is primarily electric power, and vast supplies of it. This poses a difficult dilemma. Power plants are themselves polluters. And one of their major pollution hazards, thermal pollution, is something we do not yet know how to handle.

Had we better postpone any serious attack on other environmental tasks until we have solved the pollution problems of electric-power generation? It would be a quixotic decision, but at least it would be a deliberate one. What is simply dishonest is the present hypocrisy that maintains we are serious about these other problems—industrial wastes, for instance, or sewage or pesticides—while we refuse to build the power plants we need to resolve them.

I happen to be a member in good standing of the Sierra Club, and I share its concern for the environment. But the Sierra Club's opposition to any new power plant today—and the opposition of other groups to new power plants in other parts of the country—has, in the first place, ensured that other ecological tasks cannot be done effectively for the next five or ten years. Secondly, it has made certain that the internal-combustion engine is going to remain our mainstay in transportation for a long time to come. An electrical automobile or electrified mass transportation—the only feasible alternative—would require an even more rapid increase in electrical power than any now projected. And thirdly it may well, a few years hence cause power shortage along the Atlantic Coast, which would mean unheated homes in winter, as well as widespread industrial shutdowns and unemployment. This would almost certainly start a "backlash" against the whole environmental crusade.

2. No matter how desirable a de-emphasis on production might be, the next decade is the wrong time for it in all the developed countries and especially in the United States. The next decade will bring a surge in employment-seekers and in the formation of young families—both the inevitable result of the baby boom of the late Forties and early Fifties. Young adults need jobs; and unless there is a rapid expansion of jobs in production there will be massive unemployment, especially of low-skilled blacks and other minority group members. In addition to jobs, young families need goods—from housing and furniture to shoes for the baby. Even if the individual family's standard of consumption goes down quite a bit, total demand—barring only a severe depression—will go up sharply. If this is resisted in the name of ecology, environment will become a dirty word in the political vocabulary.

3. If there is no expansion of output equal to the additional cost of cleaning up the environment, the cost burden will—indeed, must—be met by cutting the funds available for education, health care, or the inner city, thus depriving the poor. It would be nice if the resources we need and could come out of defense spending. But of the 6 or 7 per cent of our national income that now goes for defense, a large part is cost of past wars, that is, veterans' pensions and disability benefits (which, incidentally, most other countries do not include in their defense budgets—a fact critics of "American militarism" often ignore). Even if we could—or should—cut defense spending, the "peace dividend" is going to be 1 or 2 per cent of national income at best.

But the total national outlay for education (7 to 8 per cent), health care (another 7 to 8 per cent), and the inner city and other poverty areas (almost 5 per cent) comes to a fifth of total national income today. Unless we raise output and productivity fast enough to offset the added environmental cost, the voters will look to this sector for money. Indeed, in their rejection of school budgets across the nation and in their desperate attempts to cut welfare costs, voters have already begun to do so. That the shift of resources is likely to be accomplished in large part through inflation—essentially at the expense of the lower-income groups—will hardly make the environmental cause more popular with the poor.

The only way to avoid these evils is to expand the economy, probably at a rate of growth on the order of 4 per cent a year for the next decade, a higher rate than we have been able to sustain in this country in the postwar years. This undoubtedly entails very great environmental risks. But the alternative is likely to mean no environmental action at all, and a rapid public turn—by no means confined to the "hard hats"—against all environmental concern whatever.

MAKING VIRTUE PAY

The final delusion is that the proper way to bring about a clean environment is through punitive legislation. We do need prohibitions and laws forbidding actions that endanger and degrade the environment. But more than that, we need incentives to preserve and improve it.

Punitive laws succeed only if the malefactors are few and the unlawful act is comparatively rare. Whenever the law attempts to prevent or control something everybody is doing, it degenerates into a huge but futile machine of informers, spies, bribe givers, and bribe takers. Today every one of us—in the underdeveloped countries almost as much as in the developed ones—is a polluter. Punitive laws and regulations can force automobile manufacturers to put emission controls into new cars, but they will never be able to force 100 million motorists to maintain this equipment. Yet this is going to be the central task if we are to stop automotive pollution.

What we should do is make it to everyone's advantage to reach environmental goals. And since the roots of the environmental crisis are so largely in economic activity, the incentives will have to be largely economic ones as well. Automobile owners who voluntarily maintain in working order the emission controls of their cars might, for instance, pay a much lower automobile registration fee, while those whose cars fall below accepted standards might pay a much higher fee. And if they were offered a sizable tax incentive, the automobile companies would put all their best energies to work to produce safer and emission-free cars, rather than fight delaying actions against punitive legislation.

Despite all the rhetoric on the campuses, we know by now that "capitalism" has nothing to do with the ecological crisis, which is fully as severe in the Communist countries. The bathing beaches for 50 miles around Stockholm have become completely unusable, not because of the wicked Swedish capitalists but because of the raw, untreated sewage from Communist Leningrad that drifts across the narrow Baltic. Moscow, even though it still has few automobiles,

has as bad an air-pollution problem as Los Angeles—and has done less about it so far.

We should also know that "greed" has little to do with the environmental crisis. The two main causes are population pressures, especially the pressures of large metropolitan populations, and the desire—a highly commendable one—to bring a decent living at the lowest possible cost to the largest possible number of people.

The environmental crisis is the result of success—success in cutting down the mortality of infants (which has given us the population explosion), success in raising farm output sufficiently to prevent mass famine (which has given us contamination by insecticides, pesticides, and chemical fertilizers), success in getting people out of the noisome tenements of the nineteenth-century city and into the greenery and privacy of the single-family home in the suburbs (which has given us urban sprawl and traffic jams). The environmental crisis, in other words, is very largely the result of doing too much of the right sort of thing.

To overcome the problems success always creates, one has to build on it. The first step entails a willingness to take the risks involved in making decisions about complicated and perilous dilemmas:

What is the best "trade-off" between a cleaner environment and unemployment?

How can we prevent the environmental crusade from becoming a war of the rich against the poor, a new and particularly vicious "white racist imperialism"?

What can we do to harmonize the worldwide needs of the environment with the political and economic needs of other countries, and to keep American leadership from becoming American aggression?

How can we strike the least agonizing balance of risks between environmental damage and mass starvation of poor children, or between environmental damage and large-scale epidemics.

AN ENVIRONMENTAL CRIME?

More than 20 years ago, three young chemical engineers came to seek my advice. They were working for one of the big chemical companies, and its managers had told them to figure out what kind of new plants to put into West Virginia, where poverty was rampant. The three young men had drawn up a long-range plan for systematic job creation, but it included one project about which their top management was very dubious—a ferroalloy plant to be located in the very poorest area where almost everybody was unemployed. It would create 1,500 jobs in a dying small town of 12,000 people and another 800 jobs for unemployed coal miners—clean, healthy, safe jobs, since the new diggings would be strip mines.

But the plant would have to use an already obsolete high-cost process, the only one for which raw materials were locally available. It would therefore be marginal in both costs and product quality. Also the process was a singularly dirty one, and putting in the best available pollution controls would make it even less economical. Yet it was the only plant that could possibly be put in the neediest area. What did I think?

I said, "Forget it"—which was, of course, not what the three young men wanted to hear and not the advice they followed.

This, as some readers have undoubtedly recognized, is the prehistory of what has become a notorious "environmental crime," the Union Carbide plant in Marietta, Ohio. When first opened in 1951 the plant was an "environmental pioneer." Its scrubbers captured three-quarters of the particles spewed out by the smelting furnaces; the standard at the time was half of that or less. Its smokestacks suppressed more fly ash than those of any other power plant then built, and so on.

But within 10 years the plant had become an unbearable polluter to Vienna, W. Va., the small town across the river whose unemployment it was built to relieve. And for the last five years the town and Union Carbide fought like wildcats. In the end Union Carbide lost. But while finally accepting federal and state orders to clean up an extremely dirty process, it also announced that it would have to lay off half the 1,500 men now working in the plant—and that's half the people employed in Vienna. The switch to cleaner coal (not to mention the abandonment of strip mining) would also put an end to the 800 or so coal-mining jobs in the poverty hollows of the back country.

There are scores of Viennas around the nation, where marginal plants are kept running precisely because they are the main or only employer in a depressed or decaying area. Should an uneconomical plant shut down, dumping its workers on the welfare rolls? Should the plant be subsidized (which would clearly open the way for everybody to put his hand in the public till)? Should environmental standards be disregarded or their application postponed in "hardship" cases?

If concern for the environment comes to be seen as an attack on the livelihood of workers, public sympathy and political support for it is likely to vanish. It is not too fanciful to anticipate, only a few years hence, the New (if aging) Left, the concerned kids on the campus, and the ministers in a protest march against "ecology" and in support of "the victims of bourgeois environmentalism."

WHERE TO START

Cleaning up the environment requires determined, sustained effort with clear targets and deadlines. It requires, above all, concentration of effort. Up to now we have had almost complete diffusion. We have tried to do a little bit of everything—and tried to do it in the headlines—when what we ought to do first is draw up a list of priorities in their proper order.

First on such a list belong a few small but clearly definable and highly visible tasks that can be done fairly fast without tying up important resources. Removing the hazard of lead poisoning in old slum tenements might be such an action priority. What to do is well known: burn off the old paint. A substantial number of underemployed black adolescents could be easily recruited to do it.

Once visible successes have been achieved, the real task of priority-setting begins. Then one asks: (1) what are the biggest problems that we know how to solve, and (2) what are the really big ones that we don't know how to solve yet. Clean air should probably head the first list. It's a worldwide problem, and getting worse. We don't know all the answers, but we do have the technological competence to handle most of the problems of foul air today. Within 10 years we should have real results to show for our efforts.

Within 10 years, to, we should get major results in cleaning up the water around big industrial cities and we should have slowed (if not stopped) the massive pollution of the oceans, especially in the waters near our coastal cities.

As for research priorities, I suggest that the first is to develop birth-control methods that are cheaper, more effective, and more acceptable to people of all cultures than anything we now have. Secondly, we need to learn how to produce electric energy without thermal pollution. A third priority is to devise ways of raising crops for a rapidly growing world population without at the same time doing irreversible ecological damage through pesticides, herbicides, and chemical fertilizers.

Until we get the answers, I think we had better keep on building power plants and growing food with the help of fertilizers and such insect-controlling chemicals as we now have. The risks are now well known, thanks to the environmentalists. If they had not created a widespread public awareness of the ecological crisis, we wouldn't stand a chance. But such awareness by itself is not enough. Flaming manifestos and phophecies of doom are no longer much help and a search for scapegoats can only make matters worse.

What we now need is a coherent, long-range program of action, and education of the public and our lawmakers about the steps necessary to carry it out. We must recognize —and we need the help of environmentalists in this task—that we can't do everything at once; that painful choices have to be made, as soon as possible, about what we should tackle first; and that every decision is going to involve high risks and costs, in money and in human lives.

Any course we adopt will involve a good deal of experimentation—and that means there will be some failures. Any course also will demand sacrifices, often from those least able to bear them: the poor, the unskilled, and the underdeveloped countries. To succeed, the environmental crusade needs support from all major groups in our society, and the mobilization of all our resources, material and intellectual, for years of hard, slow, and often discouraging effort. Otherwise it will not only fail; it will, in the process, splinter domestic and international societies into warring factions.

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OIL, FOREIGN POLICY, AND THE ENERGY CRISIS

Twe decades ago, when the demand for oil in this country was a fraction of what it is today, the United States was sufficiently worried about the government of oil-rich Iran to have the CIA sponsor a coup there. Today, with U.S. imports of Middle East oil rising—and with projections suggesting that 30 to 40 per cent of U.S. consumption will have to come from that unstable area by 1985—Washington faces the probable nationalization of all American oil companies there within a decade.

The takeovers are expected to be made by governments more or less friendly, more or less "reliable" and with compensation that is more or less satisfactory. And the United States, with its "lowered profile" abroad is not likely to be sponsoring any similar coups. The question of what the country can do is being widely debated in government and industry circles, especially since we are headed for an energy crisis.

While there are many ideas for alleviating the potential crisis by developing new sources of power, for the next decade and a half, in the words of one government consultant, there is "nothing but oil." And with domestic production having peaked, much of it will have to come from abroad. This is causing concern in dozens of government bureaus dealing in both foreign and domestic affairs and is currently the subject of a House committee hearing.

At the Commerce Department a major concern is the impact on the U.S. balance of payments. If current projections are correct, says Commerce Secretary Peter G. Peterson, the deficit on oil alone "could be $8 billion by 1975 and $15 billion by 1980."

State Department and Pentagon officials worry about the security of supplies from Arab countries that are in continuing confrontation with Israel. A day could come, they say, when the Arabs might act more forcefully on the proverb that the friends of their enemy is their enemy. Probably even more worrisome to them is the increasing Soviet influence in the Arab world.

The Treasury Department is concerned about the oil tax structure, the Interior Department about the development of alternate sources in shale and tar sands and on the continental shelf, and environmentalists are worrying even more about what that development would mean to the quality of American life.

STUDYING IT TO DEATH

It seems safe to say there is no basic raw material which so deeply affects American interest, domestic and foreign. It is unlikely that there is any industry that has had greater success in winning congressional support for its interests or greater entree into the highest levels of government, making any tampering with the existing system especially difficult during a presidential election year.

Perhaps this is one reason why everybody is talking about the energy crunch but nobody is doing much to solve it. As one lawyer working with a number of oil companies remarks:

"They're studying it to death . . . The problem in the government now is that there are 43 agencies involved with energy."

The number 43 is not exaggeration; Interior Secretary Rogers C. B. Morton put the number at 61. Not only are studies being made by most of these agencies, but there are almost as many solutions as studies.

The State Department, in a still-secret report, has taken something of a lead in urging the government to take foreign and domestic actions ranging from development of alternatives to auto transportation to changing oil and gas price structures. So far no action has been taken on the study.

The President on June 4, 1971, sent Congress a message on energy resources. This, however, looks mainly toward a solution to problems in the 1980s and beyond and touches only peripherally on the oil shortage that's almost here.

The environmentalists suggest a solution that is attractive in its simplicity: Use less. "A lot of our energy problems will be solved if we stop doing what we're doing," says Stewart Udall, former Secretary of the Interior. "The country should look at its own resources and play the hand it was dealt . . . For environmentalists the gut reaction is to slow things down."

In fact, virtually every solution to the oil supply problem creates difficulties for the environmentalists. If the United States is to import more oil—which the experts say it must—more and bigger tankers, deeper ports and more refineries will be needed. The environmentalists like none of these, out of concern for oil spills and air pollution. To produce more domestic oil means offshore drilling, shale development, new pipelines, which again bring with them the prospects of spills, sludge disposal and potential ecological imbalance.

THEY CANNOT DRINK IT

Even if domestic oil is developed, however, the Middle East will remain important for some time as a source of energy supply for this country. Imports from the Middle East in 1970 amounted to 1 million barrels a day. By 1980 that figure is expected to rise to 8 to 10 million barrels a day.

While even the most pessimistic planners are not predicting any total, long-term cutoff of oil from that region—the Arabs can't drink it, as the saying goes—one State Department official suggested that it "would be absolutely insane to become dependent upon such a volatile area for energy supplies." Under Secretary of State John N. Irwin last week called petroleum "a finite commodity . . . essential to a country's well being and . . . the most political of all commodities."

Oil presents the United States with a double problem. The oil-rich Arab nations, along with most of the so-called "third world," are moving toward control of their own resources. This will affect American oil concessions. Secondly, American support of Israel has had the effect of opening the Arab world to Soviet influence. "We have oversubscribed to the Israeli case," said one U.S. official, who is personally sympathetic to Jerusalem, "and turned the area over to Russian influence. The fact is that the Soviet position has been greatly enhanced, and part of it comes . . . from the fact that we support Israel, right or wrong." The Soviet Union only last week announced a $300 million investment in Iraq, its first major inroad into Mideast oil production.

Whether the Russians would, or could, use their political influence with the Arabs to interrupt oil supplies to the United States or its allies in Western Europe or Japan is one question bothering American strategists. As one official put it, "I'd hate to be in a position in a crisis where the Russians have that capability." The Russians will for some time have enough oil of their own, so apart from the geographic-strategic interests in the region, one of the only other interests can be in the control of oil flows.

The tendency has been to try to remove causes of tension, as in Berlin—if the agreement is ratified—strategic arms limitations, trade. But the long-term picture in the Middle East has not been a gratifying one for American planners. "Twenty years ago, even less," said one State Department official, "the Sixth Fleet could call at any port in the Mediterranean. Now there is not a port on the southern shore that would welcome it."

STATE DEPARTMENT PROPOSALS

The State Department has undertaken a broad study of the whole oil-energy problem. It is aimed, in the words of one official, "at getting the United States to take economic and diplomatic actions now to cope with a crisis coming in 1975 to 1980." One of the reasons the Policy Analysis and Research Allocation (PARA) report has been labeled "secret" is that it calls for domestic measures that are not supposed to be any business of the State Department. Among the reports approximately 15 recommendations, it was learned, are proposals to:

Develop domestic sources on the continental shelf and in shale.

Encourage development in the Western Hemisphere, especially in Venezuela (where heavy capital expenditure would be necessary at a time when nationalization threatens) and in Canada.

Seek to conclude agreements with Canada on oil (and natural gas) supplies. (Canada so far has been reluctant to sign.)

Build the Alaska pipeline. Environmental interests must be taken into account, but, it is noted, every barrel of oil that does not come from the North Slope will have to come from the Middle East.

Change price structures on oil and natural gas to encourage reduced consumption of oil and conservation of reserves. This proposal is not expected to be very popular among a variety of domestic interests.

Use taxes from oil to develop other forms of mass transportation than the automobile and the highway.

Encourage the major oil companies to organize themselves for operations abroad with the kind of exemption from antitrust laws that they received during last year's negotiations with the Organization of Petroleum Exporting Countries (OPEC).

Urge the oil companies to go along with demands by the producing countries for participation, on the premise that it will happen sooner or later anyway and that they might as well try to get the best deal they can while postponing it as long as reasonably possible. (Aramco, the American-owned oil consortium, recently agreed to Saudi Arabia's demand for a 20 per cent share in its operations. Experts expect these demands to go to 50 per cent soon and to 100 per cent in 10 years.)

Assure the oil companies a profit sufficient to finance exploration here and abroad. (A recent Chase Manhattan Bank study projects that the oil industry outside the Communist world will require an investment of $500 billion over the next 10 years, $120 billion of which would be needed for development of new oil sources. This is more than has been spent in the entire history of the industry. The study also predicts that more oil will be consumed in the next 10 years than has been consumed up to now.)

Encourage a kind of consumers union of oil-purchasing countries. The producers have joined together in OPEC and presumably the consumers, under such an arrangement, could similarly increase their bargaining power. Such an arrangement would tend to limit the confrontation aspects of negotiations between U.S. firms standing alone and Arab countries. It could also tend to lessen the inevitable competition among the world's developed nations for the limited available supplies.

AN ENERGY "CZAR"

Oil industry experts have other suggestions. One heard frequently is a proposal to stockpile oil to provide reserves against unforeseen cutoffs—an extremely expensive proposition but no more costly, they say, than the oil import quota system has been to Americans.

Nearly all the experts, both in and out of government, agree on the need to have an energy "czar" to coordinate government policy. A related suggestion is to have an "oil diplomat."

"The problem today," said one U.S. official, "is that nobody is sitting down and saying, 'Here's where the oil is, here are our problems with, say, Venezuela, Ecuador, Saudi Arabia,' for example. Why don't we begin to decide how much we want from where and design a program that works on that basis? Now every little piece is seen as a separate unit . . . I think we could sit down and confect a policy that the oil industry would buy and that the oil countries could accept." He is not suggesting it would be easy, only possible.

This same official suggested that an "oil diplomat" would have the task of harmonizing U.S. foreign policy with U.S. energy needs. "You can get more with charm than with threats," he said, "if you have someone with the presence and intelligence of a David Packard or a Cyrus Vance."

The suggestion to name an oil envoy grows out of the assessment that as the military option diminishes for the United States, diplomacy must take over to help preserve American interests. One U.S. official remarked: "The United States has traditionally operated on the assumption that the oil industry operates under a free enterprise system and that it has been up to the industry to tap Middle East resources to supplement our own oil . . . But the oil countries are blowing the whistle on this and the companies are going to be in trouble. . . . We're going to have to operate as a nation or see the companies get dispossessed. . . . We'll either have to let third-rate countries push us around or get the government behind the oil companies."

This would not require any great realignment of official thinking. "Concern for the plight of the oil companies," noted this official, "has always been considerable at the upper levels of government . . . There has always been concern, for example, to keep on good terms with the oil companies, but this has always run afoul of American support of Israel."

The concern about the impact on other oil countries of an Iranian takeover of British oil interests in 1951 and over possible Soviet control of that valuable piece of real estate clearly led to the overthrow of Mohammed Mossadegh in a CIA-inspired coup in 1953. There is little doubt that oil was a major factor in the 1956 Suez crisis.

American oil companies have been spectacularly successful in getting favorable legislation domestically—oil import quotas, oil depletion allowances, tax breaks. They lobby openly for domestic favors and have important friends in the Congress.

House Speaker Carl Albert for example,

recently told the American Petroleum Institute that "nearly one-half of the gas and one-third of the oil produced in Oklahoma are produced in my congressional district." Rep. Hale Boggs, House majority leader, is from oil-rich Louisiana, as are Allen J. Ellender, chairman of the Senate Appropriations Committee, and Russell Long, head of the Senate Finance Committee. And Rep. George H. Mahon, chairman of the House Appropriations Committee, is from Texas. This is to say little about John B. Connally Jr. of Texas, who is not known for a lack of sympathy with oil interests.

One oil expert remarked that oil's influence is not so strong as when Lyndon B. Johnson and Sam Rayburn were the powers in Congress, "but it isn't that bad."

Ironically, many oil experts say it, has been the very success of oil companies in winning issues domestically that has led to the current situation in which the United States is becoming increasingly reliant on foreign oil. The oil import quotas, for example, were designed to prevent cheap foreign oil from competing with more expensive domestic oil. (An average American well can produce 13 barrels a day while a well in the Middle East can produce anywhere from 3,000 to 50,000 barrels a day.)

The quotas were imposed in the "national interest" to improve American self-sufficiency and prevent undue reliance on a single foreign area. But while the quotas may have prevented domestic American oil companies from being forced out of business by cheap competition, they failed to encourage expansion of American domestic capacity. "The means used had no relationship to a very desirable end," said one lawyer.

What they clearly did do was to force the use of U.S. reserves. One authority remarks that they virtually mandated that we "drain America first."

Although the quotas remain, virtually everyone in the oil business agrees that there will have to be more imports this year. Thus the quotas will have to be raised—some think an emergency meeting will have to be called this summer—because domestic production cannot meet demand. But politics probably dictates that the quota system will not be dropped. In fact, there seems to be no one in either government or the oil industry who thinks there will be any basic change in oil policy in 1972.

AFFECTING FOREIGN POLICY

In contrast with the open domestic lobbying by independent oil firms based in the United States, the major international oil companies have been far more subtle in their efforts to affect American foreign policy. As one U.S. official said, "The people involved in political matters in the Middle East know how important the oil interests are." He added that officials of the international firms are "important people who know the important people in government . . . In Acheson's time there was the old school tie and they were very correct about it all . . . There were no Dita Beards."

The oil company interests, he said, coincide with U.S. strategic interests both in preventing Soviet control of a strategic region and in assuring energy supplies. "But to suggest that they are lobbying for a new political attitude would be wrong," he added.

Continued U.S. support of Israel, for example, is now considered one of the "givens" in international relations, and oil executives and officials start from that premise. But efforts are always under way to get what oil executives would call a more "evenhanded" policy. There are suggestions that the United States develop technical assistance programs for the oil countries, expand cultural programs and repeat as often as possible statements about the territorial integrity of all nations in the region, in order to keep lines open to the Arabs if not to get the Arabs to love America.

SOVIET GAS DEAL

Meanwhile, the United States is looking at the possibility of doing business with the Soviet Union for the import or liquefied natural gas. Commerce Department officials suggest that a joint venture could lead to as much as $1 billion a year in natural gas imports if studies now under way indicate that it is technically and economically feasible. They say it is doubtful, however, that anything can be done to import the Soviet gas without the grant to Moscow of Export-Import Bank credits and most favored nation treatment. And there is talk of trading off excess American grain for Soviet gas to begin an exchange relationship.

The United States would also have to decide just how much, from a national security standpoint, it can afford to import from a country that remains its main rival in the world. "Amounts of purchase," said one official, "should be dictated by the degree of dependency we're willing to allow. That might be 3 to 5 per cent of total gas use, which would mean about 30 per cent of West Coast consumption."

There are those who believe a deal with the Russians would enhance rather than detract from national security. "From the standpoint of foreign policy," said one former Pentagon official, "I would develop the maximum number of relations with the Soviets. Wouldn't we want to have the Soviets think of us as a customer? Don't forget, there's nothing as lovable as a good customer. Then they wouldn't create unnecessary tensions."

Soviet natural gas, along with Algerian natural gas, which is expected to start arriving soon, and increased gas from Canada would begin to diversify American energy sources. Impetus for development of new sources domestically is expected to come as world oil prices increase. This could ameliorate the potential balance-of-payments problem troubling Commerce officials.

The main problem today seems to be getting action on existing proposals. There is no lack of ideas for a coordinated energy program that could prevent a supply relationship with the Middle East from becoming a dependency relationship.

[From the Washington Post, Apr. 14, 1972]

U.S. ENERGY CRISIS: LIGHT DIMS AT END OF THE TUNNEL

(By Thomas O'Toole)

John A. Carver, Jr., Member, Federal Power Commission: "I think our energy shortage is not only endemic, it's incurable. We're going to have to live with it the rest of our lives."

Endemic and incurable are strong words, but strong as they are they only begin to describe the depth of the energy crisis in the United States.

What do you say about a nation that is sitting on 1,500 years of coal it may never be able to burn? How do you portray a country that must import one third of the oil it consumes every day?

How do you describe a land that has begun rationing natural gas to its people? Whose mightiest rivers have almost run out of dam sites? Whose entire supply of uranium could disappear in the next two decades?

The richest nation in the world has discovered it is energy poor and that this sudden poverty threatens the balance of trade, our attempt to clean up the air and water, and the efforts we've made to hold down the prices of products from gasoline to electricity.

In fact, the energy crisis in America threatens the American way of life, at least that means color television, frostless freezers, self-cleaning ovens and electric grills, knives, combs and toothbrushes.

"I think I can see the day when the country might have to ration electricity," said James R. Schlesinger, chairman of the Atomic Energy Commission. "I don't think it will come for several decades and maybe not until the year 2000, but I do think it will come."

The last 40 years have seen the population grow 70 per cent and energy consumption 310 per cent. Demand for energy is such that in the next 10 years the United States will need 50 new sites for oil refineries and 300 for power plants, all of them close enough to the cities to serve them but not so close as to spoil them.

"One day we might find the entire surface of the United States covered with power plants," said Roger C. Carlsmith, associate director of the Oak Ridge National Laboratory's environmental program. "That same day we might find that we have exhausted the nation's fuel supplies."

If fossil fuels are consumed at present rates. Americans will be left only with coal by the year 2,000. It might be hard to believe, but the country has already passed its oil production peak and stands on the brink of reaching its gas production peak.

"It doesn't matter that we may have found 30 billion barrels of oil and more than 20 trillion cubic feet of gas in Alaska," says S. David Freeman, onetime energy adviser to Presidents Johnson and Nixon. "Our rates of consumption are now so large that we can see the bottom of the barrel."

Last year, the United States consumed 5.6 billion barrels of oil and 22.1 trillion cubic feet of natural gas.

The country's 109 million cars used 90 billion gallons of gasoline, its 2,000 jetliners more than one billion gallons of jet fuel and its 3,400 power plants one billion barrels of oil, four billion cubic feet of gas and 300 million tons of coal.

SHORTAGE OF CHEAP FUELS

Americans now use more than six times as much per capita energy as the world average. The entire nation of 200 million people burns more energy than the 500 million of Japan, Great Britain, Germany and the Soviet Union combined.

Consumption of electrical energy has shown by far the greatest growth, a direct result of the soaring electrical living standard.

Americans used almost 1.8 trillion kilowatt hours last year, twice what was used in 1961. The Federal Power Commission estimates that by 1980 electrical usage will have doubled again, that the country's electric companies will spend $125 billion on new plants and transmission lines to meet that demand.

By 1980, electric power expansion will cost $23 billion a year and by 1990 it will be up to $37 billion. One study of power usage in the United States concludes that during the 1980s a new one million kilowatt plant must be brought into service every 12 days to satisfy power needs.

The phenomenal growth in electrical consumption points up America's most serious energy problem: the shortage of cheap, clean fuels to make electricity.

Uranium is not yet in short supply, but only because nuclear power is still an infant industry. Coal the United States has in abundance, but not the sulfur-free coal the country's crowded cities will allow to be burned today.

OIL PRODUCTION PEAKED

Ironically, the two most wanted fuels are the scarcest—oil and natural gas. They're wanted because they're relatively (especially gas) clean and cheap; they're scarce because the United States is consuming more than it can produce.

Domestic oil production peaked in November of 1970, is now down almost 8 per cent from its peak to less than 11 million barrels a day. Alaska's North Slope will add two million barrels a day by 1980, but the once-rich

fields of Texas and Oklahoma are dwindling so steadily that domestic oil output may never again reach 11 million barrels a day.

Gas production has not yet topped out in the United States, but it might have if last winter had been a cold one. Even so, gas heat was in such demand that distributors were rejecting new applicants and rationing old ones at the same time that gas was flowing from the wells in Louisiana and Texas at the highest rate in history.

"The analogy I like to use is that it's like a big ice cream soda," former White House adviser Dave Freeman said. "We can put a few more straws in the soda and suck it up a little faster, but all that's going to do is make it all gone that much sooner."

The flow of American gas has reached a record 65 billion cubic feet a day, a flow so high that proven U.S. reserves have fallen to their lowest level in 15 years, from a high five years ago of 289 trillion cublic feet to 247 trillion cubic feet at the end of 1971.

There have been charges that the gas industry has allowed reserves to drop to force a price increase, but the evidence is still strong that the nation has begun to run out of natural gas.

"The idea that gas is being sat on somewhere is economically absurd," FPC Commissioner John Carver told a congressional committee last month. "We have a gas shortage."

If oil and gas are so scarce, then how is the United States managing to make ends meet?

The answer is that the United States today is importing record volumes of oil and gas, quantities that promise to grow so great they will have a profound and lasting effect on domestic energy strategy, on the balance of trade and on foreign policy for years to come.

Oil import policy will be the first to undergo changes, unless a domestic miracle happens and somebody makes an overnight find of 100 million barrels of American oil.

The United States now buys 27 per cent of its oil from foreign suppliers, mostly Canada and Venezuela. But Canada and Venezuela face the same prospect of shortage that the United States faces. Less than 10 per cent of America's imported oil comes from the Middle East, partly because the quota system is biased against all foreign oil and partly because it's even more biased against Eastern Hemisphere oil.

But the only region of the world possessing the vast caches of oil the United States so desperately needs is the Middle East, where 80 per cent of the world's recoverable oil is located.

COMING IMPORT FLOOD

"Serious people are seriously concerned about our oil quotas, which have done little more than prop up domestic oil prices," is the way it's put by one leading energy consultant. "We're going to have to change the system."

The United States will import oil and gas worth an estimated $3 billion this year, but that's just a trickle alongside the flood that will pour into the country when (not if) the import quotas are relaxed.

By 1985, economists predict, more than half our oil and almost half our gas will come from imports. This would increase oil and gas imports by more than 10 times, to a staggering total of $34 billion.

Tankers will be hauling more than 12 million barrels of oil and more than five million cubic feet of liquefied gas into U.S. ports every day, most of it from countries inside the Eastern Hemisphere. By 1985, America's oil and gas supply may well depend on how well we're getting on with countries like Libya, Algeria, Nigeria, Saudi Arabia and the Soviet Union.

Foreign affairs aside, the price that will have to be paid to guarantee delivery and distribution of all this oil and gas truly is boggling.

The National Petroleum Council figures that more than 360 new supertankers will be needed to shuttle Middle East oil from the Persian Gulf to the United States. The price quoted for a 250,000-ton tanker today is $37 million, which puts a price tag of $13.5 billion on a Middle East fleet.

CANADA, ALASKA PIPELINES

Not a single U.S. port can handle these giant ships, which, when laden with more than two million tons of oil each, draw as much as 80 feet of water. This means the United States must construct three new deepwater terminals, one on each coast at a total cost of $1 billion.

Most of the money the nation must spend to deal with the rising oil tide will go to new refining capacity. The Petroleum Council estimates no fewer than 50 new refineries must be built in the United States in the next 13 years, at a cost of $18 billion.

The costs of handling anticipated natural gas imports will come close to the costs of oil imports.

Pipelines to run Canadian and Alaskan gas into the United States are priced at $4.8 billion, which is on top of $2 billion for pipelines to carry gas to be brought by ship into the United States in liquid form. It will cost the companies venturing into this business $4 billion to liquefy the gas and $1 billion to turn the liquids back into gas.

Tankers to transport the liquefied gas from countries like Nigeria and Algeria will cost $6 billion. Three of those tankers are already at sea, 39 are being built or are on order and the National Petroleum Council has said that 120 liquefied natural gas tankers will be needed by 1985 if the United States is to meet its gas demands.

These expenses approach at a time when drilling for oil and gas is getting more difficult, more expensive and more unrewarding.

ENVIRONMENTAL COSTS

"Dry holes" now cost the U.S. oil industry $900 million a year. Wildcatters are down to 20,000 feet in the ground seeking oil in West Texas. Gas wells 28,000 feet deep were only this year sunk in Texas' Pecos County, while early in March a gas well was sunk 30,000 feet in Oklahoma, making it the deepest well in the world and also one of the most expensive.

"Oil and gas fields don't reproduce," says the Interior Department's M. King Hubbert, one of the world's foremost petroleum geologists. "Every time we drill one, there's one less to go."

A final and inevitable expense is the growing cost of catering to the environment.

Oil and gas companies want to drill offshore, but the dangers of spills have not only limited offshore drilling but in some cases cut it out altogether—as in the Santa Barbara channel.

They want to build deepwater terminals along the East Coast to handle the anticipated armada of supertankers, but states from Maine to Florida are studying legislation to prevent such terminals. Delaware already has passed a bill that prohibits construction of any new oil refineries inside its borders.

"We have a very schizophrenic audience along the East Coast today," according to C. L. Woods, vice-president of Mobil Oil Corp., "because what Delaware is essentially saying to the other 49 states is . . . you guys do it, but keep them away from us."

What does it all mean? Well, one thing it means is that industry will have to spend that much more time, money and effort seeking solutions to these problems. That means that prices for oil and gas and all the products that chemistry squeezes out of oil and gas will be moving upward.

"The Nixon administration has tried extra hard to keep the lid on oil prices, but I'd expect that after the elections in November there will be at least a 50-cent-a-barrel increase in oil," former White House adviser Freeman said. "I'd expect even steeper increases in natural gas and in electrical energy prices."

Domestic oil costs roughly $3.50 a barrel, with foreign oil costing $2 to $2.50 a barrel. Domestic gas is cheap at 20 to 25 cents a thousand cubic feet at the wellhead, while the liquified foreign gas that's starting to come into the United States (Algerian gas has begun to move into Boston harbor) by tanker costs $1.10 a thousand cubic feet.

A 15 per cent increase in the price of oil means at least that much of a boost for gasoline and jet fuel, which together take more than 60 per cent of the oil in every barrel.

How much would this cost the consumer? In gasoline prices alone, no less than $2 billion. Trucking rates would go up. So would bus fares, heating oils and plastic packaging for everything from food to toys. Jet fares? Fuel is a large expense in airline operations, and nobody expects the nation's airlines not to pass on some of a price boost to their passengers. A growing percentage of the oil that comes out of each barrel is what the oil industry calls residual oil, literally the oil that's left over at the bottom of the barrel after gasoline and the lighter heating oils are taken from the top.

Time was when residual oil had little use, but today this leftover oil is used by just about every major electric utility in the populous East. The reason is that it is either lower in sulfur or can be made lower in sulfur than the coal that power companies can no longer burn because of sulfur restrictions around the cities.

ELECTRIC RATES DOUBLE

New York's Consolidated Edison Co. changed over the last of its 120 power boilers two months ago to burn residual oil. Con Ed now buys 140,000 barrels of low sulphur oil every day and expects to buy more than 200,000 barrels a day by 1973.

The New York utility gets its low-sulfur oil either by having Venezuelan oil "desulfurized" for 60 cents to a dollar a barrel or by buying low-sulfur Libyan oil at almost $4 a barrel.

Whichever way Con Ed buys low-sulfur oil, it has had to pay almost double what it was paying two years ago, and almost three times what it paid for coal when it could burn it.

"The outlook for electricity rates has got to be up because of situations like these," says Freeman. "I think electrical rates will double themselves in the next 10 years."

Natural gas prices are already on the rise, at least partly because gas hasn't been given close attention by the Nixon administration's price controllers.

Wellhead prices are up 30 to 40 per cent in some regions, and people in industry and even in the federal government talk openly about doubling and tripling of wellhead prices in the next few years. Even doubling would be a boost of $4.4 billion in revenues for gas producers alone.

OPTIONS A DECADE AGO

"They talk about doubling and tripling the price because they say they want to get consumers to stop using gas, so the country can conserve gas," says FPC Commissioner John Carver, who's leaving the FPC in June. "They don't think about the market chaos that would follow a doubling or a tripling in gas prices."

There are those who say that such chaos could have been avoided, who say that the United States had options ten or even five years ago that might have put off the energy crisis in America.

America's reliance on foreign oil could have been at least delayed if the nation had chosen 10 years ago to explore more aggressively for offshore oil. Or developed the Colorado oil shale fields. Or gone in with Canada on a joint venture to exploit the vast tar sands in the remote regions of Alberta province.

The United States might still be able to extract some of the estimated 500 billion barrels of oil locked up in these deposits, but while the nation has waited to do so the costs have skyrocketed and conservationists have closed ranks against offshore exploration and extraction of the Colorado shale.

"I'd just as soon leave it alone," says Interior's King Hubbert of the Colorado shale. "If you want to imagine one hell of a mess, imagine mining that shale and discharging the acid wastes into the Colorado River. I guarantee you'd kill the river."

The country's had some of the same opportunities in natural gas, like developing a process to make synthetic gas from naphtha or a method of freeing the 300 trillion cubic feet of gas trapped in solid rock in Wyoming and Colorado.

ABUNDANCE OF COAL

A program to make "syngas" out of naphtha has begun in the United States but it's small and it's based on technology developed in West Germany.

The trouble with the gas stimulation project is that the only way to rock the gas loose is with 200 (and maybe 400) underground nuclear explosions, a solution that's less acceptable to Americans today than it was 20 years ago when Project Plowshare was begun by the Atomic Energy Commission.

Nowhere has the United States been more remiss about exploiting its energy options than in the way it has handled and planned our use of coal.

Coal is our most abundant resource, there being two trillion tons of it in American soil. The energy content of American coal alone is 90 per cent of the energy content of all fossil fuels buried in the North American land mass.

Coal is also the easiest fossil fuel to extract and to use, but despite all its advantages coal is the one energy source in the United States whose use is on the wane.

The main reason is that coal is dirty. Coal burning fouled the air with 60 per cent of the 14 million tons of sulfur dioxide discharged by U.S. smokestacks last year. Its only growth market outside of exports has been the electric power industry, but laws against sulfur discharges now threaten that market.

New York's Con Ed is a typical former user of coal. In 1970, Con Ed burned 2.6 million tons of coal, then in 1971 burned half that. So far this year, Con Ed burned 140,000 tons of coal before shutting down its last coal-fired plant on Staten Island.

"If current trends continue," says Joseph Swidler, chairman of the Public Service Commission of New York State, "then total coal demand will be down to 370 million tons by 1980. That's 60 per cent of present demand."

Such a debacle could have been forestalled by foresight. Processes could have been developed to scrub the sulfur out of coal fumes before they reached the top of the smokestack. Better yet, a method might have been devised to turn coal into gas.

One reason these things weren't done is that the coal industry never pursued these goals. The Interior Department's Bureau of Mines and Office of Coal Research began their pursuit too late.

Both branches of Interior now have sulfur scrubbing and coal gasification programs under way, but it might be 10 years before either one is ready to be commercialized. It might not even be ready then, because Interior's budget for both programs is less than $75 million.

"This isn't enough," said one of Interior's top officials. "It's going to take $1 billion at least just to get coal gasification going in the U.S."

RACE AGAINST TIME

The story of what's happened to coal tells a lot about why there is an energy crisis in America today, but as one last footnote to it all, consider the plight of hydropower and nuclear power.

There are 52.3 million kilowatts of hydroelectric capacity in the United States, which is less than one-third the country's potential. Most of the two-thirds will never be used, largely because of conservationist opposition.

The Colorado River is already closed to future dams by congressional mandate. The one remaining dam site on the Columbia River is blocked by public opposition, as are half a dozen sites on the Snake River and as many again on the Eel River and Mad River in north California.

Nuclear power is a somewhat different story, but even in its infancy is in a race against time to tap what little uranium the country has to support a viable atomic energy program.

The United States has 50,000 tons of uranium oxide (raw mineral for fissionable uranium) in stockpile, and 275,000 tons of uranium oxide in the ground as proven reserves.

There are only 20 nuclear power plants operating in the United States today. There will be 200 plants in use by 1980 and almost 400 by 1990, which means that uranium requirements for the next eight years will total 200,000 tons and then skyrocket beyond what is in the ground.

AEC ALTERNATIVES

"Things could come to a slow grinding halt unless we could get uranium overseas," says the Atomic Energy Commission's Robert Nininger. "Mathematically, we could be taken out to about 1982 but everything could stop if none of our alternatives worked."

The AEC's main alternatives are to buy Canadian uranium to flesh out America's own needs and to speed development of the fast breeder power reactor, which breeds more nuclear fuel than it burns.

Beyond that, it has two other alternatives which are nowhere as neat as the first two.

The AEC has decided to withdraw 50,000 of the 70,000 tons of raw uranium now in the national stockpile, enrich it in advance to fissionable uranium and hold it in abeyance for emergency needs.

Its other option involves a move it would never have risked five years ago. It will, if it must, remove about one year's supply of fissile uranium by taking it right out of our stockpiled atomic weapons, then processing it into power-grade uranium.

This might never be done, but if it's necessary to buy time the AEC is willing to do so. That's how far the energy crisis in America has taken us.

MEMPHIS PAPER HITS DOUBLE SPENDING

Mr. PROXMIRE. Mr. President, the Commercial Appeal of Memphis, Tenn., makes an incisive observation in discussing the Navy memo calling for additional spending this fiscal year. In a key paragraph of its April 8 editorial, the Commercial Appeal says:

> Admiral Kidd probably is correct in his statement that if the money had not been spent it would be hard to justify it a second time. But the Zumwalt memo makes it clear that the Navy was planning to ask for that amount—maybe even more—in the next fiscal year anyhow. So the speedup in spending simply meant that this amount of money would be spent twice. It is difficult to put any other interpretation on the memo.

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

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

SPEND FAST AND GET MORE

Nobody does a better job of keeping the feet of the military to the fire in an attempt to cut wasteful spending than does Senator William Proxmire (D., Wis.), chairman of the Joint Economic Committee of Congress.

He did it again the other day when Adm. I. C. Kidd, chief of Navy material command, came before the joint committee to testify on matters of naval procurement.

The senator called to the admiral's attention a memorandum issued Feb. 7 by Adm. Elmo R. Zumwalt Jr., chief of naval operations, pointing out that the Navy was not meeting its targets on spending 400 million dollars for the fiscal year 1972. It urged "top management attention" to this fact "to avoid resultant adverse effects on anticipated fiscal year 1973 outlay ceilings."

In short, Admiral Zumwalt was warning that if the Navy did not spend that 400 million dollars Congress had made available before the end of June, it would be difficult for the Navy to get Congress to appropriate that money again next year.

Admiral Kidd did his best to put the matter in a good light, but he had to admit that the idea was to get rid of the money as quickly as possible.

Senator Proxmire accused the Navy of "playing . . . a game with the taxpayer and a game with Congress that is most unfortunate . . ."

Admiral Kidd probably is correct in his statement that if the money had not been spent it would be hard to justify it a second time. But the Zumwalt memo makes it clear that the Navy was planning to ask for that amount—maybe even more—in the next fiscal year anyhow. So the speedup in spending simply meant that this amount of money would be spent twice. It is difficult to put any other interpretation on the memo.

And when he was pressed even further by Senator Charles Percy (R., Ill.) on the matter, Admiral Kidd said:

"When you are faced with a proposition of losing funds which you have fought hard to get and to justify, by George, the incentive is high to get them committed. There is no question about it. And when you do things in a hurry, you make an abundance of mistakes. There is no question about that, either. If you want it bad, you get it bad."

Precisely, admiral.

Senator Proxmire describes this as "about as devastating an indictment of service waste as I have ever heard . . ."

Whether it is the worst example on record, we cannot judge. But it is bad enough. And there have been reliable reports in the past that other departments of government, civilian as well as military, are caught up each spring in this "spend, spend and spend" game, as Senator Proxmire calls it. Let's hope the Senator is able to do something more than just expose it before Congress.

NEW FRONTIER IN TRANSURFACE TECHNOLOGY

Mr. ALLOTT. Mr. President, the Colorado Business Review for March contains an excellent article on the progress being made at the U.S. Department of Transportation's High Speed Ground Test Center at Pueblo, Colo. The article was written by Mr. Glenn A. Reiff, who is the senior project engineer at the test center. Mr. Reiff has a diversified background in applied research, testing, and management of aerospace programs. He holds degrees from the U.S. Naval Academy and the U.S. Naval Postgraduate School. His keen interest in this project makes his article worthwhile reading for all Senators.

I ask unanimous consent that the article, entitled "HSGTC—Moving Toward a New Frontier in Transurface Technology," be printed in the RECORD.

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

HSGTC—MOVING TOWARD A NEW FRONTIER IN TRANSURFACE TECHNOLOGY

(By Glenn A. Reiff)

Midway between Pike's Peak and the site of what was Bent's Fort on the high plains of southeastern Colorado, a new U.S. Department of Transportation test center is beginning to take shape. Unlike Bent's Fort, the Grand Central Station for pioneers on the Santa Fe Trail more than a century ago, the High Speed Ground Test Center (HSGTC) will be a different kind of way station and will serve to provide new technology for railroad, transit, and other advanced types of ground transportation.

Many Coloradans have expressed interest in the Test Center, not only from the standpoint of what it can do to improve surface transport, but also from the point of view of how it may affect the state. Speculations on the rate of growth and ultimate size of the Center have varied over an extremely wide range. This article attempts to place the Test Center in perspective and to make a few estimates on what it may mean to Colorado.

The HSGTC should be to ground transportation what the wind tunnels and flight test ranges have been to aviation. There are more than 50 government, university, or industrial wind tunnels, and at least 15 federal aeronautical or space flight centers in our country today. Edwards Flight Center, a 300,000-acre site located in the Mojave Desert of Southern California with fixed assets valued at more than $325 million and employment of about 10,000 people, for example, has been the proving ground for many airplanes during the past quarter of a century; and Langley Research Center in Virginia, established in about 1916, has provided both theory and wind tunnel testing for supersonic shapes, short take-off aircraft, and other aerodynamic configurations used by commercial aviation.

In comparison, there have been relatively few such research and test facilities available for ground transportation. The Association of American Railroads (AAR) has maintained a railroad laboratory and research center on the campus of the Illinois Institute of Technology in Chicago and has conducted research projects through the standing committees of the AAR. Also, many of the larger railroads, transit properties, and rail equipment manufacturers have conducted their own research and testing activities. For several years, these groups have been directing their attention toward such diverse subjects as rolling stock dynamics, continuous welded rail, more efficient locomotives, fatigue strength of structural welds, grade crossing protection, rail alignment, roller bearings, safe transport of explosives, simplification of tariffs, and improvements of accounting procedures; but there remain many problems to be solved in each of these areas. Furthermore, track complexes dedicated to full scale testing of different types of ground vehicles at various speeds have not existed in one location. This capability, along with laboratories for probing some of the problems listed about as well as testing the interaction of steel wheels on steel rails, will soon be pulled together at the High Speed Ground Test Center.

Construction of a Dynamics Laboratory is expected to start at the Test Center during the summer of 1972. This laboratory, containing a wheel-rail simulator, will be one of the most sophisticated in the world. The simulator includes hydraulic platforms capable of independent operation in six degrees of freedom. Each platform has a roller rig to support and spin the wheels of a freight, passenger, or transit car or locomotive. Force, displacement, and operational frequencies of the rollers, coupled with the hydraulic platforms can be made to simulate rail surfaces of all kind. Since the entire assembly can be slowed or accelerated in any of its movements, detailed analysis of various track irregularities experienced in the field, vehicle suspension systems, and the mechanics of rolling contact will be possible. About 30 miles of railroad and transit test track of various configurations, including bolted joints, used rail, different ballast sections, tight curves, high-speed reverse curves, and an impact area are also planned for use in conjunction with the Dynamics Laboratory

Moving people is a subject that has sparked the imagination for years, and it is here that many of the more futuristic vehicle concepts are revealed. A large number of hardware variants are being studied; and, if they are brought to the prototype stage, we will expect to evaluate them at the Test Center. Dual-mode machines, suspended vehicles, trams, magnetically levitated vehicles, interurban cars, obstacle detectors, power collectors, control systems, and tube vehicles may all eventually be tested at the Center; but, right now, those firmly scheduled are the Linear Induction Motor Research Vehicle (LIMRV), which is currently under test, Rail Diagnostic Cars, and the Tracked Air Cushion Research Vehicle (TACRV).

Our first research project is centered around the experimental LIMRV built by Garrett AiResearch in California and designed for speeds up to 250 mph. This particular vehicle will never be placed into passenger service but will be used to develop the linear electric motor as an advanced form of propulsion for ground vehicles. These motors will be pollutant-free, very quiet, and contain almost no moving parts.

Two New York subway cars are presently at the Center and serving as test beds for developing instrumentation which will ultimately become part of portable rail diagnostic laboratories. In addition, the Vertol Division of Boeing in Pennsylvania is system manager for the Urban Rapid Rail Vehicle Program. As part of this program, Boeing will procure two newly designed transit cars representative of the current state-of-the-art and will recommend areas for further investigation utilizing these cars and Advanced Concept Cars. With these two new cars, transit vehicle performance characteristics such as speed, acceleration, noise, and ride quality will be tested at the Center beginning in the fall of 1972.

The Tracked Air Cushion Research Vehicle is now being assembled by Grumman Aerospace in New York. This type of vehicle floats on a thin cushion of air within a concrete trough or guideway. It is propelled by an 8,000 hp linear induction motor utilizing a reaction rail and is designed for speeds up to 300 mph. Tests on it are scheduled to start next summer.

These research, development, test, and evaluation (RD&E) projects are sponsored by the Federal Railroad Administration, Office of High Speed Ground Transportation, the Urban Mass Transportation Administration, and the Transportation Systems Center. In the future, certain projects may be established by private industry and supported at the Center.

The State of Colorado has provided a 50-year lease to the U.S. Department of Transportation for the land, and the City and County of Pueblo have helped by building roads. Gravel access roads leading to the 30,000-acre site originate at the Pueblo Memorial Airport and from State Highway 96 one mile west of Boone, Colorado. The headquarters area is almost 30 miles by road from downtown Pueblo, and about 60 miles from Colorado Springs.

The Center was formally dedicated by the U.S. Secretary of Transportation, John A. Volpe, on May 19, 1971, some 16 months after the site was selected.

Although surveyors began initial mapping during the spring of 1970, contracted work and operations did not start until after the lease was signed on August 22, 1970. Construction began immediately thereafter; and, to date, a total of 15 miles of track have been built. This total includes 6.2 miles of high-speed trackage with a 21-inch high reaction rail installed in the middle which is part of a linear induction motor; and a 2.4 mile transit test track that includes an electrified third rail to power subway cars and other transit vehicles. Each track is paralleled by a graveled service road. Office trailers and temporary buildings have been used in support of initial test and construction activities; however, by early 1972 the first permanent structure—a Project Management Building—will be completed and occupied. An automobile overpass is presently under construction and should be ready for use in May. In those areas where the natural vegetation had to be disturbed, a program for landscape restoration has been included.

All construction work has been contracted for the Federal Highway Administration, Region 9 in Denver, and the Federal Aviation Administration regional offices in Los Angeles or Denver on behalf of the Federal Railroad Administration (FRA). Basic site layout and master planning are provided by FRA's Office of High Speed Ground Transportation, and the FRA is responsible for overall coordination, administration, and management of the Center.

With this participation, four of the seven operating administrations of the U.S. Department of Transportation are involved with work at the Test Center.

Additional support has been provided by the Pueblo Army Depot; NASA's Langley Research Center; the National Ocean Survey, a part of the Department of Commerce's National Oceanic and Atmospheric Administration; and the Army's Corps of Engineers.

Construction projects which are planned to be started by next summer include the first segment of guideway for the TACRV; an extension of the Transit Track to close a 9-mile electrified loop; the first increment of Railroad Test Track; a Technical Services Building; the Dynamics Laboratory; a water distribution system; and a network for distributing electrical power. Also, by next summer it is expected that a contract will be awarded to provide maintenance and operation services for the Test Center during the following two years.

Even with these plans, the scope of activities at the Center is not expected to compare with that of the space effort at Cape Kennedy and Brevard County, Florida, during the 1960's; nor should the HSGTC activities create disruptive influences as have sometimes been experienced when a large federal establishment has moved into a community. The Test Center, with its focus on advanced forms of ground transportation, will undoubtedly provide a point of interest for citizens of Colorado and make them more aware of transportation developments.

Already we have had visitors from Canada, Mexico, Nicaragua, England, France, West Germany, and Japan, in addition to many other visitors from elsewhere in this country. As activities expand, we can expect many more business visitors, student groups, and sightseers. While most of the employees—craftsmen, laborers, clerks, tradesmen, and professionals—will come from within Colorado, others will be brought from elsewhere. People with diverse talents in the sciences, business, engineering, technology, and management will be needed. As a result, there

will be a melding of new interests and varied backgrounds. Eventually, these new outlooks can be expected to fuse into the local educational system.

When one considers urban population, and transportation problems, it is not difficult to predict growth for the Test Center; and it should help keep local business activity moving in a positive direction. To date, Colorado construction contractors or suppliers from Pueblo, Boone, Canon City, La Junta, Trinidad, Colorado Springs, Commerce City, and Denver have participated in work at the Center. Additional contractors from at least five other states have also been involved. Industrial concerns from elsewhere in the nation may possibly establish branch offices in the vicinity of the Test Center as its activities expand. While it is not hard to forecast a positive economic trend, it is much more difficult to quantitatively estimate the magnitude, because the rate of buildup at the Center will depend upon planning within the Federal Executive Branch and annual appropriations from Congress. However, I will venture some gross estimates.

During the first year after the startup of the Test Center in August 1970, total employment has varied widely from month to month as construction projects have been phased in and completed. It is expected that the count of the working force will continue to be highly variable for the next several years. This total working force includes both temporary and permanent federal employees, relatively transient construction crews, and RDT&E project teams. In early 1971, it was estimated that some 125 people were working at the Center, but during the past few months this number has averaged about 65.

It is not unreasonable to expect that the working force at the Center will approach 300 during the next five years. Using national personal income averages and assuming such a rate of growth, this buildup in total employment would add almost $10 million in direct personal income locally during this period. While many of these employees will already be residents of Pueblo, those brought from elsewhere will add to the number of people in the community and will require housing, schools, stores, and all the other normal urban services.

It is virtually impossible to make a long-range forecast of the total money that will be spent in Colorado as a result of the Test Center because of uncertainties involving each year's appropriations and the nationwide diversity of contractor locations. However, near-term estimates of the investment at the Center can be made.

The total public investment of federal funds for the Test Center during the first year of operation was about $10 million. This investment was primarily for the acquisition of tracks and other real property associated with RDT&E projects. Considering the present status of work and implementation of new contracts, it appears that the investment during the second year of operation will be approximately $20 million, bringing the total to about $30 million. Extrapolating these amounts indicates that the total investment may be in the $75-million range by about 1977, but actual funding will depend upon project requirements and national priorities.

It should be emphasized that funding will be dependent upon the Congress and that these estimates are only for federally funded work at the Test Center. There are some in the State who are predicting new transportation-related industrial activity in Colorado because of the Test Center. Such predictions are not unreasonable; however, to date, there is no available evidence that the Center has stimulated moves of this type.

Transportation is the life blood of commerce and a pacesetter for society. It pervades all of our lives; in itself, transportation is also a large factor in the national economy. For example, approximately 20 percent of our annual expenditure for goods and services, or Gross National Product, is made either directly or indirectly for transportation of one kind or another; and some 10 million pesons are employed in transportation-related industries. As the Test Center begins fulfilling its role to improve transurface technology, the social and economic implications will far exceed the direct benefits within the state and will spread throughout the nation, or the world.

When one studies the entire spectrum of transportation problems, it becomes apparent that there is no one system, or set of equipment, or general solution for all transportation problems. Each region—town, city, megalopolis, county, or state—has its own unique set of problems, and so an assortment of improvement is needed. At the Test Center, incremental advances in existing equipment will be sought; and, at the same time, imaginative new systems or subsystems will be tested and developed so that each community may have a family of proven transportation equipment from which to choose the best for its regional requirements.

Just as Bent's Fort was the gateway to a new frontier in the Southwest almost a hundred and fifty years ago, the High Speed Ground Test Center can become another kind of portal to a different frontier in the 1970s.

RESUMPTION OF INTENSIVE BOMBING IN NORTH VIETNAM

Mr. ANDERSON. Mr. President, during my Senate career, soon to draw to a close, I have concentrated on certain issues of particular interest to me, as any legislator must who wishes to be truly effective. Occasionally, however, I have had to set aside those matters of primary concern and turn to an overriding issue. This is one of those times.

Although I have spoken from time to time on specific aspects of the war in Indochina, my last major statement was almost 2 years ago—on May 1, 1970, after the American invasion of Cambodia. Now that the President has resumed intensive bombing of Hanoi, the port of Haiphong and other cities in North Vietnam, I feel compelled again to register my deep concern and strong opposition.

My decision is not made lightly. My public statements will show that I have generally supported to basic policy of the President, which is to say a withdrawal of American troops and airpower, allowing the South Vietnamese Government to attempt its own defense under the name of "Vietnamization," and seeking a political settlement in Paris. My only significant points of disagreement have dealt with timing, as evidenced by my support of legislation which would have required a speedier timetable for U.S. disengagement.

My 1970 statement, in my judgment, has been proved to be correct in its basic thesis. At that time I said:

> If Vietnam has taught us anything, it is that seemingly small, temporary decisions become escalating commitments. Deepening involvement in a wider Indochinese war, just as we are wisely disengaging from Vietnam, would be a grave mistake and a tragedy.

We are still witnessing the increased political instability and heightened military activity in Southeast Asia which resulted from the Cambodian invasion. Furthermore, the strong North Vietnamese movement into the area around An Loc shows that the Cambodian campaign did not meet its objective of clearing out enemy forces to aid the process of U.S. withdrawal. The North Vietnamese are back, in substantial force, in the same area, and have advanced with such strength that the Saigon forces would have buckled without intensive tactical air support from the United States. The stout assurances from the administration that the 1970 Cambodian border campaign would destroy enemy strength in the western region, assurances that were suspect at the time, have now proven false.

A list of "bold" moves designed to hasten the end of the war goes back through two administrations and 7 years. It is dismal reading. There is every reason to believe that the current bombing raids into the North will join that list. By now the sequence is painfully familiar: an irresistable urge for "action" as opposed to patient, frustrating diplomacy; a new military initiative announced with optimistic fanfare; initial assurances of success followed by hedged bets and increasing skepticism; and, finally, realization that nothing really had changed.

It is true that there may be some modest military accomplishments which will emerge from the newest wave of bombings. But the disadvantages far outweigh any temporary gains:

Destroying military supplies in Haiphong and Hanoi will have little immediate effect on the current fighting, since the time lag in transit is substantial.

It has long been acknowledged that North Vietnam's resolve to fight has been strengthened by the American bombing campaign. A nation under seige is more likely to intensify its own military actions, a move which no one can desire.

When Hanoi and Haiphong were first bombed several years ago, the Soviet Union immediately increased its shipments of Mig fighter planes and surface-to-air missiles. It is quite likely that this will again occur, thus endangering American lives and adding to the pace of arms development when we should be seeking disarmament.

The bombing of Haiphong Harbor could cause, and may already have caused damage to Soviet ships and bring the resultant danger of heightened Soviet involvement or even a direct United States-Soviet confrontation.

International opposition to the renewed bombing could well be as strong and widespread as that which developed in the late 1960's, and which isolated the United States in the international community.

President Nixon's laudable initiatives toward seeking more friendly relationships with Moscow and Peking will certainly be damaged, if not completely negated, by the reescalation.

The return to the military tactics of a few years ago could bring a return of the domestic climate of the same period—massive anti-war demonstrations frequently erupting into violence, cynicism and distrust of the Government, a virtual breakdown of political civility.

President Nixon promised to help cool that overheated atmosphere, but now he is contributing to a reheating which may well be more dangerous and violent.

In view of the many risks, how can the President allow himself to be tempted by the unworkable tactics of the past? In view of his commitment to seek domestic tranquility, how can he risk a resumption of turmoil and internal division? In view of his efforts toward international detente, how can he jeopardize frail and tenuous initiatives? And how, if the President truly desires to achieve peace in Southeast Asia, can he attain it by letting the bombs fly?

I strenuously oppose the renewed bombing, and urge the President to halt it immediately. The war has killed and maimed too many. We must seek peace, not through war, but through peace itself.

The American people—at first a tiny minority and now an overwhelming majority—believe it was a mistake to become so deeply involved in Vietnam. The cost in lives and treasure has been tremendous. Americans and Vietnamese, except the minority who are maintained in positions of wealth and power by the U.S. presence, want the bloodshed ended. A tragic mistake cannot be repaired by heaping on more tragedy. The people realize that, those who must fight and die or see their loved ones fight and die realize that, most of the world community recognizes it, and now the President must come to realize it.

ANTITRUST PROSECUTION OF ITT

Mr. TAFT. Mr. President, in recent weeks there has been considerable sound and fury relating to the antitrust prosecution of I.T. & T. by the Nixon administration. In evaluating that performance I think that we should examine the record as to the acquisitions made by I.T. & T. in the years before President Nixon, Richard Kleindienst, and Richard McLaren took office. That record discloses an acquisition program of extraordinary proportions. These acquisitions went largely unchecked and unchallenged by the White House or Congress. The record is a dubious base from which to attack a settlement that was the most successful effort at constraining this galloping conglomerate.

I ask unanimous consent to have printed in the RECORD a list of the acquisitions of I.T. & T. from June 15, 1961, through December 31, 1970, as published by Standard & Poor's.

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

June 15, 1961, Co. acquired Jennings Radio Manufacturing Corp., San Jose Calif., a leading maker of high-power vacuum capacitors and switches, for 40,000 shs. 5.25% Cum. Pfd., 170,213 Com. shs., and non-transferable certificates of contingent interest representing rights to receive I T & T Com. (80,000 to 320,000 shs.) having an aggregate value of as much as $8,000,000 based on level of Jennings' earnings. These shares would be paid in annual installments over a period ending not later than Mar. 15, 1966—28,741 issued in 1962; 34,652 in 1963. Jennings had sales of $5,928,339 and net income of $395,987 in 1960.

Aug. 10, 1961, Co. acquired Suprenant Mfg. Co., Clinton, Mass., a maker of specialized tubing and plastic insulated wire, cable and similar products, for 40,000 shs. 4% Conv. Pfd. Ser. and 115,741 Com. shs. Suprenant had sales of $14,046,483 and net income of $682,396 in fiscal year ended June 30, 1960.

Nov. 1, 1961, acquired the assets of American Cable & Radio Corp. (then 56.55% owned) thru issuance of 62,292 shs. 4% Cum. Pfd. Ser. B $100 par and 222,474 Com. shs.

Nov. 15, 1961, Co. issued 56,995 Com shs. to Dresdner Bank AG, Frankfurt, Germany, for 50% interest in Eduard Winkler Apparatebau G.m.b.H., Nurnberg, and 100% interest in Alpina Buromaschinen-Werk G. m. b. H., Kaufbeuren, Germany, and transferred the acquired shares to Standard Elektrik Lorenz Aktiengesellschaft, subsidiary.

Oct. 1, 1962, Co. issued 112,000 Com. shs. for substantially all the business and assets of National Computer Products, Inc., Lawrance, Mass., maker of germanium and silicon diodes, and semi-conductor devices for electronic data processing, missile systems and space communications, and for government services. Also acquired in 1962, Puhelinteollisuus Co., Finland, maker of telephone equipment; Societe des Pompes Salmson, France, maker of industrial centrifugal pumps; Societa Impianti Elettrici Telefonici Telegrafici Edili, Italy, builder of telecommunication networks and plants; Steiner, S. A., Switzerland, engaged in television and radio rental business; Regentone Products Ltd., Eng., maker of radio and television sets; and Ace Radio Ltd., Eng., maker of radio and radiophonographs. Co. formed ITT Intelcom, Inc. to provide engineering and technical assistance in planning military satellite communications systems.

May 15, 1963, Co. merged General Controls Co. by issuing 28,452 shs. 5.25% Ser. B Cum. Pfd., 128,492 shs. 4% Conv. Ser. C. Pfd. and 56,275 Com. shs. for all stocks of General; assuming $7,000,000 5⅞% Sr. Notes due Sept. 1 '80 of General's; and issuing $4,000,000 5¼% Subord. Notes due Sept. 1, 1975 (convertible into 21,411 shs. Ser. C Pfd. & 9,376 Com. shs. thru Sept. 1, 1970) in exchange for $4,000,000 like notes of General. Latter had net sales of $35,924,000 and net loss of $1,181,000 for 1962.

Sept. 27, 1963, Co. acquired the assets of Bell & Gossett Co., producer of pumps, heating and refrigeration equipment for 146,674 shs. 4% Conv. Ser. D Pfd. and 701,938 Com. shs.; and Nov. 30, 1963, acquired the business and assets of Cannon Electric Co., maker of electrical connectors, thru issuance of 82,491 shs. 4% Conv. Ser. D Pfd. and 498,738 Com. shs. In 1962, Bell & Gossett earned $2,334,653 on sales of $40,900,000, and Cannon earned $2,303,190 on sales of $50,361,671.

Dec. 31, 1963, Co. acquired the business and assets of John J. Nesbitt, Inc., producer of heating, ventilating and air conditioning equipment, thru issuance of 39,775 shs. 4% Conv. Serv. E Bfd. and 298,313 Com. shs. In 1962, Nesbitt earned $966,648 on sales of $23,783,406.

Jan. 31, 1964, Co. acquired for 79,599 shs. of 4% Conv. Ser. E Pfd. and 150,184 Com. shs. substantially all the business and assets of Gilfillan Corp., Los Angeles, a leading producer of ground controlled approach radar and long range radar. In year ended May 31, 1963, Gilfillan earned $571,000 on sales of $33,713,000.

Mar. 11, 1964, Co. acquired 75% of the capital stock of Compagnie Generale de Metrologie, S. A., France, for 67,500 Com. shs.; and a subsidiary of Co. obtained an option to acquire the remaining 25% by Jan. 7, 1965. Metrologie produces, among other things, multimeters, galvanometers, generators, checkers for tubes and transistors, and various types of scopes; and for ten months ended Oct. 31, 1963, earned $264,374 on sales of $3,405,020.

June 12, 1964, Co. acquired for 18,525 Com. shs. all stock of Hayes Furance Mfg. & Supply Co., maker of commercial furnaces. For year ended Mar. 31, 1964, Hayes earned $30,821 on sales of $1,447,009.

Aug. 31, 1964, Co., thru a subsidiary formed for the purpose, acquired the business and substantially all assets of Aetna Finance Co. by issuing 116,298 shs. 4% Conv. Ser. E Pfd. and 460,108 Com. shs.; and assuming Aetna's liabilities. Aetna Finance does a consumer finance business thru 170 branches in 25 states; and thru its wholly owned American Universal Life Ins. Co. engages in the life insurance business. Mar. 31, 1964, Aetna had $90,052,292 gross assets; $34,445,000 short term debt; and $32,937,000 long term debt. For year ended Sept. 30, 1963, Aetna earned $2,685,085 on gross income of $17,930,486.

Aug. 25, 1964, Co. acquired a part interest in Great International Life Ins. Co., a subsidiary of Georgia International Life Ins. Co.

Sept. 30, 1964, Co. acquired for 67,499 Com. shs. substantially all business and assets of Terryphone Corp., Pa., maker of international communication systems.

Nov. 30, 1964, Co. acquired for 207,967 Com. shs. substantially all business and assets of Barton Instrument Corp., Cal., producer of liquid and gaseous indicators, recorders, transmitters and flow meters. Barton earned $701,579 on net sales of $9,439,895 in year ended June 30 '64.

Jan. 29, 1965, Co., acquired the semi-conductor operations of Clevite Corp., for $8,591,000—$1,091,000 cash & $7,500,000 4% notes due thru July '65 (refunded). This division makes a variety of semi-conductor devices, and accounted for 12% of the $112,096,466 consolidated sales of Clevite Corp. in 1964. Acquisition included all stock of Intermetall, G.m.b.H., Germany.

Feb. 16, 1965, Co. acquired for 60,347 Com. shs., 60% of the stock of Societe Oceanic Radio, 25% of the stock of Societe Ducastel and all stock of Societe Burel Freres et J. Delaitre, makers of radio and television equipment in France.

Mar. 15, 1965, Co. acquired for $3,995,642 cash, 94% of the voting stock and 8% of the non-voting stock of Hamilton Management Corp. Latter is investment adviser and distribution agent for Hamilton Funds, Inc., an open end investment company. Remaining stock of Hamilton Management was acquired by Co. thru issuance of 303,077 Com. shs. under offer ratified by Hamilton stockholders Sept. 15, '65.

June 8, 1965, Co. acquired for 24,059 Com. shs. all stock of Henze Instrument & Valve Inc. and real property, improvements and equipment of Turbine Engineering Corp. Henze repairs, reconditions and rebuilds all types of valves, power specialty equipment and instruments in facilities leased from Turbine. Consolidated net profits were $167,277 on sales of $1,845,587 for 1964.

In July, 1965, Co. issued 414,999 Com. shs. and 301,818 shs. of 4% Conv. Pfd. $100 par for the assets to Avis, Inc. (name later changed to ITT Avis, Inc.), National Auto Renting Co., Inc., National Truck Renting Corp., Narco Parking Systems, Inc., and Westbrook Enterprises, Inc. Avis rents and leases automobiles, and the others were engaged in the truck rental and public parking business in NYC.

In Aug. '65, Co. acquired for 11,761 Com. shs. substantially all busness and assets of Kebby Microwave Corp.

Sept. 8, 1965, ITT World Communications, Inc., subsidiary, acquired all stock of Press Wireless, Inc. Previously Co. agreed to exchange 64,387 of its Com. shs. for the stock of Press Wireless.

In Feb. '66, Co. acquired for 41,282 shs. of 4% Conv. Ser. F. Pfd. and 71,715 Com. shs. substantially all business and assets of Jabsco Pump Co., maker of specialty pumps of flexible impeller design for the marine, food and beverage, chemical, and other industries. Consolidated net income was $321,492 on sales of $3,638,040 for seven months ended Oct. 31 '65. Feb. 24 '66 Co. acquired for $11,900,000 cash substantially all business and

assets of Wakefield Corp., maker of grinding wheels and discs, electric melters, and incandescent and fluorescent lighting equipment.

In Oct. '66, Co. acquired for 152,766 shs. of Cum, Conv. Partic. Pref. and 273,814 Com. shs. substantially all business and assets of Howard W. Sams & Co., Inc., a publisher and printer of books, magazines and reference services, with net income of $981,512 on sales of $18,061,853 in 11 months ended May 31, '66; and acquired for 117,647 Com. shs. substantially all business and assets of Consolidated Electric Lamp Co., producer incandescent light bulbs, fluorescent lighting tubes, electrical heating elements and electro-mechanical thermostats. In Nov. '66, ITT Consumer Services, Corp., subsidiary, acquired all stock of Airport Parking Co. of America thru exchange of 213,196 shs. of Ser. A and 66,576 of Ser. B Pfd., the former convertible into an aggregate of 362,903 shs. of ITT Com. beginning Nov. 14, '71.

In Mar. '67, Co. acquired for 90,666 Com. shs. substantially all business and assets of Lustra Corp. of America, Amplex Corp., Lustra Lighting Ltd., Birdseye Eastern Sales Co. and Coast to Coast Adjustment Bureau. Lustra distributed fluorescent tubes and incandescent lamps. In May '67 Co. acquired for 101,502 Com. shs. for all stock of Cleveland Motor Inns, operator and constructor of motels under franchise of Holiday Inns of America; and in June '67, issued 54,059 Com. shs. for minority interest in ITT Avis, Inc. In June '67, holders of minority Com. stock (19.87%) of Puerto Rico Telephone Co. exchanged their Com. for a Conv. Pref stock which was convertible into an aggregate of 157,405 Com. shs. of ITT. In June '67, Avis Rent A Car System, Inc., subsidiary, acquired for 15,199 shs. of 4% Conv. Ser. F Pfd. of ITT, all stock of Mears Motor Livery Corp., engaged in renting and leasing cars and trucks in Fla., N.C. and S.C. In Aug. '67, Co. acquired for 375,000 shs. of 4% Conv. Ser. H Pfd. and 399,468 Com. shs., all the stock of Alfred Teves G.m.b.H., a European maker of brake drums, disc brakes and braking systems. In Oct. '67 Co. purchased 57.5% of the stock of Modern Life Ins. Co. for $3,106,428 ($12 a sh.) and offered to buy the remaining shares at the same price. In Nov. '67 Co. acquired for 29,493 Com. shs., 80% of the stock of La Base S.p.A., one of the three largest mail order firms in Italy, issuing about 1,000,000 catalogs semi-annually and processing over 250,000 orders per year.

In Jan. '68 Co. acquired for 11,241 shs. of 4% Conv. Ser. H. Pfd. and 299,748 Com. shs., substantially all assets of Jasper Blackburn Corp., maker of electrical transmission and distribution equipment and supplies at St. Louis, Mo., with net income of $1,112,946 on net sales of $15,394,611 in year ended Feb. 25 '67. In Feb. '68 Co. acquired for 1,797,038 Com. shs., all stock of Levitt & Sons, Inc., engaged chiefly in residential construction and development, with consolidated net income of $3,983,000 on sales of $93,582,000 in year ended Feb. 28 '67; and acquired for 277,847 shs. of $4 Conv. Ser. K Pfd. and 2,896,276 Com. shs., substantially all assets of Sheraton Corp. of America (and assumed substantially all of latter's liabilities thru a subsidiary formed for the purpose). Sheraton had net income and profits of $5,433,344 from $286,266,446 consolidated gross operating income in year ended Apr. 30 '67. The Com. shs. issued by Co. in Jan.-Feb. '68 have been adjusted for the 2-for-1 split Jan. 26 '68. Mar. 14 '68, Co. issued 140,041 Com. shs. for all stock of United Homes Corp., Sarkowsky Builders Inc. and Fern Hill Homes Inc. Apr. 26 '68, Co. (thru a wholly owned subsidiary) merged Rayonier Inc. thru issuance of 1,668,651 shs. of $4.50 Conv. Ser. I Pfd. and 2,463,990 Conv. shs. Rayonier had net income of $10,789,000 on sales of $117,910,000 in nine months ended Sept. 30 '67. On June 27 '68, issued 478,273 shs. of $4.50 Conv. Ser. I Pfd. and 1,112,427 Com. shs. for substantially all assets of Pennsylvania Glass Sand Corp., which had net income of $5,425,150 on sales of $25,652,416 in 1966. In July '68, Co. issued 131,250 Com. shs. for all stock of ETC Inc., and 118,227 Com. shs. for all stock of Speedwriting Publishing Co. Inc. and its 20 affiliates; and in Aug. '68, issued 345,283 Com. shs. for all stock of Stenberg-Flygt AB, Lindas, Sweden. Sept. 13 '68, Co. (thru a wholly owned subsidiary) merged Continental Baking Co. thru issuance of 1,087,132 shs. of $4 Conv. Ser. K Pfd., 128,000 shs. of $5.50 Ser. L Pfd. and 3,181,111 Com. shs. Continental had net income of $14,665,652 on sales of $621,037,640 in 1967. In Sept. '68, also issued 54,107 Com. shs. for all stock of Transportation Displays Inc. and 14 affiliated companies. In Oct. '68, Co. issued 37,923 Com. shs. for business and substantially all assets of Gotham Lighting Corp.; and in Dec. '68, issued 75,684 Com. shs. for business and substantially all assets of Gremar Inc.

Jan. 3, 1969 Co. issued 464,856 shs. $4 Conv. Ser. K Pfd. and 39,134 shs. $6 Ser. M Pfd. for the business and substantially all assets of Thorp Finance Corp.; (name changed to ITT Thorp Corp. in 1970); in Jan. '69, issued 57,027 Com. shs. for all stock of Pennway Co. and its subsidiaries Yellow Cab of Kansas City Inc. and Equitable Assurance Co.; in Feb. '69, issued 12,434 shs. $4 Conv. Ser. K Pfd. and 40,880 Com. shs. for all stock of Hopkins Airport Hotel, Inc., a 220-room hotel located at Hopkins International Airport, Cleveland; in Feb. '69, issued 38,961 Com. shs. for all stock of Temple School Inc., Baltimore and Washington, D.C.; in Mar. '69, issued 53,527 Com. shs. for all stock of Liberty Investors Benefit Ins. Co., Greenville, S.C.; in Mar. '69, issued 137,932 Com. shs. for all stock of Marquis-Who's Who, Inc., Chicago, publisher of biographical reference books; in Mar. '69, issued 186,722 Com. shs. for acquisition of United Homes Corp.; in Apr. '69, issued 68,781 Com. shs. for all stock of Joseph B. Giglio Enterprises, Inc., licensee of Avis Rent-A-Car in Tampa and 4 other communities in Fla.

Apr. 25, 1969, ITT merged Canteen Corp. thru issuance of 1,350,907 shs. $4 Conv. Ser. K Pfd. and 1,880,070 Com. shs.; and Oct. 31, 1969, merged Grinnell Corp. thru issuance of 1,709,468 shs. $4 Conv. Ser. K Pfd. and 1,567,012 com. shs. The U.S. Government instituted separate suits asserting that these transactions violated the Clayton Act, and requested divestment of these companies whose operations represented 10% of ITT's consolidated sales and net income in 1969. Pending final adjudication, ITT agreed that it will maintain the Canteen and Grinnell businesses completely separate and independent from the other businesses of ITT. Canteen Corp. has net earnings of $9,478,000 on consolidated sales of $320,065,000 in year ended Sept. 28, 1968; and Grinnell had net income of $14,034,799 on consolidated sales of $341,282,906 in year ended Dec. 31, 1968.

July 2, 1971, U.S. District Court upheld Co's. acquisition of Canteen Corp. Dec. 31, 1970, U.S. District Court upheld Co's. acquisition of Grinnell Corp., but on May 17, 1971, Justice Dept. asked U.S. Supreme Court to reverse the lower court's rulings.

Also, in May 1969, ITT issued 56,386 Com. shs. for the business and assets of United Building Services, Inc., UBS Enterprises, Inc. and City Window Cleaning of Central Ohio, engaged in rendering building maintenance services in Ohio; in May 1969, issues 9,131 shs. $4 Conv. Ser. K Pfd. for all stock of Office Training School doing business as Columbus (Ohio) Business University; in Aug., 1969, issued 9,917 shs. $4 Conv. Ser. K Pfd. for all stock of Minnesota School of Business, Inc.; in Aug., 1969, issued 137,906 Com. shs. for all stock of American Electric Mfg. Corp., maker of outdoor lighting equipment; in Sept., 1969, issued 150,000 Com. shs. for all stock of G. K. Hall Corp., printers and publishers of library reference materials and indexes; in Sept., 1969, issued 23,399 shs. $4 Conv. Ser. K Pfd. for all stock of Wadsworth Land Co., Inc., owner of real estate; in Sept., 1969, issued 200,000 Com. shs. plus $5,000,000 in cash and notes for all interests in Maria Isabel Hotel, Mexico City; in Oct., 1969, issued 75,000 shs. $4 Conv. Ser. K Pfd. and 120,000 Com. shs. for the business and substantially all assets of Southern Wood Preserving Co., producer of creosoted and other pressure treated forest products; in Oct., 1969, issued 79,815 Com. shs. for all stock of Nova, Appareils Electro-Menagers, S. A. and La Commerciale Nova, S. A., makers of small household appliances in Belgium; in Oct., 1969, issued 136,644 Com. shs. for all stock of N. V. Zuid Hollandse Conservenfabrick Grofuco, packers and distributors of frozen and canned foods in Holland, Belgium and West Germany; in Oct., 1969, issued 37,366 shs. $4 Conv. Ser. K Pfd. for all stock of American Building Services Inc., Allied Industries Inc. and American House & Window Cleaning Co. Inc., Kansas City, Mo., provider of maintenance and janitorial service in multi-story buildings; in Nov., 1969, issued 12,530 shs. $4 Conv. Ser. K Pfd. for all stock of Alton Canteen Co. Inc., headquartered in Alton, Ill., engaged in the automatic vending of merchandise; in Dec., 1969, issued 118,842 Com. shs. for the business and substantially all assets of Pearson Candy Co., maker and distributor of candy in Cal. and Minn.; in Dec., 1969, issued 25,556 shs. $4 Conv. Ser. K Pfd. and 44,230 Com. shs. for all stock of Jacques French Restaurant, Inc., Chicago.

Thru Dec. 31, 1970, Co. issued 21,735,702 shs. $2.25 Conv. Ser. N Pfd. for a like number of shares of Hartford Fire Insurance Co. and at Apr. 19, 1971, Co. owned 99.8% of the shares of that company, mainly acquired under terms of an exchange offer expired July 31, 1970. The U.S. Government instituted suit alleging that these transactions violated the Clayton Act, and requested divestment of Hartford. Pending final adjudication, Co. agreed that it will maintain the Hartford business completely separate and independent from the other business of Co.

Also in 1970, Co. made the following acquestions: First quarter—IKO Forsaljningsaktiebolag, power cable manufacturer (all shs. acquired for $8,540,000 cash and 88,890 Com. shs.). Second quarter—N. V. Zwolsche Algemeene Beleggings Maatschappij, personal casualty insurance concern (all shs. acquired for $995,500 cash and 62,215 $4 Conv. Ser. K Pfd. shs.); Hoffman Specialty Manufacturing Corp., maker of heating and plumbing specialties (merged into wholly owned subsidiary for 123,750 Com. shs.); Biscuit en Banketfabriek Nobo N. V., maker of cookies and sweet snacks (all shs. acquired for 31,310 $4 Conv. Ser. K Pfd. shs.). Third quarter—Elektro-Freund, Friedrich Freund, distributor of electric appliances in Europe (assets acquired for 6,705 $4 Conv. Ser. K Pfd. shs.; Gwaltney, Inc., producer of pork products (merged into wholly owned subsidiary for 839,372 Com. shs.); Thermotech Industries, Inc., makes plastic products (business and assets acquired for 212,415 Com. shs.); Triad Investments, Inc., owns land and buildings used by Thermotech (all shs. acquired for 9,843 Com. shs.); Erie Canteen Co., provides vending services (all shs. acquired for 10,938 $4 Conv. Ser. K Pfd. shs. and 20,349 Com shs.). Fourth quarter—Rudolph Schmidt KG, Electround Radiogrosshandlung, distributor of electric appliances in Europe (assets acquired for $341,500 cash and 4,269 $4 Conv. Ser. K Pfd. shs.); Altissimo S.p.A., maker of electrical automotive equipment (all shs. acquired for $1,200,000 cash and 104,616 $4 Conv. Ser. K Pfd. shs.); Ulma S.p.A., makes stainless steel trim for cars (all shs. acquired for $960,000 cash and 90,000 $4 Conv. Ser. K Pfd. shs.); Building Servicing Co. of Texas (all shs. for 16,271 Com. shs.); General Creosoting Co., Inc., makes and treats wooden

poles for power and telephone companies (all shs. acquired for 7,116 $4 Conv. Ser. K Pfd. shs. and 13,160 Com. shs.); Landis Financial Group, a financing concern, (all shs. acquired for 19,000 $4 Conv. Ser. K Pfd. shs. and 35,400 Com. shs.).

THE HUMAN COST OF UNEMPLOYMENT

Mr. PROXMIRE. Mr. President, when we talk of unemployment, we tend to zero in on statistics. Unemployment was 5.7 percent last month. This month its up to 5.9 percent. Is the increase statistically significant? Arguments abound on both sides.

But the statistics, and the arguments, tend to obscure the human side of unemployment, the people who are forced to stand in line each week to claim their unemployment checks. We tend to lose sight of the effect on people's lives—the degradation of relying on handouts for basic sustenance, the emptiness of the nonwork week, the continual rejection at the hands of potential employers.

An article published in today's New York Times puts this in proper perspective. It provides a glimpse of those who stand in line at the Washington County Court House, in Ohio, to collect unemployment checks. They are from every segment of our society—"men and women, old and young, white and blue collar, Afro and crew cut, hot pants and conservative tie." There are 12 lines leading to the counter—all of them full.

There is a keen awareness of the value of a job. The article quotes a young peroxide blonde who has been laid off from her very first job, speaking with envy of the people behind the counters who dole out the checks:

They ought to treat us well. If it weren't for people like us, they'd be in one of these lines thesmselves.

Mr. President, I ask unanimous consent that the article, entiled "The 5.9 Per Cent," written by Ruth A. Matheny, be printed in the RECORD.

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

THE 5.9 PERCENT

(By Ruth A. Matheny)

WASHINGTON COURT HOUSE, OHIO.—For the completely integrated experience, try standing in line at an Upper Midwest unemployment claims office. It isn't just the races that are brought together in this common search for a common goal—in this case, that weekly claims check. Men and women, old and young, white- and blue-collar, Afro and crew cut, hot pants and conservative tie, all find their places in their assigned lines—usually there are twelve of them—and move inexorably toward the long claims counter.

The lines are surprisingly orderly. A few individuals disregard the no-smoking sign posted on one of the pillars as the agony of waiting becomes too much. But no one presumes to advance beyond the yellow line that stretches across the width of the room until he is called to the counter for his weekly reckoning.

The system works pretty well, considering the increasingly large numbers who flock to the second-floor claims office each week. Claimants are assigned to report at half-hour intervals. To reach the counter within that designated interval, the unemployed must begin to line up at least a half hour in advance. Promptly at the beginning of each time segment, the attendant goes through the line collecting the "Information Booklet and Reporting Record," which is the badge of identity for the jobless.

Each week, the individual seeking compensation must file a "Weekly Claim for Benefits." The questions to be answered are few and to the point.

If the answers are satisfactory, the claimant may expect to receive a check within a few days of reporting. The amount will be determined by his earnings while he was working and by the number of dependents he claims. If any earnings have been received or are anticipated for the calendar week—as from freelance writing—they are deducted from the stipulated amount. However, earnings up to 20 per cent of the claim are exempt.

With the passage of time, a kind of camaraderie builds up in the long lines. People's habits being relatively stable, claimants tend to arrive about the same time each week. As a result, they find themselves standing in front of, behind and beside many of the same people week after week. A new integrated neighborhood is born.

Of course, there's a feeling-out period when the weather and the long lines may be the only topics of conversation. But after a while, experiences are recounted, confidences exchanged and tips offered.

There is the young black who speaks feelingly of his plans for an educational project for the ghetto, where students will earn while they learn. He needs guidance and backing. An obviously intelligent and earnest blond neighbor unexpectedly offers suggestions, names and addresses, and encouragement. One has the feeling that in these unlikely surroundings a promising idea has been given a chance for life.

A tall, somewhat shaggy young man—cup of coffee in one hand, cigarette in the other—engages in his weekly conversation with the contrastingly trim young fellow with crew cut. Or rather, he talks between puffs and sips while his companion-in-line listens. His choice topic is a recent military tour of duty in Germany with emphasis on the German women. Thus, it's a surprise when he walks in one week carrying a beautiful pony-tailed toddler.

There's the middle-aged white woman with her folding stool. "The first time I was here," she tells each newcomer, "I had to stand in line for three hours. Since then, I bring this stool."

A black woman of about the same age is always just ahead or just behind her. They seem to enjoy their weekly chats. Then one week, the woman with the stool reports, "I think I might be called back. If I'm not here next week, you'll know I'm working." And the black woman answers, "I think I might be going back too."

But the following week, the woman with the stool is gone. The black woman is still there.

Those are the lucky ones, the ones who are called back to work or who find a new job. Most must report week in, week out until the allowed payment period lapses.

"This is my last week of standing in line." a young woman offers.

"You're lucky," says another.

"Maybe," she returns, "but it's the end of the money too. Now what?"

If there is resentment for a system that makes such standing-in-line necessary, little of it is evident here. There's the suggestion as when a black woman accidentally drops her claim sheet. A man, also black, calls to her, "You'd better hang on to that. They don't want to give us anything anyway, and they sure won't without that paper."

And the very young peroxide blonde, obviously laid off from her very first job, says of the attendants at the desk, "They ought to treat us well. If it weren't for people like us, they'd be in one of these lines themselves!"

Ruth A. Matheny, now unemployed, is the former editor of "Today's Catholic Worker."

AIR POLLUTION CONTROL

Mr. TAFT. Mr. President, it is my pleasure to invite the attention of Senators to an excellent manuscript entitled "Air Pollution Control—Benefits in Relation to Cost," written by Dr. Harold L. Hansen, chairman of the board, the Air Pollution Control League of Greater Cincinnati.

The Air Pollution Control League is a nonprofit organization, incorporated January 29, 1906, under the law of the State of Ohio. The League is a citizen's organization which works continuously to advance the knowledge and practice of air pollution control throughout the metropolitan area.

Dr. Hansen discusses the need for an economic analysis of the results of air pollution control and of the pollutant itself, an approach which I believe deserves the attention of every Member of Congress. I therefore, ask unanimous consent that this highly informative document be printed in the RECORD.

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

AIR POLLUTION—BENEFITS IN RELATION TO COST

(By Harold L. Hansen Chairman of the Board)

THE AIR POLLUTION CONTROL LEAGUE OF GREATER CINCINNATI: SUMMARY

Air Pollution is an old problem to which the Air Pollution Control League has been directing its attention for many years. It is a complex problem of many dimensions one of which has received inadequate attention and study. The Cost of controlling air pollution is enormous and must be considered in relation to other programs and to the capacity of our economic system. The approach to pollution control requires understanding, diligence and restraint.

Our educational, non-profit organization founded in 1906 is one of the oldest, if not the oldest citizens' group of its kind in existence in this country. In this, our sixty-sixth anniversary year, we pay tribute to its founders and to the many citizens who have donated their services to this work long before the word "pollution" came into common use and long before pollution control activities became fashionable.

We are gratified by the continuing interest in our program on the part of many private citizens, civic groups, and schools. That interest reflects their concern for the environment and their desire to help improve their surroundings.

That the interest in air pollution control and other types of pollution control is not restricted to this locality is shown by the flood of articles, books, films, and laws on the subject. The *Environment Index*, scheduled to begin publication this year, contemplates listing 42,000 citations for all of the year 1971. This index of 600 pages covers 700 periodicals in addition to newspapers, Government reports, Congressional hearings, legislation, films, and patents.

In recent times, there has occurred a renewed interest in the old subject of ecology. This science of the relationship of organisms to their environment has taken on a new and enlarged meaning with studies which purport to show the adverse effects of a number of environmental contaminants. Among these is DDT which might well be called an air pollutant because of its frequent application by spraying.

Largely because of findings showing that DDT interferes with normal egg production, and thus is implicated in the decline in numbers of some species of birds, the product was first condemned and later its sale was banned in many states. It may be of interest to recall that it was not long ago that DDT was hailed as one of the most important products of the age. In 1948, Dr. Müller of Switzerland was awarded the Nobel prize in medicine for his fundamental work on the action of DDT on insects. This work resulted in the saving of millions of lives which would otherwise have been lost to malaria and to other diseases carried by insects. It is small wonder that many physicians and scientists are concerned about a possible world-wide ban on the use of this product, especially since no equally effective product is readily available.

It should be clear that the study of organisms in relation to their environment is exceedingly complex and difficult. Decisions and value judgments are, therefore, difficult to make. In such circumstances extremism and partisan politics are harmful to the decision-making process.

In the numerous articles and reports on air pollution control consideration of costs involved has received inadequate attention at best. It is only fair to say at the outset that this aspect of the program is a confusing and complex subject. Yet it is one of vast importance and should, therefore, be brought to public attention. Like some other programs of national and even world importance, it is also one we have taken on without a clear realization of the expenses involved and the effect of these expenses on the economy. Obviously, we cannot be concerned with air pollution control exclusively. To this must be added water pollution control, solid waste disposal, and a host of other programs crying for attention.

There are some why say that "polluters must pay for the costs involved in cleaning up the environment." This sometimes takes the form of a proposed tax on pollutants. Unfortunately for the public, this approach is both simplistic and misleading. In some form or other the cost will eventually fall on the consumer and taxpayer. The interdependence between and among lower forms of life applies with equal force to man in his social and economic relationships. There are many examples of this, but one will suffice for this report.

The electric power industry is generally recognized as a large source of air pollution. In our more thoughtful moments, we also recognize that it is an essential part of our advanced civilization. In a real sense, it represents one of the essential differences between a developed and an undeveloped nation. Without going into extensive details, let us examine some of the economic aspects of the electric power industry. There are about 140 privately owned utility companies on the New York and American Stock Exchanges. These are the companies which supply much of the electricity and gas to the nation's users from the smallest households to the largest factories. These companies are not owned by a few enormously rich people. On the contrary, ownership is largely vested in millions of individual stock holders. In addition, millions of individuals have a stake in these companies as owners of shares in mutual funds, as participants in pension funds, or as holders of insurance policies. Beyond that, both individuals and institutions hold claims against these companies as holders of bonds and notes against debts.

It is characteristic of the utility companies that they carry a heavy debt load, interest on which must be paid. The debt varies from a few million dollars for small companies to upward of two billion dollars for the large ones. In the aggregate, the privately held companies have a debt of over 57 billion dollars. Even Government operated facilities, such as TVA, carry a debt even though they do not pay the local and Federal taxes imposed on privately owned companies. It should be clear that in addition to supplying power and heat, the utility companies provide wages and salaries for their own employees, pay dividends to stock holders, pay interest to holders of notes, pay local and Federal taxes, and, as indicated previously, provide the reveue for participants in mutual funds, pension funds, and for holders of insurance policies.

The large debt load of the industry reflects the enormous amount of capital required to conduct these enterprises. It further shows that profits from operations are not sufficient to cover ever-growing capital costs. This is not surprising in view of the fact that rates are determined by the Government. As the demands for power continue to grow, the need for capital will increase. Here we should say that we are not ready for the steady state economy advocated by some. An attempt to reach such a state soon could result in disaster.

At this time, emphasis should be on orderly growth directed toward fullest possible employment. At the same time we must proceed on an equally orderly basis to improve the quality of our surroundings. All of these and other things we need to do with a full realization of the costs involved and with the knowledge that such costs will eventually be borne by all of us.

The costs involved in air pollution control and in control of other forms of pollution as well may be listed as follows:

1. Expenses for manpower, equipment, and facilities used in research and development. The research and development work is required in various fields of endeavor and is directed toward detection, measurement, characterization, abatement or elimination of pollutants.

2. Expenses involved in design and construction of equipment and facilities for control of pollutants.

3. In the event that efforts in category 2 above are unsuccessful, relocation of an establishment or its abandonment may occur. In either case, expenses are involved.

4. Operation and maintenance of equipment and facilities.

5. Expense in establishment of standards, in surveillance, and in law enforcement.

6. To the foregoing may be added various costs of repair and of reclamation. In this context it should be noted that some environmental changes are irreversible.

As an offset against costs listed above, air pollution control (and other types of pollution control) will reduce expenditures now required because of the deteriorating effect of some pollutants on their surroundings. More adequate control of some pollutants may also decrease or (hopefully) eliminate certain medical and hospital expenses. In respect of medical and hospital expenses related to air pollution, the present evidence indicates that our area is more fortunate than many others in this and in other countries.

In some cases installation and effective operation of air pollution control devices can affect savings in manufacturing costs. This is obviously the case where the pollutant is an essential component in the manufacturing process, or is the end product itself. This is an area of importance which is receiving a great deal of attention on the part of research and development workers.

We hear a great deal about recycling and about novel uses for waste material. This may well be of importance from the standpoint of conservation, as well as from the standpoint of reducing our mountains of rubble. It should be borne in mind, however, that we must consider most of these products as raw materials. Only in exceptional cases does it appear that the value of these raw materials represents a substantial offset against costs of production.

We now come to a second class of benefits which for want of a better term has been called elevation of the quality of life. By and large, this is what concerns the Greater Cincinnati Area. In making that observation, we must exclude "happenings," such as, the recent episode of a leak in a tank car of nitric acid. Such episodes are a cause for concern and require separate and appropriate corrective action. When we weigh the costs of pollution control against the monetary benefits to be achieved, we can only conclude that the costs are by far the larger. In other words, pollution control represents an expense. This does not mean that a reasonable and proper expense should not be incurred. The contrary is the case.

We should know in approximate terms, at least, what that expense or cost will be. Unfortunately, we do not know. Nor did we have adequate knowledge of a large array of other costs and expenses before we as a nation initiated and carried forward a number of other programs.

Even though we do not have a "good fix" on costs for pollution control, we may attain some idea of the magnitude of such costs from several reports. The White House Council on Environmental Quality suggests that the total outlay by 1975 could amount to 105 billion dollars. Of this amount, about 24 billion dollars would be required for air pollution control. Commoner arrives at some astounding figures on the cost of pollution control. He estimates that we should replace about one-fourth of our capital equipment at a cost of 600 billion dollars. To that we should add several hundred billion dollars for restoration of the environment. All of this is based on 1958 dollars. By spreading the cost over 25 years, he suggests an annual expenditure of 40 billion dollars. In a recent report, John Connor, Chairman of Allied Chemical Corporation, and former Secretary of Commerce, said "whatever the costs of our pollution control programs, and they will be in the hundreds of billions of dollars, they will be borne eventually by the consumers and taxpayers of America."

We should also bear in mind, as suggested by Anderson that pollution control is an international problem from the economic standpoint. One country's decisions affect not only its own industries, but the industries of other countries as well. Thus, unnecessarily harsh regulations can force a company out of an export market, or cause a flow of capital to another country. It would be surprising if so-called emerging countries anxious to become industrialized would view the "quality of life" in the same manner as an industrialized nation.

Peter F. Drucker tells us that the common belief that the cost of cleaning the environment can be paid for out of business profits is a dangerous delusion. The truth of the matter is that corporation profits are not large enough to cover these expenses as presently projected in addition to underwriting the cost of national defense, health care, and the like. Corporation profits after taxes for the year 1971 are estimated to be about 47 billion dollars. This includes profits of corporations which have no pollution problem as such. Nor can we take refuge in Federal Aid and State Aid. To think so is one of the greatest delusions of our time. After all, Federal Aid and State Aid come out of taxes, and taxes, in turn, are based on earnings of individuals and business.

In spite of proposals to the effect that we should strive for a "steady state" economy to reduce pollution, it seems clear that major reliance should be placed on a solid growth in the economy. Otherwise, how do we expect to generate the earnings, provide the jobs, and pay the taxes which are all required for the health and strength of the nation? Indeed, we shall have to rely on ad-

vanced technology to help solve our problems. Basic to all this it seems is the requirement that emphasis should be placed on production. We certainly cannot long exist as a nation of consumers and service people.

Now, production causes pollution. How should we face this dilemma? We do not presume to have all the answers to this, one of the greatest problems of our age. As we embark on this broad-scale attack on pollution, it would seem worth while to emphasize at least some of the requirements for success.

First of all, the approach to this multifaceted problem requires the correct attitude of mind. We are all polluters, and we have, therefore, a common problem. The old approach of choosing sides and of designating "villains" and "victims" is harmful to the cause. Uncontrolled emotionalism, confrontation, and the setting of so-called concensus standards are unworthy of a thoughtful and cooperative citizenry.

Scientists and technologists bear an especially heavy burden in this work—and work it is. It requires all of our skill, ingenuity, and restraint. Unfortunately, restraint is proper scientific thoughtfulness prompted Dr. Stokinger to present seven commandments for judging environmental pollution and for development of control standards. For the purposes of the present report, several of these commandments are worthy of repetition and emphasis. They are:

1. Standards must be based on scientific facts realistically derived and not on political feasibility, expedience, emotion of the moment, or unsupported information.

2. All standards, guides, limits, and so on, as well as the criteria on which they are based, must be completely documented.

3. Avoid the establishment of unnecessarily severe standards.

4. Determine realistic levels.

The recent history of setting of ambient air standards and emission standards shows quite clearly that there has been failure to follow the commandments closely. Specifically, attempts to "improve" on the Federal standards in state and regional hearings is a case in point. These standards have been erroneously referred to as minimum standards. Yet, The Environmental Protection Agency has stated the standards contain a margin of safety, and if errors have been made, they are on the side of public safety and public health, including the protection of citizens already affected with cardiac-respiratory problems. A review of U.S. Department of Health, Education and Welfare reports strongly supports this position. The standards devised by the Ohio Air Pollution Control Board are in conformity with Federal standards. It is difficult to comprehend why anyone would consider them lenient or to object to their proposed implementation.

It should now be clear that industrial firms and business generally face some very difficult technical and management problems. These problems are of such magnitude and nature that they will not be solved in a few years. They will require the sustained efforts of employees at all levels for many years to come.

Industry and business alone cannot solve our environmental problems. The lack of clear and precise information on many environmental problems is striking. This situation is covered in some detail by the Subcommittee on Environmental Improvement of the American Chemical Society.

The committee points out, among other things, that "a modern industrial civilization and a pristine environment cannot coexist." This sober statement contrasts sharply with the concept of "zero pollution" as applied to water resources. Actually, "zero pollution" is scientifically meaningless. The committee does point out several important areas in which research and development work is urgently needed.

Among these is control of emissions of oxides of sulfur and oxides of nitrogen. At this time, we do not have commercially suitable methods and equipment to handle these troublesome gases successfully. Accordingly, we can make only rough and tentative approximations of costs involved for large stationary sources of these pollutants. In other words, the regulations and the standards have outrun our technological capabilities. Under these circumstances, it would appear to be prudent to approach the subject with proper restraint. It is certain that setting unduly restrictive standards to be met in a relatively short time is unwise. Moreover, the costs which may be incurred may well be out of proportion to the benefits achieved.

In the years and decades of work ahead, let us all remember the importance of sound, disciplined thinking and of cooperation. The League has long advocated both. If the cooperation of the kind required to accomplish our purpose requires appropriate changes in our laws and regulations, such changes should be made.

THE PRICES FARMERS AND RANCHERS RECEIVE

Mr. ALLEN. Mr. President, the Secretary of Agriculture, Hon. Earl L. Butz, has stoutly defended farmers and ranchers and the prices they receive for their products. One of the many examples of such defense comes in the form of an article entitled "The Farmer as the Good Guy," published in the New York Times of Saturday, April 15, 1972. Because inflation results from many different factors, it distresses me to hear debate that places disproportionate blame on the farmer. Secretary Butz has performed a valuable service in putting the problem in perspective. I commend the article to the thoughtful consideration of all Senators.

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

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

[From the New York Times, Apr. 15, 1972]

THE FARMER AS THE GOOD GUY

(By Earl L. Butz)

WASHINGTON.—So your food is costing you more these days, isn't it? And you know why. It's those farmers who are pushing their prices higher and who are grabbing an even bigger chunk of your hard-earned family income, right?

Wrong.

Food prices have gone up. And farmers are getting more. It was recently reported on one of the national television networks—with the usual barely concealed tone of despair—that beef cattle prices have reached the level of twenty years ago. Can that be right—just up to levels of twenty years ago?

True.

The rancher is getting the same price for his beef that he was getting twenty years ago. What other products that the average family buys are only now reaching the 1952 price level? "But," you say, "I'm not buying beef at 1952 price levels. Beef costs me more—quite a bit more—at the store." Right again. Let's see both why food is costing more and why it isn't even higher.

As everybody knows, one of the most effective antidotes to high prices of anything is to increase productivity. The National Productivity Commission has singled farmers out of their record on productivity:

A man-hour of work on the farm is producing 3.3 times more than it was twenty years ago. Output per man-hour in the industrial manufacturing sphere is only 1.6 times greater than twenty years ago. Thus, output per man on the farm is increasing twice as fast as it is in the industrial sector.

In 1951, one farm worker supplied sixteen people with food. Now he produces enough for 51 people—more than three times as many as two decades ago.

Twenty years ago the average American consumer paid $23 for food from $100 take-home pay. In 1971 he spent $16 from $100 take-home pay for food, and he will pay out even less this year. Nowhere else in the world does food take up such a low percentage of the consumer budget.

These outstanding gains have been achieved against some pretty difficult obstacles for farmers. The pricing of farm products is very competitive in this country. Most foods are perishable products. Farmers have to sell them almost the day they are ready. Farmers can't hold milk or eggs very long—even meat animals have to go to market when they reach the right weight. Farmers can't wait for higher prices. And they are less able to pass along their costs than other major economic groups. They don't enjoy industry-wide contracts, franchises, patents, licenses or territories, nor do they have the economic ability to force higher prices and hold them.

Farmers are paying 2.3 times higher wage rates now than they were twenty years ago.

The level of all prices that farmers pay for all purchases has gone up nearly 50 per cent from twenty years ago, and farmers' total production costs have nearly doubled.

Real estate taxes on farms are 3.8 times higher than they were two decades ago.

Indeed, the evidence suggests that farmers, far from getting too much of the national income, are still getting far too little.

Nevertheless, the prices of many farm products have gone up lately, and many people are concerned about it. They have a right to be. But they should be directing their concern at the proper place. Check these figures:

Farm prices for food products are up 6 per cent from twenty years ago. On the other hand, wholesale food prices are up 20 per cent and retail prices a hefty 43 per cent.

Farmers receive only 38 cents from the dollar consumers spend for farm-raised food—down from 49 cents twenty years ago.

Employes in food marketing firms are getting 2.5 times hgher wages than twenty years ago; wages for production workers in manufacturing industries are 2.3 times hgher than twenty years ago.

The American farmer, far from the corporate landowner he is sometimes portrayed to be, is a hardy and hard-pressed family farmer struggling to earn an income. The rising costs that are really responsible for rising food prices are in the 62 cents of each food dollar that go to the middlemen—they are the truckers, marketeers, packagers and retailers who operate between the American farmer and the American consumer.

Recently, one of the leading labor leaders in this country complained that food prices were going up, citing a story Secretary of the Treasury John Connally told about paying $5 for two eggs in a plush New York hotel. The labor leader noted that those eggs brought the farmers whose hen laid them exactly five cents. Maybe it's time he also took note of the fact that neither the prices of eggs in plush New York hotels nor the prices of anything else will stop rising until he and many others who are criticizing President Nixon's economic program while pressing for ever-higher labor costs stop making them go up.

DOWN WITH PLANS FOR CAPITOL EXTENSION

Mr. PROXMIRE. Mr. President, recent debate on funding for further planning for extension of the West Front of the Capitol makes it clear that many within this chamber and throughout the Nation are opposed to such planning. We believe that we could better serve our economic, historic, and esthetic interests by restoring the west wall instead of building over it. Several respected newspapers and journals have come out editorially in support of restoration plans and opposed to extension. The New York Times and Washington Post were two among many.

A few days ago, the Christian Science Monitor published an article by William Marlin, senior editor of the Architectural Forum, who superbly propounds the arguments against extension. 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:

EXCAVATING THE PRESENT

(By William Marlin)

Nearly six years ago, this newspaper counseled caution over plans to extend the West Front of the United States Capitol.

"We assume," it said, "that Congress will want to withhold its approval for changes in one of the world's most prominent and historic buildings until it has given careful consideration to the view of distinguished members of the architectural profession."

This was, as events have it, a flattering assumption. For once again, confusing expediency with progress, it appears the venerable West Front, the last remaining facade of Dr. William Thornton's 1792 prize-winning design, is going to bite the dust.

Over the years, the Capitol has been gnawed at, added to; but only in this century have these changes been for the worse. The last major one was nonarchitect George Stewart's 1961 extension of the East Front. Now, after years of strident controversy, the Commission for the Extension of the Capitol, a committee whose name is as ponderous as its perceptions are short, has voted in favor of the wrecking ball, ignoring pleas from the American Institute of Architects, the positive recommendation to restore of its 1966 findings of its *own* engineering research done for $175,000 by the New York firm of Praeger, Kavanagh and Waterbury.

Both the AIA and Praeger studies found that the West Front, despite the very visible shoring up done in recent years, is in no danger of collapse; that restoration, given the sophistication of new building technologies, could be accomplished for about $15 million, a figure which corresponded, incidentally, to one set down by the commission.

In view of the fact that extension, versus restoration, would cost $60 million, the decision turns on the desire of congressmen for more offices. To date, however, no long-range study about space needs has been done. There is not even a coherent master plan for Capitol Hill. The same kind of *ad hoc* improvisation which marks (and undermines) so much cure-all legislation coming out of the Capitol, now threatens the Capitol itself. Could it be that our legislators, who carp so much about fiscal responsibility, are culturally bankrupt?

Well, what does a nation's culture matter when compared to, say, the need for more offices? Thomas Jefferson, the only architect and lawyer to be president, might have explained, better than the lawyers who succeeded him, the need for a structure "dedicated to the sovereignty of the people, embellishing with Athenian taste the course of a nation looking far beyond the range of Athenian destinies." One can only wonder about the destiny of a nation which, 200 years after its founding, prizes making money above making sense and bends to power unchastened by poetry.

The old West Front, its sandstone walls flaking by default, is more than a fragment for the nostalgic. Its present state, the renewed threat to its very existence, demands that the American people and their elected leaders be more responsive to the values which distinguish a true culture from a mere civilization.

A civilization we have been. And a civilization has the capacity for change. A culture we are becoming. A culture has the capacity for leaving some things alone. The United States Capitol will one day attest, for better or for worse, how discerning our power really was.

We take comfort from the fact that the Senate seems at the moment unwilling to grant the funds for final plans for the $60 million vandalism of "extension."

PERSPECTIVE ON U.S. DEFENSE

Mr. BOGGS. Mr. President, recently the senior Senator from Hawaii (Mr. FONG) made a significant address in which he pointed out the need for America to maintain strong defenses in order for our Nation to survive.

Declaring "Our greatest hope for future peace lies in America's continued strength in the years to come," Senator FONG called defense spending our annual insurance premium for peace.

In analyzing the present situation and future outlook, Senator FONG made a number of important points that give perspective to the issues of national defense.

I ask unanimous consent that the text of his address, delivered at the annual banquest of the National Society, Daughters of Founders and Patriots of America in Washington, D.C., on April 12, be printed in the RECORD.

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

DEFENSE DOLLARS: PREMIUMS FOR PEACE

Madame President, Distinguished Guests, Daughters of Founders and Patriots of America, Friends:

May I begin my remarks this evening with one of the most beautiful words in any language: Aloha!

Contributed by the remarkable Polynesians who settled Hawaii, aloha is that warm and glowing word conveying not only the traditional greeting "hello" and "goodbye" but also love, friendship, brotherhood, the kinship of the human spirit.

It is in this true spirit of Aloha that I, who am privileged to represent Hawaii, the newest and youngest State of the Union, come before you who trace your ancestry to the earliest settlers and founders of our beloved country. I want to express special thanks to you for inviting a Senator from our mid-Pacific State of Hawaii to speak to you tonight.

In this lovely springtime of the year, when Mother Nature's glorious outburst of color, fragrance, and life rekindles hope and faith in our hearts, it is tempting to speak of light and frivolous topics. But because you, Daughters of Founders and Patriots of America, are particularly concerned with the survival of this Nation we cherish and because you as wives and mothers and as women are especially concerned over the future of your loved ones, I have chosen a serious and fundamental topic.

It is one on which you have not heard a great deal as yet this year—but one which is going to be the subject of considerable debate in Congress in the coming months—America's national defense.

The debate will come at a time when America is withdrawing from Vietnam and from forward military bases in the Pacific.

There are now fewer than 100,000 American boys in South Vietnam and this figure will be down to 69,000 by May 1. All told, over the past three years from South Korea, Okinawa, Taiwan, Japan, and other Asian areas, American military personnel have been reduced from almost 800,000 to a total of less than 300,000. U.S. troops have also been pulled back somewhat from other areas.

The national defense debate will come at a time when we are still negotiating with the U.S.S.R. on Strategic Arms Limitation Talks. There are signs President Nixon may give these talks an extra push when he goes to Moscow next month. Meanwhile, we are hoping for a response from the Soviet bloc to our offer to open talks between NATO allies and Warsaw Pact countries on Mutual and Balanced Force Reductions—so as to bring nearer the day when America can reduce our $14 billion annual commitment to NATO, including the maintenance of U.S. troops and their dependents in Europe.

Congressional debate on national defense will take place in the context of President Nixon's efforts to de-fuse tensions and arrive at a modus vivendi with the People's Republic of China and the U.S.S.R. His historic journey to Peking and his forthcoming trip to Moscow underline the President's strong desire for peaceful accommodation of differences.

Certainly it is better to talk than to fight and better to have open channels for communication to avoid miscalculations or misunderstandings that could set off a holocaust in this era of push-button war!

National defense will be debated within the context of the Nixon Doctrine, by which President Nixon hopes to bring to all Americans something we have not enjoyed in the entire 20th Century—a generation of peace.

The Nixon Doctrine stands on three pillars: negotiations, partnership, and strength. I have already alluded to the President's strenuous efforts to settle differences and reach agreement through negotiations.

As for partnership, while America will stand by our collective defense treaty commitments, which we have with 45 nations, we will expect them to bear the prime burden for their own defense.

Military aid abroad—judiciously and prudently allotted where it will most serve to add to our national security and protect our national interests—is still required. But we must avoid overinvolvement and overcommitment—and these are decisions which the Congress must share with the Executive.

If the past seven years have taught us anything they have taught us we in America must conserve our resources—natural, financial, and last but certainly not least, human!

The third pillar of President Nixon's Doctrine is strength. America must have sufficient military strength to deter any other country from attacking us—and, should deterrence fail, to survive an attack with enough strength to devastate the enemy.

As we look around the globe, we see only one Nation with the military might to threaten America's survival: the Soviet Union.

It is true the United States and the U.S.S.R. have reached some encouraging agreements—relating to Berlin, to ban biological and toxic weapons, to improve communications and diminish the danger of nuclear conflict, and to cooperate in space exploration and in

medical research. At the same time, however, we cannot ignore the Soviet repression of Hungary's freedom uprising in 1956, the Soviet march in Czechoslovakia in 1968, just four short years ago, and the Soviet stationing of many troop divisions right now in East Germany, Poland, and Czechoslovakia. We cannot ignore the fact that the Soviets supply a substantial part of the munitions for North Vietnam's current invasion of South Vietnam and that it is Soviet-made missiles that fire on our airplanes, even our unarmed reconnaissance planes. And we cannot ignore the long-term and massive Soviet military buildup in strategic arms, the Soviet's world-wide expansion of maritime activity, their growing military presence and involvement in the Middle East, the Mediterranean, the Indian Ocean, and, much closer to home, in the Caribbean.

The top Republican on the Senate Armed Services Committee, Senator Margaret Chase Smith, has warned that "if present trends continue, the Soviet Union will attain clear military superiority over the United States within the next very few years, perhaps as early as 1975 or 1976."

"Even now," Senator Smith declares, "the U.S.S.R. has far more land-based nuclear firepower than we have.

"It will equal or surpass us in submarine-based nuclear firepower by the middle of next year.

"It is embarked on an anti-submarine warfare program that may eventually succeed in neutralizing much of our missile-carrying submarine fleet.

"It has an extensive ABM (anti-ballistic missile) deployment.

"It has been developing space weapons systems, as we have not.

"It has been modernizing and expanding its air and maritime forces, while we have allowed our own virtually to atrophy.

"And the modernized Red Army may now well be at its best."

Senator Smith says "make no mistake, we are rapidly approaching a day when the United States will be subject to all sorts of diplomatic blackmail and a strategy of terror waged by the Soviet Union."

These are sobering words coming from a Senator with many, many years of experience in the national defense field. They behoove all of us to stop, look, and heed.

As we look to our future defense requirements, we cannot ignore the People's Republic of China. Unlike the Soviet Union, China does not today constitute a strategic threat but she is already a nuclear power and we can expect China to develop a growing capability in the strategic nuclear field.

In a statement two months ago to the Senate Appropriations Committee, of which I am a member, Secretary of Defense Laird said while we cannot forecast exactly when China will possess ICBMs capable of striking the continental U.S., it is estimated deployment of ICBMs could not occur before 1975, with some 10–20 missiles deployed by mid-1976. "Deployed" means on the launching pads and ready to go. China has no intercontinental heavy bomber forces and no nuclear submarines, but China is known to be interested in such submarines.

So although China does not pose the military threat to our Nation now that the U.S.S.R. does, China can be expected within three or four years to possess intercontinental striking ability with ballistic missiles that could be launched against us.

This, my friends, is the real world we live in, far from the noble world we yearn for, and far from the live-and-let-live world we would settle for.

To survive in this kind of world, America has no choice but to maintain strong defense forces. We maintain these forces, not to start war, but to keep the peace!

There are some who want to dismantle our defense structure—who believe it is too costly—who believe we do not need a diversified defense establishment—who would give up the responsibility for keeping peace.

The Speaker of the U.S. House of Representatives, the Honorable Carl Albert, recently spoke to this point, and I quote: "It seems to be our practice to rush to disband our forces at the end of every war—only to be caught up soon in another crisis and another war . . . The road back cost many thousands of lives . . . .

"If we pursue policies of the 1970s that are as shortsighted as those I mention, it could be that we will not have a road back. Because the next time in all probability there will be no time to develop the fighting men and hardware. It will not only be the fighting men who are sacrificed 'upon the altar of unpreparedness'; it will be the whole country." End of quote.

I ask you, "if war comes to us, who will come to our rescue?" The plain answer is "Nobody." This is why America must remain strong.

There is no turning the clock back to the good old days when the Atlantic and Pacific Oceans afforded the United States a great measure of isolation from potential attackers. The oceans no longer shield us. Today the Atlantic and Pacific are highways for submarines with ballistic missiles. Today intercontinental ballistic missiles can leap-frog the oceans.

Our task is to survive in a world of multiple threats. Against strategic nuclear war, we need enough ICBM's, strategic aircraft, and submarine-based ballistic missiles to survive an enemy attack and strike back with great devastation.

To deter theater nuclear war—that is, war involving use of atomic weapons against U.S. forces or our allies, but not a direct attack on the United States—we need smaller-scale nulcear weapons below the long-range ballistic missile, along with the capability to escalate our response to attack.

Some people point to our nuclear firepower as sufficient to destroy an enemy, so why go to overkill with more missiles and more bombs.

We certainly hope and pray that our nuclear retaliatory capability will continue to result in nuclear stand-off—that no one will use nuclear weapons!

Maintaining that stand-off, however, is not just a matter of stockpiling atomic bombs. It requires protecting and improving our diversified atomic bomb delivery systems—our Minuteman sites, our Polaris missile firing submarines, and our manned bombers.

The fact is, the enemy is working hard to improve his ability to overcome or knock out our nuclear deterrent. Therefore, America must work hard to insure the survivability of our retaliatory weapons.

It is also a fact that, as nuclear stand-off continues, the threat of conventional war persists. So America is forced to prepare against conventional warfare, too.

In deterring theater conventional war—such as major war in Europe—we need a combination of allied and U.S. ground, air, and naval forces to counterbalance the Warsaw Pact forces.

To deter "subtheater" or localized war, the country or ally which is threatened bears the principal burden particularly for providing manpower, with America, when appropriate, furnishing defense weapons to maintain a balance of forces, or taking the diplomatic initiative to bring about negotiations between parties, or otherwise endeavoring to reduce the threat of war.

Multiple threats of war require a multiple defense establishment—and unfortunately this escalates both the cost and the difficulty of choosing between those weapons systems to drop and those to pursue. We wish we had the wisdom of Solomon, the patience of Job, and the resources of Midas—as Congress considers the President's proposed defense budget for the coming fiscal year that begins July 1.

Total appropriations for the 1973 fiscal year proposed by the President are $83.7 billion. Of the new money requested, $1.2 billion are planned to strengthen our strategic nuclear forces, including the Undersea Long-Range Missile System; the new B–1 strategic bomber, and continued deployment of Safeguard ABM. These are intended to keep America strong enough to deter all-out nuclear war.

Research and development would be increased under the budget by $1 billion so as to maintain America's technological superiority.

Weapons modernization programs include increases for modernizing our Navy and initially funding a fourth nuclear aircraft carrier, for more nuclear attack submarines and new sea control ships; development and procurement of the Air Force F–15 and Navy F–14 fighter aircraft; and modification and improvement of the Army's M–60 tank, attack and heavy-lift helicopters—all so as to provide, in partnership with our allies, a strong Navy and an effective deterrent against conventional war.

An increase of $1.9 billion is projected in the 1973 budget for training, medical, and general personnel programs to continue the momentum toward zero draft and an all-volunteer force.

Along with this, the budget calls for an extra $600 million to strengthen the National Guard and Reserve forces and modernize their equipment as active-duty military manpower declines.

We all know that any time the defense budget is mentioned, there are those who cry out "It is too much." But wait a minute.

Senator John Stennis, the distinguished Chairman of the Senate Armed Services Committee, analyzed the 1973 defense budget and he found that manpower costs amount to 56.8 per cent of the budget outlays. If troop housing, health, recruiting, and other manpower-related items are added, the figure for manpower costs is nearly 67 per cent!

Think of it! Two of every three defense dollars go just for manpower and related costs, leaving only one dollar for defense hardware!

Every year since 1963, there has been an increase in active duty pay for America's military men and women. The costs of pay and related items have increased by 131 per cent since 1964. Certainly, our military personnel deserved these pay raises. And if we are to achieve an all-volunteer military, higher pay is a necessary incentive.

By the same token, however, we must realize that now, although military manpower will be at a 20-year low under the 1973 budget, almost 67 per cent of all defense outlays go just for manpower and related costs. This leaves only about 33 per cent for weapons and airplanes and ships and research and all the other defense needs we have.

Meanwhile, the Soviet Union spends only 25 per cent on men and an estimated 75 per cent of its military budget on the sinews of war. The Soviets spend approximately the same amount of money for their military establishment as we do for ours. But 75 per cent of the Soviet outlays go to modernize equipment, buy more intercontinental ballistic missiles, more nuclear submarines, and more of the other weapons which comprise a threat to America.

This means the Soviets outspend us two and one-third times for military weaponry. We can see why they can soon surpass us in military strength.

In view of the fact that only 33 per cent of all our national defense outlays are available for procurement, for research and development of advanced weapons and equipment, and for operation and maintenance of

existing forces, we cannot tolerate costly mistakes and mismanagement by the military services as in the case of the F–111 and C–5A cargo aircraft!

We cannot tolerate interservice rivalry that increases defense costs but doesn't increase defense protection!

We cannot tolerate sloppy procurement practices which waste the taxpayers' money!

With such a small share of the budget to devote to research and hardware, we cannot tolerate the kind of enormous errors that plagued defense spending in past years!

Our dollars are too precious and our time is too short for that kind of nonsense. We need all the defense each dollar can buy!

My friends, defense spending is our annual premium for insurance against war. It is our premium for peace.

To those who say the premium—$76.5 billion in estimated expenditures in fiscal year 1973—is too high, let me just say that these defense outlays are an estimated 6.4 per cent of our Nation's total output of goods and services. Defense is taking the lowest share of our Gross National Product in 22 years!

Defense outlays are 31.8 per cent of total Federal outlays in the 1973 budget, again the lowest level in more than 20 years!

When you consider that since the Cuban missile crisis of 1962, we have withdrawn all of our overseas-based nuclear missiles; we have drastically reduced the size of our strategic-bomber force; starved our military research and development programs; and canceled a number of promising new weapons systems . . .

. . . And when you consider the Soviet Union has continued a decade-long massive military buildup and a Soviet technological breakthrough could make us second-best . . .

Then we begin to ask ourselves "what should our defense budget be to give us the protection we will need in the future?"

One of the greatest Generals and one of the greatest Presidents America ever produced was Dwight D. Eisenhower. Ike said, "The first of all firsts is our Nation's security," and he saw to it that America was so strong and so well prepared that during his two terms of office, we Americans enjoyed eight consecutive years of peace!

Because we were strong, we were able to weather several international crises without war!

Because our military strength had been built up under President Eisenhower, President Kennedy was able to demand that Russia remove its nuclear missiles from Cuba and refrain from building air bases and a missile submarine base there!

If we neglect our defenses now, what will happen in a future crisis? Will our President—whoever he may be—be subjected to diplomatic blackmail? Will his chances of successful negotiation be greater if America is weak—or if America is strong?

When it comes to our Nation's security and our Nation's future, we must be realists, not dreamers. We cannot rely on so-called detentes . . . or campaigns of smiles . . . or diplomatic thaws . . . or shifting alliances. As history teaches us all too often, these can be but passing phases, subject to change overnight.

No, my friends, we can always hope for the best, but we had better keep our powder dry!

There is no question that adequate defense programs will require money—money that we wish we could devote to wiping out poverty, to eradicating disease, to combating crime, to solving our environmental problems, to making our cities, our rural areas, our entire Nation a better place to live.

The President's budget contains funds for all these things, as well as for defense. In 1973, President Nixon plans to devote nearly 45 per cent of all Federal outlays to human resources, that is, to education and manpower programs, to health, to income security, and to veterans benefits and services—with 31.8 per cent going for defense.

Despite the pronounced shift in priorities under President Nixon, we can expect the anti-defense forces to conduct a constant drumfire against the defense budget in the next few months. These forces are well-organized and articulate. I hope that Members of Congress who are concerned about America's national security and who want to vote for the necessary funds to keep America strong will have the support of organizations like your National Society, Daughters of Founders and Patriots of America.

If America is to remain strong and free, those organizations such as yours—and those citizens such as you—must rally to the cause. If you believe that America must have enough defense—rather than too little defense—let your Representatives and your Senators know it.

If we try to minimize the threat to America . . . if we try to over-economize . . . if we disarm unilateraly, the only people we fool are ourselves! We won't fool the enemy!

Your forebears came to these shores to escape tyranny and to find freedom. On this hallowed ground was created a Union of States, a Republic, which has withstood the vicissitudes of war and pestilence and civil strife and technological revolution to endure in freedom for nearly 200 years!

The United States of America is today the oldest Republic in the world. We enjoy liberties and blessings that are the wonder of history. We have all this because each generation of Americans rose to the challenges of its time!

You and I who received—by the mere accident of birth as Americans—a heritage of freedom and liberty must now rise to the challenge of *our* time.

That challenge is to preserve the peace in a world that now can destroy itself.

So when we talk about national defense in this kind of world we are really talking about how to maintain peace, and when we talk about defense spending, we are talking about our insurance premium for peace.

Since World War II, America has been the bulwark of freedom and national independence in more than half the world. Today America's military strength is our shield and the shield for much of the earth against nuclear holocaust. Our greatest hope for future peace lies in America's continued strength in the years to come.

So, until that day when all nations are willing to live in peace and harmony, we must devote the necessary resources to give us sufficient defense to prevent war—or should war come, to ensure our survival.

More than two centuries ago, the people who founded America, weak and disorganized though they were, had the conviction and the courage to stand up against all the powerful nations of the world. Today, the people of our 50 States must match their conviction and their courage and stand up against the threats that face us.

This is our national imperative . . . if we and our children are to continue to live in freedom . . . if America is to remain the oldest Republic in the world . . . and if there is to be any hope that the world will be the kind of world future generations of Americans will want to live in.

Meantime, let us hope and pray the Vietnam war will soon come to an end and that the world's awesome weapons of war may never again be fired . . . that some day the resources now required for defense may safely be devoted to improving the lives of men, women, and children.

Meantime, we can—and we should—do our best to create respect and understanding and integrity among nations and peoples and to promote good will and brotherhood among all mankind. This is what you and I yearn for . . . this is what your children and mine long for . . . this is what peace is all about.

Thank you, good night, and Aloha.

BUCHWALD IS REALLY HORATIO MITTY

Mr. PROXMIRE. Mr. President, the real Art Buchwald has finally stood up. He is a combination of Horatio Alger and Walter Mitty. His secret was released this morning by the New York Times—and not by Russell Baker.

Mr. Buchwald told his own secret at a celebration of the 150th anniversary of the Jewish Child Care Association. Laurie Johnston wrote it for the Nation to read.

Orphaned when he was but a small boy, Art Buchwald had the fortitude to stand up to adversity. His method was humor.

To this day, Mr. President, he is doing the same for many Americans and others throughout the world. He is providing insight to a troubled Nation through humor.

Someone has said: "To have a real effect on my Nation, I would rather write its songs than its history." That could be paraphrased for Buchwald: "To change history, I would rather make someone laugh about the present than worry about the future."

Mr. Buchwald's story—a poignant one of which I was not aware—should be shared with many persons. His story helps to explain a man who has had a significant effect on our Nation.

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

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

(By Laurie Johnston)

BUCHWALD LIVES FANTASY OF A FORMER FOSTER CHILD

The Jewish Child Care Association of New York fulfilled a boyhood fantasy of one of its former foster children yesterday—after a heavy hint from the "boy," Art Buchwald, the columnist and author.

He spoke at a brunch celebrating the 150th anniversary of the association and its predecessor, the Hebrew Orphan Asylum, held at the Pierre Hotel, Fifth Avenue and 61st Street.

Mr. Buchwald had dreamed of "just such an affair," he said, "when as a foster child about 10 years old I was fighting for my life.

"I saw myself standing on a podium telling about the struggles of my childhood and how I overcame them. I particularly liked the part where I gave myself a standing ovation."

The audience of 400 obliged him as he closed, Mr. Buchwald, in a silver-buttoned navy blazer, beamed as other childcare "alumni," long-time foster parents, philanthropic and agency leaders and public officials rose to applaud.

SEVERAL UNITS CONSOLIDATED

The Jewish Child Care Association, formed in 1940, was a consolidation of several earlier institutions. Most of the agencies have closed. The Jewish Child Care Association pioneered cottage-plan care and, later, foster homes.

The Hebrew Orphan Asylum, founded in 1860, was at Amsterdam Avenue and 138th Street, when Mr. Buchwald entered in 1932 at the age of 6, following his mother's death.

"After six weeks," he said, "it was decided I would make a swell foster child."

Although he and his three sisters were first sent to the same family in Hollis, Queens, "the sense of being 'on loan' makes it hard to make an emotional commitment," he said.

"So at the age of 7 I said, 'The hell with it—I think I'll be a humorist.' I could turn everything into a joke, including my social worker.

"If you're a grownup who pokes fun at authority, society pays you vast sums of money. As a child, if you poke fun at authority, they beat your brains out."

Describing himself as "a man constantly fulfilling his childhood dreams of glory," Mr. Buchwald said he had fantasized himself "the son of a Rothschild, stolen by gypsies, sold to a couple who brought me from France to America."

Despite a series of foster homes, which separated him from his sisters, he never lost touch with them or with his father—all were reunited when he was 15. He said that he owed "a debt to the Hebrew Orphanage Asylum, who really cared what happened to the Jewish children of New York."

But some of his debt, he said, "goes to World War II." The Marine Corps, which he joined as a 16-year-old, "turned out to be a finishing school for what I didn't learn in the H.O.A.," and its Camp Wakitan at Bear Mountain.

After the war, he became a food and wine editor in Europe "to make up for my deprived childhood," Mr. Buchwald said.

"First you have to become a foster child and after that it all comes naturally."

PROPERTY TAX RELIEF

Mr. EAGLETON. Mr. President, one of the major concerns today throughout the Nation is the property tax. Political leaders at all levels of government are addressing themselves to the questions of whether the property tax is a suitable means of financing public education and other local services, how the administration of property tax laws can be made more fair and equitable, and how the burden of property taxes on the elderly and other low-income households can be relieved.

The 1972 Urban Law Annual, published by the Washington University School of Law in St. Louis, contains a valuable article by Dennis L. Wittman entitled "Property Tax Relief: A Viable Adjunct to Housing Policy?"

In this article, Mr. Wittman examines the need for property tax relief and the desirability of providing that relief through a system of income tax credits and cash rebates. He looks specifically at the experience under Wisconsin's "circuit-breaker" law which was the first of its kind and is recommended as a model by the Advisory Commission on Intergovernmental Relations.

Because of the considerable interest in Congress in the best means of providing property tax relief for the elderly, I ask unanimous consent that Mr. Wittman's article be printed in the RECORD.

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

PROPERTY TAX RELIEF: A VIABLE ADJUNCT TO HOUSING POLICY?

(By Dennis L. Wittman*)

The object of this paper is to explore the desirability and practicality of a real property tax rebate system to aid low-income families. Borrowing heavily from a Wisconsin statute [1] providing such tax relief to the elderly, the influential Advisory Commismission on Intergovernmental Relations (ACIR) has proposed "suggested legislation" [2] to reduce housing costs for low-income groups through a property tax rebate. This paper will attempt to evaluate the need for such a rebate scheme and whether the ACIR proposal meets that need. Some conclusions also will be drawn concerning the implications of implementing state legislation along the lines of the ACIR proposal.

INTRODUCTION

Amid the clamor that has arisen in the last decade for increasing and improving the nation's housing stock, property taxes have remained one housing-related cost that local and state officials have largely not considered when seeking to aid low-income families in obtaining better shelter. For a long time it has been recognized that the tax on real property places a heavy burden upon those groups living on a low or fixed income.[3] Yet there has been a reluctance to consider seriously methods that might ease that burden. There has been, of course, a wave of homestead exemption laws enacted since the 1930's.[4] These statutes are responses by state legislatures to the popular demand for relief for those families, usually elderly couples, who have considerable assets in real property but little or no income from which to pay taxes.[5] The homestead statutes, however, are uneven in their relief since they meet only the needs of property owners, ignoring the vast number of poor renters, and they usually must be available to all, regardless of income. They also erode the local tax base.[6] As a result they cannot be widely expanded. Real property taxes, therefore, continue to impose a heavy burden on poor renters and owner-occupants. Furthermore, there has been a growing recognition that, viewed as a consumption tax, the real property tax has a debilitating effect on attempts to improve the overall housing stock.[7]

It would seem then that certain adjustments in property taxes might be an advantageous method not only of lifting some of the tax burden falling on the poor, but also of contributing toward improvement of housing in general. The chief argument for such property tax manipulation is that the tax is one of the few housing costs over which state and local governmental units may have some leverage. Land values, interest rates, labor costs, and other items all may be beyond the effective control of government, but real property taxes can be changed by legislation and thus are directly affected by public policy.[8] The reason that there has been reluctance to touch the property tax is that the tax is a bulwark in the revenue structure of most local governments.[9] Municipalities and counties must have it to remain financially free of the state and the federal governments.[10]

Despite its harmful impact on the poor—and this is only one of many complaints against the tax [11]—the real property tax still is a necessary source of revenue for local governments. How the ACIR proposal mentioned earlier might solve this problem will be considered below, but first it is necessary to evaluate the need for property tax relief by refining the nature of the harmful impact which the real property tax has upon housing consumption.

THE DESIRABILITY OF PROPERTY TAX RELIEF

Although the term "property tax" in one sense refers to a broad category of excises on all kinds of property—real, personal, tangible, and intangible—in the United States today the term seems to connote the tax on residential and commercial real property, and appurtenances thereto, levied on the basis of assessed valuation by local governmental units, especially municipalities or counties. It is with this latter connotation of the tax as a levy on real property that this paper is concerned.

The taxation of real property is still one of the greatest sources of revenue for local governmental units. During the first third of this century many economists predicted that general property taxation would permanently decline as a source of revenue because of problems of administration arising in the shift in wealth from land holding to ownership in intangibles and personality.[13] The growth of sales and personal income taxes as well as pressure from real property taxpayers to ease their burden during the Great Depression reduced the reliance that state and local governments placed on the property tax.[13] Since World War II, however, "the property tax has ceased its relative decline." [14]

By 1962 the property tax composed more than 11 per cent of total federal-state-local revenues and almost 3½ per cent of the gross national product.[15] Today, the property tax can be fairly described as "primarily a levy on real estate because . . . locally assessed real property made up 76.3% of total assessed valuation subject to taxation in 1961. And it is chiefly a local tax: locally assessed property of all types represented 92.2% of all assessed valuation in 1961." [16]

Perhaps more to the point, *the property tax today is to a large extent a tax on housing.* Dick Netzer, professor of public finance at the New York University Graduate School of Public Administration and a recognized authority on the property tax, has estimated that roughly one-half of all property tax revenue raised in 1962 in the 1960 U.S. Census's Standard Metropolitan Statistical Areas (SMSA) "was derived from taxes on housing . . . ." [17]

Since housing composes such a large segment of the overall property tax base, it is obvious that the tax has serious consequences which must be evaluated in examining problems of housing policy. But gauging exactly what those consequences are has been very difficult for economists and taxation authorities. For instance, the traditional complaint has been that the property tax is highly regressive in its distribution—that its application imposes a proportionately heavier tax burden on those in lower-income brackets.[18] Yet the late Harold M. Groves, a University of Wisconsin economist and authority on the property tax, said that "regressivity is hardly the most impressive charge that can be laid against the property tax." [19] Examining the tax from a long-range point of view, Groves said:

"At any one time there are many people over-housed and under-housed, so to speak, because they have not yet adjusted their housing expense to their incomes, up or down. The new evidence poses the possibility that for income classes of lifetime income, differences in burden over most of the income scale may pretty well average out." [20]

And Professor Netzer has observed that, "considered in the aggregate . . . the tax has positive advantages on distributional and efficiency grounds." [21] Netzer has explained that the tax contains "a large measure of 'vertical equity' [in that] . . . it redistributes income from the rich to the poor." [22] The "vertical equity" occurs "because the tax itself is more or less proportional in its incidence among income groups, but the expenditures it finances are heavily 'pro-poor' in their incidence. The property tax in the aggregate also tends to increase the application of resources to high return human investment and may deter somewhat lower return investment in physical capital." [23]

Groves and Netzer were, of course, talking in long-range, theoretical terms that, to the satisfatcion of an economist's model, do minimize the regressivity of the tax. But both Groves and Netzer have recognized the short-run regressivity that is particularly burdensome to the poor as well as detrimental to the immediate improvement of housing for low-income groups, especially renters.[24] Netzer has explained the burden and detriment by analogizing the property tax on housing to general sales and selective excise taxes like those on tobacco and alcohol, all of which are known as "consumption

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taxes."[25] "[V]iewed as an excise tax and leaving aside all benefit considerations, [the property tax on housing] is higher in rate than any other generally used American consumption tax, except taxes on liquor, tobacco, and gasoline," Netzer has remarked.[26] Like other consumption taxes, "the great bulk of the burden of the housing property tax appears to rest upon housing consumers, whether they are owner-occupants or tenants." [27] Netzer estimates that nationally "probably well over 90 per cent of all property taxes on housing are borne by housing occupants." [28] By 1960, 3.6 million households nationally were subject to property tax rates equivalent to 20 per cent of housing expenses, and 1.2 million "were subject to rates in excess of 33.3 per cent." [29]

Netzer has calculated that, excluding liquor, tobacco, and gasoline, "all the indirect taxes which fall upon consumers—including shifted business taxes as well as ordinary sales and excise taxes—probably amount to less than 10 per cent of non-housing consumer expenditures—less than half the level of housing taxation." [30] The 1968 Kaiser Report [31] stated that property taxes account for a "large proportion of a family's monthly housing costs . . . [representing] 26% of monthly shelter costs in moderately priced single family housing, and 14% in elevator apartment units." [32] The Kaiser Report observed that "[l]ocal real estate taxes are widely considered to have the effect of disturbing the operation of housing markets by discouraging consumption of housing." [33] Netzer underscored the problem more forcefully this way:

"It is simply inconceivable that, if we were starting to develop a tax system from scratch, we would single out housing for extraordinarily high levels of consumption taxation. More likely, we would exempt housing entirely from taxation, just as many States exempt food from the sales tax." [34]

This heavy taxation discourages "consumption of and investment in housing in general by the entire population." [35] But the discouragement is most likely to fall hardest on the central city as opposed to the suburbs, because, unlike the central city, "the property tax in many suburbs is analogous to a general charge for the use of public services." [36] Because central cities provide a wide variety of services and tax a wider variety of property, "individuals cannot reasonably assume that the prices of housing confronting them include an identifiable tax component which is in effect a charge for a prefererd package of public services." [37]

This translates into discouraging those families financially able to choose their home location from selecting a central city site, thereby hastening the middle-class flight to the suburbs and more effectively isolating the poor.[38] It also dampens the interest that many property owners might otherwise have in improving, modernizing, or rehabilitating their central city property, since, in many cities, such activities will lead to some increase in assessments.[39] For the poor, there is little that can be foregone in order to spend more on rent, so that whatever rehabilitated housing there might be is effectively beyond their reach.[40] Those few low-income families that own a home in the inner city often are forced to let their property become dilapidated.[41]

From the foregoing, it is reasonable to conclude that, viewed as a consumer tax, the property tax adds a harmful cost to the price the poor must pay for housing. Not only does the property tax add to cost so as to make certain kinds of housing inaccessible to low-income groups, it also frequently leaves what housing is available in a deplorable state of repair. Furthermore, the poor may have to pay a greater percentage of their annual income for this deteriorated housing than higher-income groups pay for considerably better shelter; and, of the overall exorbitant price for housing which the poor pay, a considerable percentage is directly or indirectly attributable to property taxes. Obviously, this makes the property tax in the short run highly regressive for all low-income groups. This is so even though, as Netzer has noted, the property tax is as good an income distributor as some other forms of state taxation—*e.g.*, general sales, selective sales, and business taxes.[42] And even though it is in the aggregate fairly proportional to income throughout the country, the property tax absorbs a high percentage of the income of the poor.[43]

Statistically, these statements can be heavily documented, but some selective figures should suffice to make the desired point. For instance, in the Newark, New Jersey, area in 1960, property taxes on residential property amounted to from 1.8 to 5 per cent of total resident income.[44]

In the inner city of Newark, the rate was 5 per cent, while in the wealthiest suburb, with a median family income of $21,500, the figure was 3.5 per cent.[45] In one suburb with a 5 per cent rate, the family income median was twice that of Newark proper.[46] Furthermore, if income is suddenly reduced for any reason such as retirement, unemployment, sickness, or disability, the property tax may quickly become a great burden. For instance, in Wisconsin in the early 1960's it was discovered that 841 households headed by elderly retired persons paid an average of 55 per cent of their total money income in local property taxes.[47] Five thousand paid more than 20 per cent of their money income in property taxes.[48]

The two reasons usually offered to justify this incidence of regressivity are (1) that the regressiveness of the property tax is offset by a progressive income tax policy at the federal level; and (2) that the poor are often the primary beneficiaries of the public expenditures which the property tax finances.[49] But Netzer has said that this reasoning is "surely nonsense" [50] since it puts the central cities "in the position of taxing the poor to provide services for the poor." [51]

One report has stated forcefully: "An affluent society is under obligation to so arrange its public finances that it is able to finance public services without forcing low income households through the property tax wringer." [52] And it has been observed that the "offset" justification is sound only if "there is both a high degree of congruity between Federal, State, and local tax policies between tax burden and expenditure outlay patterns. A close look at the real world clearly reveals that congruence is more apparent than real. The elderly lady living on a $1,500 pension and paying a $300 tax on her residence, most of which goes for public education, can hardly take comfort in this form of tax-benefit logic—or in the fact that the rich are required to turn over a substantial percentage of their income to the Federal income tax collector." [53]

Along these lines, noting that welfare and health services absorb about ten per cent of total property tax revenues (probably more in the central cities), Netzer argues that:

"A good case can be made for relieving the property tax of the job of financing *all* public services linked to the existence of poverty. Since this burden if [sic] concentrated in central cities, it would alleviate the central city-suburban disparities and the property tax problems these create; it would also alleviate the regressivity problem in the sense of taxing the poor for services to the poor." [54]

The apparent degree of regressivity and the comparatively high consumer tax that the property tax represents, as well as the ludicrousness of taxing the poor to provide them with public welfare services, all would seem to be solid evidence that the property tax is unduly burdensome to low-income groups. Therefore, to restore some degree of equity to real property taxes, which historically were assumed to be equitable,[55] relief of the extraordinary burden of property taxes would seem justifiable. This is not to suggest, as Netzer has, that the poor should not have to help carry any portion of the property tax load, but only that they should not have to absorb an "inordinate" portion.[56]

But even if ideally justifiable, there remains the question of the appropriate form that property tax relief should take.[57] Certainly any relief of the extraodinary tax burden of the poor that merely shifts the burden to other income groups, thereby making their tax bills more oppressive, is not a sound social and economic goal. Additionally, it does not make much sense to adopt relief that greatly complicates the administration of the tax. But if the tax burden on low-income groups is so severe as to cause undue hardships—*e.g.*, trapping families in rundown dwellings or forcing the elderly to choose between lifelong homes and near-starvation—then some adjustment of the property tax system certainly should be considered.

PRACTICALITY OF PROPERTY TAX RELIEF THROUGH REBATES

Now that the desirability of real property tax relief for low-income groups has been made somewhat apparent, the ACIR proposed legislation—essentially a model act—can be evaluated. The best approach is to explore the history, operation, and impact of the Wisconsin statute, mentioned earlier, which provides property tax rebates to the elderly.[58] The Wisconsin statute is a widely acclaimed [59] pioneering device, the beneficial impact of which has been sufficiently documented [60] so that it is obvious why the ACIR fashioned its relief proposal using the Wisconsin law as a model. The Wisconsin statute solves several problems that other kinds of property tax relief, especially homestead exemptions, have overlooked. It focuses on the segment of the elderly most in need of relief, because its computation formula effectively operates only for those households with income [61] less than $3,500.[62] It covers not only owner-occupants but also renters by permitting the latter to write off 25 per cent of the gross annual rent as "rent constituting property tax accrued." [63]

And it is designed not to erode the local tax base, because rebates are taken as credits against state income tax liability.[64] Where a claimant's rebate exceeds state income tax liability, a cash payment for the excess amount is paid from the state treasury.[65] Since the Wisconsin statute has been so successful [66] in easing the tax burden for a limited group, the elderly, without overlooking associated problems, it is natural to borrow from it, as the ACIR has, when proposing expanded property tax relief for all low-income groups, regardless of age,[67] and to go even beyond the ACIR proposal in granting rebates to qualifying public housing tenants.

How does the Wisconsin statute operate? To be eligible for property tax relief, the claimant must be more than 65 years old.[68] If he does not live alone, there can only be one claimant from his household.[69] But rather than typing the relief to the income of the individual claimant, all the income of those persons composing the household is included in "household income," [70] which is the amount used to calculate the rebate. Essentially, then, the claimant is a household, whether composed of one individual, an elderly married couple, or two or more elderly persons sharing household expenses by living in the same dwelling. To assure that the rebate does not become a windfall, the statute requires that all public assistance and other cash relief payments as well as other household money sources such as veterans disabil-

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ity or social security benefits be added to the individual's adjusted gross income.[71]

Thus, the household income is defined to include, for the purposes of rebate computation under the statute, all the available money a household is likely to receive in a given year. Since the figure that represents household income in making the rebate computation is likely to be an accurate gauge of what the percentage of income the household will be able to pay in property taxes, the benefits of the rebate scheme decline as household income increases. (The greater the household income, the more likely the ability to pay property taxes or a portion of them). It has been repeatedly stated by Wisconsin tax experts that the statute is aimed only at relieving "inordinately high property tax burdens in relation to . . . household incomes.[72] Inordinately high property tax burdens are considered "extraordinary," [73] thereby entitling the bearer of the burden to relief.

To determine what portion of a household's property tax is inordinate the statute uses "a system of income constraints. Property taxes become inordinate if they exceed a certain percentage of household income: These percentages are increased as household income increases. After determining the amount of the tax which is excessive, a percentage of this excessive part is relieved." [74]

The portion of the statute that sets forth the "income constraints" and outlines the percentage over which "property taxes become inordinate" states:

"1. If the household income of the claimant's household was $1,000 or less in the year to which the claim relates, the claim shall be limited to 75% of the amount by which the property tax accrued, or the rent constituting property taxes accrued, or both in such year on the claimant's homestead is in excess of 3% of household income exceeding $500 but not exceeding $1,000.

"2. If the household income of the claimant's household was more than $1,000 . . . , the claim shall be limited to 60% of the amount of which the property taxes accrued, or rent constituting property taxes accrued, or both, . . . is in excess of 3% of household income exceeding $500 but not exceeding $1,000, 6% of household income exceeding $1,000 but not exceeding $1,500, 9% of household income exceeding $1,500 but not exceeding $2,000, 12% of household income exceeding $2,000 but not exceeding $2,500 and 15% of all household income over $2,500." [75]

The effect of this section is to divide eligible claimants into two groups—households with income of $1,000 or less and those with more than $1,000 income.[76] The former group is entitled to have 75 percent of the portion of the property tax deemed inordinate relieved, the latter group, 60 percent.[77] The relationship of household income to income constraints is best revealed by the following tables: [78]

Household income and income constraint

First $500 of income=0.
Second $500=.03 (Y=$500).
Third $500=.06 (Y=$1,000).
Fourth $500=.09 (Y=$1,500).
Fifth $500=.12 (Y=$2,000).
Beyond $2,500=.15 (Y=$2,500).
(Y=household income.)

The statute limits to $330 the amount of property tax that can be used in computing relief.[79] Thus, if a household paid $500 in real property taxes, only $330 could be used for computation.[80] To illustrate the computation clause, assume a hypothetical owner-occupied household with $1,700 in income and annual property taxes of $150. The amount of relief would be:

[$150 — [.00($500) + .03($500) + .06($500) + .09($200)]] .60 *or*
[$150 — [$0 + $15 + $30 + $18]] .60 = $87 × 60 per cent or $52.20.

The amount of tax deemed inordinate is $87 and 60 per cent or $52.20 of this can be relieved. To illustrate the computation where there is less than $1,000 of income, assume a household with $850 of income and $150 of taxes:

[$150 — [.00($500) + .03($350)]] .75 *or*
[$150 — [$0 + $10.50]] .75 = $139.50 × 75 per cent or $103.62

The amount of tax deemed inordinate is $3139.50 and 75 per cent or $103.62 of this can be relieved.[81]

Since, for those households with income over $1,000, the percentage of constrained income increases for each additional $500 of income, the result is to create a larger dollar amount to be subtracted from the total property tax due and thus a smaller amount against which 60 per cent is multiplied to determine inordinate tax burden. This is another safeguard against taxpayer windfalls.

Perhaps the most unique feature of the Wisconsin statute is that it reaches elderly renters of property. In the first hypothetical situation above, assume that the household consisted of an elderly couple with an annual gross rent of $1,200 ($100 per month). The couple could consider 25 per cent or $300 of rent as "constituting property taxes accrued." [82] In other words, since it is assumed that landlords pass property taxes on to tenants in the form of higher rents, Wisconsin has permitted elderly tenants to consider 25 per cent of their annual rent as the equivalent of property taxes paid for the landlord. For the hypothetical, if the household were renter-occupied rather than owner-occupied and income was $1,700 with $300 as the equivalent in property taxes paid, the relief would be:

[$300 — [.00($500) + .03($500) + .06($500) +.09($200)]] .60 *or*
[$300 — [$0 + $15 + $30 +$18]] .60 = $237 × 60 per cent or $142.20

The amount of tax deemed inordinate is $237 and 60 per cent or $142.20 can be relieved.

One study of the Wisconsin statute's effect after one year of operation revealed that the original provisions were so rigorous that they would have to be liberalized in order to achieve the purpose of the legislature.[83] The study showed that it was difficult to qualify as a claimant, that the computations discouraged many from filing a claim, and that the computation procedure was so structured that rebates were in negligible amounts.[84]

Another problem with the statute, although not a problem determined in the study, is that the statute does not include public housing tenants among potential claimants under the rebate system, even though federally funded housing projects make a "payment of annual sums to local authorities in lieu of taxes." [85] This payment comes from rental receipts derived from the project and approximates "taxes which would be paid to the State and/or subdivision . . . upon such property if it were not exempt from taxation."[86]

Since this payment, which amounts to ten per cent of the annual shelter costs charged in the project,[87] is derived from or based upon rental receipts, it is likely that the payment is shifted to some extent to the public housing tenants. It would seem reasonable, therefore, that the portion of the individual tenant's rent that constitutes his proportion of the shifted payment should be eligible for relief under the rebate scheme. The test would seem to be whether the percentage of the individual's rent for a public housing unt that goes to pay for the shifted payment in lieu of taxes amounts to an inordinate burden. If the whole payment is shifted, then it would seem reasonable to allow for rebate treatment of that ten per cent passed onto the tenants, just as renters in the private market are allowed to treat 25 per cent of their annual gross rent as a basis for tax rebate. However, both the Wisconsin statute [88] and the proposed ACIR model act [89] exempt from coverage those eligible persons already receiving benefits under public housing and other specified programs.

Even though Wisconsin continued to exclude public housing tenants from those eligible for tax rebates, the statute was liberalized to some extent in 1966, and by 1968 approximately 70,000 low-income elderly households were receiving a total of $6.5 million in property tax relief.[90] Besides accomplishing its original objectives, studies have shown that the Wisconsin statute has had the beneficial effect of reducing the overall regressivity of the property tax [91] and itself has been equitable in impact, since the taxes of those qualifying for relief have been reduced by a larger percentage for those in lower income groups than for those in higher groups.[92] In dollar terms, the $1,000 to $1,499 claimant class, for example, had an average household income of $1,259 and paid an average of $199 or 16 per cent of income in property taxes before relief.[93] After relief, they paid an average of $98 in taxes for a percentage of relief of 51 per cent.[94] The after-relief tax burden still amounted to 8 per cent, but the overall conclusion is that the statute "has transformed the regressive property tax into a proportional tax." [95]

A study led by the late Professor Groves, one of the architects of the Wisconsin statute,[96] described the rebate as "negative taxation." [97] Since the income of the household rather than the individual is the ultimate determinant of the rebate and since nearly all household receipts are aggregated, Groves described the Wisconsin scheme—with respect to its income aspects—as "welfare rather than tax legislation." [98]

In the only court test of the validity of the Wisconsin statute, the state supreme court in *State ex rel. Harvey v. Morgan* [99] adopted the Groves characterization of the statute. In upholding the constitutionality of the statute in 1966, the court in *Harvey* held that the statute was a "relief law in its purpose and in its operation and as such is not subject to the rule of uniform taxation." [100] Whether other state courts would adopt precisely that point of view is open to doubt, but there is, nevertheless, useful language in *Harvey* for suggesting that expansion of property tax relief to all low-income families along the lines of the ACIR proposal would have a good chance of being upheld, at least in Wisconsin.

For a statute pertaining to taxation to be held constitutional under most state constitutions, it must meet certain requirements of uniformity and equality.[101] These requirements vary from state to state, depending on the exact wording of the particular constitution and the manner in which it has been interpreted, but the general object is to assure that similar kinds of property or subjects of taxation are treated alike in terms of taxability or nontaxability and in terms of the amount of liability incurred, if taxable.[102]

Harvey was a suit by a Wisconsin citizen and taxpayer, challenging the validity of the Wisconsin statute on the following grounds: (1) it denied equal protection of laws as required by the fourteenth amendment; (2) it did not comply with the state constitutional rule of uniformity of taxation.[103] The equal protection argument focused on the age criterion, which was portrayed as an arbitrary classification "not germane to the ostensible purpose of the law."[104] The plaintiff contended that the statute discriminated between persons similarly situated and was not uniform because it granted a partial exemption of property taxes to some persons and not to others.[105]

In rejecting *Harvey's* arguments and upholding the validity of the statute, the Wisconsin Supreme Court concluded:

"Basically and in fact this is a relief measures, enacted under the police power of the

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state. The act takes shelter, a major cost-of-living item, as a factor upon which relief is predicated. Important components of shelter cost are alternatively rent or property taxes. Additionally, assistance is available only to those elderly persons on the very verge of poverty . . .

"This is in no way property tax law, for if the claimant does not in fact pay taxes, but instead pays rent, he is still entitled to relief. His landlord, however, pays taxes on the property occupied without abatement, since the relief is keyed to the individual and not to the property. If he does owe property taxes, he is obliged to pay them in full, and his property tax liability and the amount collected by the municipality is in no way reduced by this legislation. In the event tax relief is granted to the claimant, the payment is made either as a credit against income taxes or from an appropriation of the state's general fund, whose connection with any property tax is remote. Property tax receipts and disbursements are unaffected. The relief granted is to the aged needy and is not property tax relief.

"The administration of this law is in no way related to the collection of property taxes; rather, the granting of relief is tied in with the mechanics of the income tax administration. A tax return must be filed to prove eligibility, but the claimant need not be an income taxpayer to receive relief from the general fund. The fact he may receive a rebate of his income taxes is merely a convenient method of the state meeting its relief obligation under the act.[106]

If the property tax relief provided by the Wisconsin statute to the elderly can be justified as a general relief enactment for a disadvantaged segment of the population, expansion of property tax relief to all low-income groups, regardless of age, would seem equally justifiable on the same grounds. Certainly, to a considerable extent, the elderly may be better able to live on a fixed low income than a young family.[107] Young families' expenditures for food, clothing, recreation, and education may be considerably more than those of the elderly.[108]

Additionally, there is a need to save money for retirement and future education of children on the part of young families.[109] Therefore, expansion of this kind of property tax relief would seem to be justifiable along the same constitutional arguments as were developed in *Harvey*.

CONCLUSION

In summary, the approach to property tax relief suggested by the Wisconsin statute has several important advantages that make it deserving of careful consideration. The advantages that have been cited are:

"(1) gives relief only to those in need whether homeowners or renters; (2) does not involve the local assessment policy in any way; (3) does not require any local government to increase its locally determined level of property taxation to compensate for the revenue that would be lost under an exemption agreement; (4) provides state appropriations for the relief which are subject to review and rejustification periodically just as other state expenditures are; (5) recognizes that state and local taxes are all part of one tax system; and (6) does not violate the tax uniformity provisions usually found in state constitutions.[110]

In the abstract, a careful consideration of these advantages suggests that this kind of property rebate statute is an attractive way of relieving the extraordinary portion of the low-income taxpayer's burden. Certainly extending relief to renters and structuring the rebate so that it provides the most money to the poorest families is laudible. Additionally, by allowing the rebate to serve as a credit against the state income tax, the state can provide for central administration and considerable control over the program. Since the rebate is a form of indirect housing subsidy, this central administration provides opportunities to evaluate the system at each step—an advantage not usually expected in an indirect subsidy program.[111] Also operation of the rebate scheme does nothing to damage the local property tax base, since the rebate comes from a central fund, the state treasury.

But the questions remain. Does the rebate return enough money to claimants to make it a really effective housing subsidy? Won't landlords simply raise rents again when they know that the tenants are getting a rebate geared to rent paid for property taxes? What about the relationship of the rebate to other housing subsidies, including public housing programs? Unfortunately, the literature leaves a lot of these questions unanswered, but some tentative conclusions may be drawn.

Certainly, if the Wisconsin experience is any indicator, unless the computations are greatly liberalized in terms of what is includable in income and what percentages are used, the rebate is not likely to be more than a token subsidy.[112] Unless this liberalization occurs as it did in Wisconsin, the average rebate for those in the lower-income brackets probably will remain well below $100.[113] But if the subsidy could be raised on an average to about $150–$200, it would help. A $200 rebate would enable a low-income family to purchase an average of $17 more per month in terms of housing. This could mean the difference in, for example, renting a four-room apartment rather than a three-room dwelling.[114]

For an elderly couple, it could mean a savings on housing costs averaging $17 a month. Such an amount of money is not likely to be of much help to a totally destitute family, but for a family with a stable breadwinner who makes a steady albeit low income, a $200 rebate could be a real stimulus. Of course, that amount may not be the deciding factor as to whether a family makes the "major shift" that Netzer sees as occurring when a family goes from rental to owner-occupied housing.[115]

As for landlords' further shifting taxes onto renters once a rebate system is in operation, the outlook is mixed, but there is reason to believe that this would not happen. The literature on forward shifting of taxes from property owners to tenants is complicated, and as one observer notes, the conventional theory that such a shift occurs has been accepted without a great deal of empirical research on its validity.[116] A study of 31 communities in the Boston area suggests that the conventional theory does not always operate, although a recent re-examination questions some of the premises of the Boston study.[117]

More dangerous than tax shifting is the inflationary effect on the housing market that the rebate could have if not accompanied by an increase in housing units available. Without the availability of additional housing units in the central city, the poor who receive rebates simply would have more money to spend on the same housing. Such a situation would be a windfall for landlords who could raise rents and, if tenants vacated, be assured that there would be a better tenant market than there would have been without the rebate.

Another economic effect that the rebate might have is in the area of capitalization of taxes into the value of land. According to economists, the tax capitalization theory holds that taxes imposed on income-producing properties are offset by a compensatory reduction in the price for which these properties are exchanged.[118] Therefore, if taxes for homeowners are eased by means of the rebate, the drop in taxes would seem to call for a rise in property prices. But, as in the case of forward shifting of taxes to tenants, empirical evidence on this theory is scarce, and the proof lies more in theoretical reasoning.[119] But even if the theory is valid, the final determination of the impact of tax capitalization would depend on the demand and supply of housing at the time a rebate statute is implemented.

Finally, the rebate scheme under consideration raises serious questions concerning its relationship with public housing. To allow public housing tenants to become eligible for the rebate no doubt amounts to a double subsidy for them, since they are already receiving the benefit of living in subsidized housing. And, as discussed earlier, such a double subsidy would seem to be contrary to the intent of the Wisconsin statute as it now stands[120] as well as the proposed ACIR model act.[121] Yet, if the rebate is not going to be available to those already receiving some other form of direct housing subsidy, it is likely to miss a large number of otherwise needy persons upon whom the real property tax burden or its equivalent[122] may be equally great. The result of avoiding double subsidies may be to so limit the number of beneficiaries that the added costs of administration, no matter how efficiently centralized, may not be justified. Of course, as in any other form of public assistance, the difficulty with the rebate scheme is where to draw the line, but if the line is drawn too tightly, the overall object of the program may be vitiated.

Obviously, then, all of the problems implicit in a property tax rebate scheme have not been worked out. Perhaps more study of the Wisconsin experience, especially with respect to tax shifting, capitalization, and double subsidies, will reveal ways to solve the problems raised here. As it now stands the rebate idea seems to be a good one if the actual amount of money credited or returned to the taxpayer is sufficiently large to be an effective indirect subsidy and if the number of potential recipients is not arbitrarily or unthinkingly limited.

FOOTNOTES

*B.A., Northwestern University, 1965; J.D., Washington University, 1971.

[1] *See* WIS. STAT. ANN. § 71.09(7) (1969), *as amended*, (Supp. 1971). Minnesota has a similar rebate scheme. *See* MINN. STAT. ANN. §§ 290.0601–0617 (Supp. 1971). Vermont has a statute with a similar purpose, but because of a wholly different scheme of computation, is not considered here. *See* VT. STAT. ANN. tit. 32, §§ 5961–75 (1969). Since the Minnesota scheme is so similar to Wisconsin's, it will not be considered in detail in this paper.

[2] ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, 1970 CUMULATIVE ACIR STATE LEGISLATIVE PROGRAM § 15–62–48 (1969) [hereinafter cited as ACIR STATE LEGISLATIVE PROGRAM].

[3] For a concise history of the property tax and its weaknesses as a source of revenue in the United States see G. BENSON, H. MCCLELLAND, & P. THOMSON, THE AMERICAN PROPERTY TAX: ITS HISTORY, ADMINISTRATION, AND ECONOMIC IMPACT 11–82 (1965) [hereinafter cited as THE AMERICAN PROPERTY TAX]. Useful bibliographies covering various aspects of the property tax may be found in TAX INSTITUTE OF AMERICA, THE PROPERTY TAX: PROBLEMS AND POTENTIALS 461–85 (1967), and in Council of Planning Librarians, Exchange Bibliography No. 172 (Vance ed. 1971—available from P.O. Box 229, Monticello, Ill., 61856).

[4] *See* Yung-Ping, *Present Status and Fiscal Significance of Property Tax Exemptions for the Aged*, 18 NAT. TAX J. 162 (1965).

[5] *Id.* In other words, there are some low-income families who are "property rich but income poor." Quindry & Cook, *Humanization of the Property Tax for Low Income Households*, 22 NAT. TAX J. 357, 359 (1969).

[6] *See* ACIR STATE LEGISLATIVE PROGRAM § 15–62–48.

[7] *See, e.g.*, D. NETZER, IMPACT OF THE PROP-

ERTY TAX: ITS ECONOMIC IMPLICATIONS FOR URBAN PROBLEMS, JOINT COMM. PRINT, 90TH Cong., 2d Sess. 18–45 (National Comm'n on Urban Problems Report to Joint Economic Comm., 1968 [hereinafter cited as NETZER—DOUGLAS COMM'N RPT.].

[8] W. MORTON, HOUSING TAXATION 37 (1955).

[9] *Id.* at 4.

[10] *Id.*

[11] For the problems of modern property tax administration see A. LYNN, JR., THE PROPERTY TAX AND ITS ADMINISTRATION (1969). Detailed criticisms also may be found in TAX INSTITUTE OF AMERICA, THE PROPERTY TAX: PROBLEMS AND POTENTIALS (1967) and in THE AMERICAN PROPERTY TAX.

[12] THE AMERICAN PROPERTY TAX at 58–59, 72. The shift caused much tax fraud and subsequent loss of revenue, which eventually forced some states to forego altogether taxes on intangibles so that there is no such tax in 11 of the 23 states with the largest Standard Metropolitan Statistical Areas in the 1960 Census. Of the 47 states with SMSA's in the 1960 Census, 20 had no property tax on intangibles. NETZER—DOUGLAS COMM'N RPT. at 5.

[13] THE AMERICAN PROPERTY TAX at 72. *See also* Groves, *Property Tax—Effects and Limitations*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 17–18 (1967), wherein it is stated:

"The tax did not perform well during the Great Depression when it was embarrassed by tax delinquencies, rate limitations, and tax revolts of one sort or another. This was the time when taxpayers took legislators by the scruff of the neck figuratively and literally and told them to find something to tax besides real estate. This was the period of wholesale enactment of state sales and/or income taxes; many municipalities, particularly cities, similarly broadened the local tax base. Meanwhile the federal government had adopted its income tax and developed it into the backbone of a vastly expanded revenue system. Along with it went a satellite levy on payrolls to finance social security. The property tax which had supplied 55.5 per cent of overall tax revenues as late as 1932 sank to 13.2 per cent in 1955."

[14] THE AMERICAN PROPERTY TAX at 72.

[15] *Id.* "[S]ince World War II the tax . . . appears easily able to . . . [keep] pace with the growth of the gross national product . . . ." *Id.* at 113. The revival of the property tax as a source of revenue has been explained this way:

"Perhaps the outstanding feature of the recent behavior of the property tax is the way in which in the past decade its revenues have kept pace with increases in state-local expenditure and thus its decline in relative importance has been arrested. Although the evidence is inconclusive, it does appear that part of the reason for this behavior is that the economic base of the property tax—the market value of taxable types of property—has been extremely responsive to growth in national output in the postwar period, an apparent interruption to the long decline in capital-output ratios. In any event, property tax *revenues* have exhibited a responsiveness or "GNP elasticity" far higher than earlier expectation."

D. NETZER, ECONOMICS OF THE PROPERTY TAX 8–9 (1966) (footnotes omitted) [hereinafter cited as ECONOMICS OF THE PROPERTY TAX].

[16] THE AMERICAN PROPERTY TAX at 72–73.

[17] NETZER—DOUGLAS COMM'N RPT. at 12–14 (note especially tables 6, 7, & 8). *See also* ECONOMICS OF THE PROPERTY TAX, where it is noted:

"Property classes which are especially urban in character—notably housing and commercial realty, such as stores and office buildings—appear to produce more revenue than their shares of assessed values would suggest. This is to be expected since property tax rates are higher in urban areas than in rural areas; the farm realty share of tax revenue is appreciably lower than its share of assessed values."

Id. at 19. The estimate of a 50 per cent share of total property tax revenue generated by housing was figured this way:

"Since 1957, housing has increased substantially as a proportion of assessed values for general property taxation, while acreage and farm property have declined; so have state assessed property and locally assessed personalty. Meanwhile, both nominal and effective property tax rates have risen; quite evidently this rise has been largest in urban areas and therefore on urban-type properties. In all probability, therefore, very close to 50 per cent of total property tax revenues is now collected from nonfarm households, about 40 per cent from nonfarm businesses, and less than 8 per cent from agriculture."

Id. at 21–22 (footnotes omitted).

[18] According to Professor Netzer, the traditional complaint followed this form: [T]he property tax worked out in practice to be quite regressive in incidence; that is, the tax as a percentage of the incomes of those who bear the ultimate burden declines as income rises. Other critics supported the regressivity argument with empirical evidence, and found that the incidence of the tax was not only regressive but also poorly related to the benefits received from public expenditure financed by the property tax. Yet another shortcoming was considered to be the tax's discouragement of investment in that social necessity, housing.

ECONOMICS OF THE PROPERTY TAX at 5 (footnotes omitted). Detailed discussion of some of the more technical reasons for property tax regressivity may be found in *id.* at 56–57.

[19] GROVES, *Property Tax—Effects and Limitations*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 17, 20 (1967).

[20] *Id.* The "newer evidence" to which Professor Groves refers may be found in ECONOMICS OF THE PROPERTY TAX at 55–56.

[21] ECONOMICS OF THE PROPERTY TAX at 164.

[22] *Id.*

[23] *Id.* at 164–65. A more detailed discussion placed in the context of incidence by income class, may be found in ECONOMICS OF THE PROPERTY TAX at 42. The shift to "high return human investment" is also given detailed consideration. *Id.* at 67–69.

[24] For instance, Groves noted:

"According to the 1960 census of housing there were 1,669,000 families living in substandard or deteriorating housing, although they devoted 35 per cent or more of their income to rent."

GROVES, *Property Tax—Effects and Limitations*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 17, 21 (1967). Netzer made this comment on regressivity and renters:

"Rather good evidence on incidence by income class of property taxes on owner-occupied houses strongly indicates that this component of the tax is even more regressive than the nonresidential component. Somewhat less direct evidence indicates that the tax on rented housing is still more regressive. However, because renters tend to be poorer and decidedly smaller consumers of housing (and hence pay less property tax, via rents) when the two series are combined, the picture is less clear.

ECONOMICS OF THE PROPERTY TAX at 40 (footnotes omitted). Since the publication of the above two comments, the following statistical data was reported:

"The Law of Diminishing Returns has been overtaking private rental housing for years, even in the moderate income housing market.

In 1966, average rent per room per month ranged from $22 in the South to $49.50 in the West. . . . U.S.A. averages were $46.50 for elevator apartments, $26.50 for low rise buildings with 12–14 units, $30.50 for low rise buildings with 25 or more units, and $25.60 for garden type apartments. But only 43.1 per cent of gross possible income (GPI) for the large low rise apartments remained after expenses to cover debt service, depreciation, and return on investment. The corresponding figure for elevator buildings was 48.3 per cent and for garden type apartments, 49.5 per cent. (Debt service alone took, 58.7 per cent of the monthly housing expense of the FHA 203 new homeowners in 1966.)

"Real estate taxes, up 9.2% since 1966, in 1966 took 15.7% of GPI from privately owned rental elevator buildings, an average of 16.6% from low rise apartments, and 13.3% from garden type apartments. Also, as a percentage of gross possible income, payrolls range from 6.3% on the smaller low rise apartments to 8.4% on elevator buildings. Loss from vacancies and delinquent rents in the area of 4% to 5%. Maintenance and repairs account for 4.3% to 6.3% and management for 4.3% to 5.2%.

"The long lag in rent rises and the sharp increase in real estate taxes are putting increasing pressure on rental rates."

E. EAVES, HOW THE MANY COSTS OF HOUSING FIT TOGETHER, NATIONAL COMM'N ON URBAN PROBLEMS RPT. NO. 16, 8 (1969) (emphasis added).

[25] NETZER—DOUGLAS COMM'N RPT. at 16.

[26] ECONOMICS OF THE PROPERTY TAX at 30.

[27] NETZER—DOUGLAS COMM'N RPT. at 16. Professor Netzer notes as one "chief" exception that "owners of rental property cannot shift the burden of that portion of the tax which falls on the land underlying their buildings." *Id.*

[28] *Id.*

[29] *Id.* at 17.

[30] *Id.* at 18.

[31] PRESIDENT'S COMMITTEE ON URBAN HOUSING, A DECENT HOME (1968).

[32] *Id.* at 99.

[33] *Id.*

[34] NETZER—DOUGLAS COMM'N RPT. at 16.

[35] *Id.* at 19. A second discouraging effect is explained this way:

There is ample evidence that consumers will buy more and better housing if its price is lower, just as they do with regard to most other objects of consumption. It can be and has been argued persuasively that one of the most effective ways of helping the low-income population (with respect to housing) is to rapidly increase the total supply of housing in a particular city and metropolitan area; a decrease in prices (rents), while having no immediate effect on total housing supply, does create a larger effective housing market for those who now suddenly can afford more of the existing housing. The evidence from the 1950's strongly suggests that the housing conditions of the poor improved most radically in those areas in which the total supply of housing rose most rapidly. The process by which this occurs is related to the rate of turnover of housing. . . ."—*Id.* at 19–20.

[36] *Id.* at 21–22. This is explained by the fact that in "suburban communities, particularly bedroom suburbs, the public services that a family receives or has access to are very closely tied to the local taxes that same family pays." *Id.* at 21. Netzer describes this as similar to an income tax in its effect and concludes that it is "unlikely to be a deterrent to consumption of housing; that is, to the expenditure of consumer income for housing." *Id.* at 22. The deterrent effect of property taxes for suburbanites may be further weakened by other factors, as Netzer explains:

"Perhaps the biggest single type of quality upgrading which occurs in the housing market is the shift from rented to owner-occupied housing. Since high property taxes on housing are far more apparent to present or prospective owner occupants than to renters, the short-term deterrent effects of increased property taxes should be particularly important in this regard. However, there has

clearly been a vast amount of this type of upgrading in the past twenty years in the face of high and rising property taxes. One explanation of this apparent anomaly lies in the many offsetting factors at work in this same period: the liberalization of mortgage terms; the inflation hedge aspect of investment in housing (or in other real property); the advantageous income tax treatment of home ownership for better off families; and, for apartment housing and non-residential construction, the favorable depreciation/capital gains treatment of real estate investment under the federal income tax, especially since 1954."

ECONOMICS OF THE PROPERTY TAX at 73–74. For a different look at the characterization of the property tax in the suburbs as a "benefit tax" see J. HEILBRUN, REAL ESTATE TAXES AND URBAN HOUSING 156–62 (1966).

[37] NETZER—DOUGLAS COMM'N RPT. at 22. There is a trend toward giving more favorable tax treatment to property improvements in central cities in order to preserve housing in still healthy neighborhoods, preserve existing housing stock, and improve housing overall. *Id.* at 21. On the "wide variety of services" central cities provide, Netzer notes that:

"For many years—in fact, ever since there have been suburban populations living beyond central city boundaries but economically tied to the city—central city governments have been faced with problems arising from the concentration of needs for public services within their jurisdictions. They have, throughout this period, provided a variety of services on behalf of their entire urbanized areas. The poor and the disadvantaged tend to cluster downtown, giving rise to high welfare, health, educational, and similar expenditures. Moreover, many specialized services have been provided only by central city governments simply because only the central city had the size necessary to support activities with markedly increasing returns to scale, many of them "natural monopolies," ranging from water supply to zoos."

ECONOMICS OF THE PROPERTY TAX at 116. Evidence that the central cities can no longer provide these "natural monopolies" without support from suburban taxpayers was provided in St. Louis recently. St. Louis County taxpayers were asked to approve a special tax district to support the St. Louis zoo, art museum, and museum of science and natural history. The tax district was approved, but just barely. St. Louis Post-Dispatch, Apr. 7, 1971, at 1, col. 1.

[38] NETZER—DOUGLAS COMM'N RPT. at 22. Netzer points out that taxes might even be higher in the suburbs than in the central city, but the advantages the suburban taxpayers get may be more visible to them so that the taxes do not "seem" so expensive. *Id.* The ultimate solution of the central city tax problem probably is in moving away from relying on real property taxes, as one observer has suggested:

"[T]he anomalities in the structure and operation of the property tax in an environment of governmental fragmentation are hardly more serious than those traceable to the whole process of urban decentralization and the resulting cleavage between the big city and its suburbs. The outlying communities gain the higher income families, while the poorer underprivileged remain behind in the core city, and the suburbs fall heir to the costly increments to the community's capital while the city's physical plant steadily deteriorates or falls victim to the wrecker's ball. Thus forces at work to influence the income side of the public ledger to a marked degree are at odds with those impinging on the expenditure side. Here again the tax cost/tax resources relationship is exposed to heavy strain, and in this case the corrective seems to clearly lie in the direction of increasing resort to nonproperty tax financing, for the prospect of merger as a remedy must be regarded as unlikely, at the least."

Stiles, *Some Possibilities for Meeting Property Tax Problems Arising from Multiplicity of Governmental Units*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 417, 425–26 (1967).

[39] NETZER—DOUGLAS COMM'N RPT. at 21. This is assuming, of course, that the property owner could pay for or finance the improvements; that is a big assumption in view of the attitude of many banks toward loans for inner-city home improvements. *Id.* For some other interesting comments on the property tax and its effect on urban renewal see ECONOMICS OF THE PROPERTY TAX at 83–85. The Kaiser Report came out strongly for a policy on the part of the cities to remove the property tax as a deterrent to good maintenance and rehabilitation by assessing property on the basis of its earning ability as measured by annual gross rent. PRESIDENT'S COMMITTEE ON URBAN HOUSING. A DECENT HOME 103–04 (1968).

[40] NETZER—DOUGLAS COMM'N RPT. at 19. An interesting treatment of the subject of central city taxes and rehabilitation is J. HEILBRUN, REAL ESTATE TAXES AND URBAN HOUSING (1966).

[41] NETZER—DOUGLAS COMM'N RPT. at 29. According to Netzer the property tax has the following effects on urban housing and development:

"1. The tax amounts to a very high consumption tax on housing expenditure and thus tends to reduce consumer demand for housing. This in turn tends to limit growth in the stock of urban housing and to limit improvements in the quality of the existing housing stock.

"2. These effects are not likely to be very evident in the suburban communities, especially the better-off ones, for two reasons. First, the connection between property tax payments and local public services provided homeowners is a clear one in most suburbs. Second, the Federal income tax advantages of homeownership, for relatively well-off taxpayers, offset the property tax in large measure.

"3. However, the deterrent effect of high taxes on consumption of, and investment in, housing in large central cities are serious. This is likely to be more true for tenants than for homeowners, and more so for lower income groups. For upper income groups, the outcome may be marginal encouragement to the observed trends toward suburban residential locations; for the poor the outcome will be less and poorer housing."

Id. An interesting theoretical observation along these lines may be found in Harris, *Property Taxes: Outlook and Effects*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 28 (1967). Harriss points out that the property tax may lead to smaller room size in residential construction because it increases the cost of housing—"the higher the price, the smaller the quantity purchased." *Id.* at 35–36. Netzer has cited the following as "obvious and frequent criticisms" of the property tax that are crucial for housing consumers:

"The tax may redistribute income in a desired direction, but it does this with great unevenness, both among and within tax jurisdictions. It is, in many metropolitan areas, regressive as between high income and low income governmental units.

". . . [T]he tax . . . is defective from the standpoint of horizontal equity, 'equal treatment of equals. . . .' [This is so because] . . . gross inequalities in assessments relative to property value are the rule rather than the exception. . . . [and] either because of tastes or circumstances, consumption patterns vary widely among individuals with similar incomes. This affects taxes on both housing and non-residential property. Within narrow income groups, housing consumption is quite variable; for example, in metropolitan areas in 1960, the coefficient of variation of house values for single-family homeowners with incomes of $6,000–$7,000 (the median range) was over .50. As a consequence of this, plus geographic differentials and assessment practices, real estate taxes as a proportion of income vary widely within income classes; in the 1960 Census of Housing, for homeowners in the $3,000–$5,000 range, 37 percent paid real estate taxes equal to less than 2 percent of income, 30 percent paid taxes equal to from 2 percent to 4 percent of income, and 33 percent paid taxes equal to more than 4 percent of income. . . ."—ECONOMICS OF THE PROPERTY TAX at 165–66 (footnotes omitted).

[42] NETZER—DOUGLAS COMM'N RPT. at 31. The most progressive of all state taxes is, of course, the personal income tax. *Id.*

[43] *Id.*

[44] Pickard, *Evaluating Tax Concessions for Urban Renewal*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 295, 298 (1967).

[45] *Id.*

[46] *Id.*

[47] ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, 1 FISCAL BALANCE IN THE AMERICAN FEDERAL SYSTEM 124 (1967). *See also* Cook, Quindry, & Groves, *Old Aged Homestead Relief—The Wisconsin Experience*, 19 NAT. TAX J. 319 (1966).

[48] ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, 1 FISCAL BALANCE IN THE AMERICAN FEDERAL SYSTEM 124 (1967).

[49] *Id.* at 130.

[50] NETZER—DOUGLAS COMM'N RPT. at 32.

[51] *Id.*

[52] ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, 1 FISCAL BALANCE IN THE AMERICAN FEDERAL SYSTEM 128 (1967).

[53] *Id.* at 130.

[54] NETZER—DOUGLAS COMM'N RPT. at 37. *See also* Netzer, *Some Alternatives in Property Tax Reform*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 386 (1967).

[55] *See* J. HEILBRUN, REAL ESTATE TAXES AND URBAN HOUSING 156–57 (1966).

[56] Professor Groves has stressed the point that the poor should not be relieved of all tax burdens; he has noted that where there is hardship, the welfare department is available, but he does come out strongly for relieving the "extraordinary burden." *See* Cook, Quindry, & Groves, *Old Aged Homestead Relief—The Wisconsin Experience*, 19 NAT. TAX J. 319 (1966).

[57] The argument for proceeding with caution in this field of reform is well-stated:

"Much of the widespread concern with the property tax is perhaps generated by an increasing awareness of hardship cases on the part of citizens. Property owners with fixed or sharply reduced income flows offer the strongest argument for property tax relief. There has been a proliferation of proposals to grant property tax concessions to special groups, such as homeowners, farmers, and the elderly; and to special classes of property such as new industries, urban renewal, and open space property. Such exemptions and special treatment increase the tax burdens on the rest of the community and, if allowed to multiply, can make their burdens oppressive. In addition, they greatly complicate the administration of the tax. In view of both the fiscal and administrative effects of property tax exemptions, it is time to take a long hard look at this increasing trend.

"The much discussed use of the property tax to achieve social and economic ends, such as to encourage development or to prevent urban sprawl, needs more analytical study than it has had to date."—Back, *The Property Tax Today*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 2–3 (1967).

[58] *See* note 1 *supra* and accompanying text.

[59] *See, e.g.*, Stocker, *Property Tax Exemption for Farmers and the Aged*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 283 (1967).

[60] *See* Cook, Quindry, & Groves, *Old Aged Homestead Relief—The Wisconsin Experience*, 19 NAT. TAX J. 319 (1966); Cook & Quindry, *Humanization of the Property Tax for Low Income Households*, 22 NAT. TAX J. 357 (1969) [hereinafter cited as *Humanization of the Property Tax*].

[61] The statutory definition of income says:

"1. 'Income' means the sum of adjusted gross income . . . . net income from sources outside the state, alimony, support money, cash public assistance and relief (not including relief granted under this subsection), the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act and veterans disability pensions), nontaxable interest received from the federal government or any of its instrumentalities, workmen's compensation and the gross amount of 'loss of time' insurance. It does not include gifts from nongovernmental sources, or surplus food or other relief in kind supplied by a governmental agency."—WIS. STAT. ANN. § 71.09(7)(a)(1) (1969).

[62] *Humanization of the Property Tax* at 358–59.

[63] The applicable sections of the statute are WIS. STAT. ANN. § 71.09(7)(a)(6)–(7) (1969), which state:

"6. 'Rent constituting property taxes accrued' means 25% of the gross rent actually paid in cash or its equivalent in 1964 or any subsequent calendar year by a claimant and his household solely for the right of occupancy of their Wisconsin homestead in such calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under this section by such claimant.

"7. 'Gross rent' means rental paid at arms-length, solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as a part of the rental agreement, whether expressly set out in the rental agreement or not. In any case in which the landlord and tenant have not dealt with each other at arms-length and the department is satisfied that the gross rent charged was excessive, the department may adjust such gross rent to a reasonable amount for purposes of this subsection. 'Gross rent' includes the space rental paid to a landlord for parking of a mobile home, exclusive of any charges for utilities, services, furniture and furnishings or personal appliances furnished by the landlord as a part of the space rental. Twenty-five per cent of such annual gross rental plus the monthly parking permit fees paid during the year shall be the annual 'property taxes accrued.'"

[64] WIS. STAT. ANN. § 71.09(7)(c) (1969).

[65] *Id.*

[66] *See Humanization of the Property Tax* at 360–61.

[67] *See* 1970 ACIR STATE LEGISLATIVE PROGRAM § 15–62–48.

[68] WIS. STAT. ANN. § 71.09(7)(a)(5) (1969):

5. "Claimant" means a person who has filed a claim under this subsection and was both domiciled in this state and 65 years of age or over during the entire calendar year preceding the year in which he files claim for relief under this subsection."

[69] *Id.*

[70] WIS. STAT. ANN. § 71.09(7)(a)(3) (1969).

[71] *See* note 61 *supra* and accompanying text.

[72] *See, e.g.*, Cook, Quindry, & Groves, *Old Aged Homestead Relief—The Wisconsin Experience*, 19 NAT. TAX J. 319, 324 (1966).

[73] 1970 ACIR STATE LEGISLATIVE PROGRAM § 15–62–48.

[74] *Humanization of the Property Tax* at 358.

[75] WIS. STAT. ANN. § 71.09(7)(g)(1)–(2) (1969).

[76] *Humanization of the Property Tax* at 358.

[77] *Id.*

[78] *Id.* The table in the text has been modified from that in *Humanization of the Property Tax.*

[79] WIS. STAT. ANN. § 71.09(7)(h) (1969), *as amended* (Supp. 1971).

[80] *Humanization of the Property Tax* at 358.

[81] The sample computations were suggested by similar descriptions and computations in *Humanization of the Property Tax* at 358–59.

[82] *See* note 63 *supra* and accompanying text.

[83] Cook, Quindry, & Grooves, *Old Aged Homestead Relief—The Wisconsin Experience*, 19 NAT. TAX J. 319, 323–24 (1966).

[84] *Id.*

[85] 42 U.S.C.A. § 1546 (1969).

[86] *Id.*

[87] *Id.* § 1586(c)(5).

[88] *See* WIS. STAT. ANN. § 71.09(7)(p) (1969) in which it is stated that no claim for relief can be allowed to anyone who is a recipient under state provisions pertaining to aid to the blind, county old age assistance, and aid to totally and permanently disabled persons. *See also* ACIR STATE LEGISLATIVE PROGRAM § 15–62–48.

[89] ACIR STATE LEGISLATIVE PROGRAM § 15–62–68. Section 16 of the model act states that "no claim for relief under this act shall be allowed to any person who is a recipient of public funds for the payment of taxes or rent during the period for which the claim is filed." *Id.*

[90] *Humanization of the Property Tax* at 358–59.

[91] *Id.* at 360–64.

[92] *Id.*

[93] *Id.* at 361.

[94] *Id.*

[95] *Id.*

[96] *Id.* at 359 & n.7.

[97] Cook, Quindry, & Groves, *Old Aged Homestead Relief—The Wisconsin Experience*, 19 NAT TAX J. 218, 320 (1969).

[98] *Id.* at 322.

[99] 30 Wis. 2d 1, 139 N.W. 2d 585 (1966).

[100] *Id.* at 10, 139 N.W.2d at 589.

[101] *See generally* J. HELLERSTEIN, STATE AND LOCAL TAXATION: CASES AND MATERIALS 36–65 (3d ed. 1969).

[102] *Id.*

[103] Wis. 2d at 4, 139 N.W.2 at 585–86.

[104] *Id.* at 4, 139 N.W.2d at 586.

[105] *Id.*

[106] *Id.* at 13–14, 139 N.W. 2d at 591.

[107] *Humanization of the Property Tax* at 365.

[108] *Id.*

[109] *Id.*

[110] Myers, *General Appraisal of the Effect of Exemptions on the Tax Base*, in THE PROPERTY TAX: PROBLEMS AND POTENTIALS 267, 276, (1967).

[111] For a discussion of the advantages of indirect versus direct subsidies see Sengstock & Sengstock, *Howeownership: A Goal for All Americans*, 46 J. URBAN L. 317, 503–06 (1967).

[112] *Id. See also* Cook, Quindry, & Groves, *Old Aged Homestead Relief—The Wisconsin Experience*, 19 NAT. TAX J. 319, 322 (1966).

[113] *Id.*

[114] NETZER—DOUGLAS COMM'N RPT. at 19.

[115] ECONOMICS OF THE PROPERTY TAX at 73–74.

[116] Orr, *The Incidence of Differential Property Taxes on Urban Housing*, 21 NAT. TAX J. 253, 254, (1968).

[117] *Id.* Orr's thesis was recently challenged in Heinberg & Oates, *The Incidence of Differential Property Taxes on Urban Housing: A Comment and Some Further Evidence*, 23 NAT. TAX J. 92 (1970). Orr replied to the challenge in Orr, *The Incidence of Differential Property Taxes: A Response*, 23 NAT. TAX J. 99 (1970).

[118] *See* Woodard & Brady, *Inductive Evidence of Tax Capitalization*, 18 NAT. TAX J. 193 (1965).

[119] *Id.*

[120] *See* note 88 *supra* and accompanying text.

[121] *See* note 89 *supra* and accompanying text.

[122] *See* notes 85–87 *supra* and accompanying text.

IMPROVING VETERANS' EDUCATIONAL BENEFITS

Mr. MATHIAS. Mr. President, as the sponsor of legislation to increase the educational assistance benefits for veterans, I was particularly pleased to read an article in Friday's Washington Evening Star by Columnist David Lawrence advocating greater educational benefits for our veterans and I wish to commend him for his interest in this most important area.

I have introduced the Vietnam Veterans Act of 1971, S. 2163, which would provide up to $1,000 per academic year for tuition, books, fees, and related supplies to eligible veterans as well as a $175-per-month subsistence allowance. I am pleased that 17 of my colleagues have cosponsored this legislation.

I ask unanimous consent that Mr. Lawrence's article, my testimony before the Senate Veterans' Affairs Committee on my bill, and related correspondence be printed in the RECORD.

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

[From the Washington Evening Star, Apr. 14, 1972]

THE GI BILL SHOULD BE UPDATED

(By David Lawrence)

When World War II was over, the young veterans were helped in returning to civilian life through what was known as the GI Bill of Rights. It provided benefits for various purposes and particularly for education. Millions were able to go to college on the funds granted by the federal government.

Today a similar law is in effect, but the amounts being furnished to the veterans of Vietnam do not cover the tuition and living expenses except at a few low-cost colleges. The sums are higher than those given 25 years ago, but the money does not have the same purchasing power. The result is that the men who have served in Vietnam are being deprived of benefits comparable to those advanced a quarter of a century ago.

Congress has overlooked its obligation to the veterans of the Vietnam war in the face of the greater expenses that prevail today. Not only has there been a rise in the cost of living generally but the costs of a college education have gone up even more sharply.

This is a familiar story. Bureaucracy, too, waits until troubles are widespread and are hurting the citizens. Steps are not taken in advance. The GI bill has been amended several times for the benefit of Americans who have fought in Vietnam, and the amounts have been increased. But they still are not adequate. Tuition and fees for education often exceed the monthly payments, leaving nothing for living expenses.

A large number of men served in the Indochina war. Some have volunteered but most have been drafted. In any event, military service has prevented their attendance at college. With the return of the troops to the United States, many undoubtedly wish to resume their studies, and the sum available under the GI bill of rights is not enough.

This is something that should have had the attention of Congress ever since the size of the American forces in Southeast Asia reached the half-million mark. The total who have been in the war area far exceeds that number. It was evident that a big group of American veterans would be needing the benefits of the GI bill to continue their education.

But, as often happens in governmental affairs, such things are not anticipated, and the plight of the veterans has been neglected until it has become acute.

In a government as complex as that which has grown up in Washington, the administrative side is very busy struggling with questions that come up every day. Too little thought is given to the legislation that will be necessary six months or a year later. The tendency is to wait until a crisis is at hand and the needs are pressing.

Some day there will be a reorganization of the federal departments so that many of the problems that are scattered among different parts of the government will be placed under the chief of some agency whose duty it will be to look ahead and anticipate the difficulties which may come in the future and which it is the obligation of the government to begin to prepare to meet.

Most of the outcries about current developments which displease the people arise after decisions have been made which bring protests by numerous groups.

Thus, for instance, the present controversy about the rise in food prices and the failure of the government to control them leaves the public wondering whether there were steps that could have been taken earlier to keep down the cost to the consumer. But the government has no machinery big enough to watch all the food chains and the distributors of the different products which come under the heading of "food."

The federal government endeavors to control prices but cannot police all the transactions that take place in every store in the country.

The complexity of governmental operations is increasing as population is growing. But certainly the nation has a special obligation to its veterans who have given up months and years of their lives in military service, particularly in fighting a war. They have been unable during that time to pursue their careers or to continue their education. They have the right to expect their government to see that their benefits will provide the means to return to civilian life without additional burdens.

MATHIAS ASKS $3 BILLION PROGRAM FOR VETS EDUCATION, URGES EDUCATION FUNDS FOR DEPENDENTS OF POWS

(Testimony of Senator CHARLES MCC. MATHIAS, JR., before the U.S. Senate Committee on Veterans' Affairs, Friday, March 24, 1972)

Mr. Chairman and Members of the Committee, I am very pleased to testify this morning on a matter of great importance and priority to me—increasing educational assistance benefits for our veterans.

I wish to commend the Chairman of this Committee and all of its members for their efforts in improving the plight of our veterans, not only in education, but in other areas such as health, housing, insurance and treatment and rehabilitation for disabled veterans. The record of this Committee and its Chairman is worthy of praise.

I come here this morning to urge this Committee to adopt legislation that would institute the concept of direct payment for tuition, fees, books, and related supplies by the Veterans Administration to educational institutions where veterans are enrolled on a half-time or more basis.

There are many tragedies in a war. And not all of the tragedies end when the war ends. Some of them continue for many, many years after the fighting stops. And one of the tragedies is, of course, all the pain and suffering that continue, long after a war is over, to afflict the men who fight a war—the veterans. In every society and in every age, the problem of how to ease the re-entry of veterans into society, has always been one of the difficult aftermaths of fighting a war. As long ago as the days of ancient Rome, the question of how best to compensate veterans has been a vexing political problem.

My view is that we should not have any problem at all about the kind of treatment that we give to the young Americans who went to Vietnam and who carried out the orders of their government and who conducted the war in Indochina. What these men did as patriotic young citizens, carrying out the orders of their government, has nothing to do with what American society may ultimately decide about the war in Vietnam.

I have for some years urged that we end the war in Vietnam but that does not affect my feeling of admiration and respect and appreciation and gratitude for the members of our armed forces who actually went to Vietnam and carried out their duties there. We owe these men a great deal and the frank situation is that we are shortchanging them. We are not giving them what they deserve. We are not helping them to re-enter society with the same educational background and the same opportunity for employment that they would have had had they pursued their ordinary high school and college or vocational training in a peacetime situation. This Committee has recently held hearings which revealed how unscrupulous businessmen were cheating veterans on the sale of burial plots. These are only a few examples of how we not only deny our veterans the ordinary advantages other citizens enjoy, but subject them instead to special hardships and handicaps above and beyond those they must endure on the battlefield.

I think it is the duty of every American to see that the young men who fought in Indochina for us at our orders get the same chance in life as those who stayed home and I am glad that the Senate Veterans Committee has finally turned its attention to this problem and is looking at what is fair for the young men who fought the war in Vietnam. For myself, I think a very reasonable standard is the same kind of opportunity that I received and that millions of others received at the end of World War II. This was the opportunity to get an education under the GI Bill of Rights.

The standards are simple. The Veterans Administration at the end of World War II provided tuition, textbooks and a small allowance on which to live while we were full-time students. This made it possible for me to go to law school and it made it possible for me to get a law degree in a minimum amount of time. I think that the same standards should be applied to the Vietnam veterans, that we should give them tuition, their books and enough to live on while they are now in school. We are doing far less today. We are shortchanging them. We have got to stop it. We have got to give them the opportunity to re-enter society with all the advantages that every American has. That is the essence of a bill I have proposed and I hope the veterans committee recommends it to the whole Senate.

My bill would provide up to $1,000 per academic year for tuition, books, fees and supplies directly to the educational institution from the Veterans Administration, plus a monthly subsistence allowance of $175.

To these who say that this cost is too much, or that the cost of the American Legion proposal, S. 3345 is too much, I remind them that we did not tell our veterans we could not afford to train them for combat. We could afford to have them risk their lives in combat. We could afford to have them lose an eye, an arm, or leg or both. We could afford to take them away from their loved ones for years and we could afford to produce the guns, rockets, missiles, and planes which they had to use and we could afford to train them to kill and to defend themselves. After all of this, we cannot say, "We are sorry, Mr. Veteran, but we cannot afford to give you the educational assistance that you deserve and which you need because it costs too much and we cannot afford it." To do so would be hyprocrisy.

The time has come to let the veteran know that we care, and to let his family know that we care. I feel that my bill would go a long way toward showing the veteran that we really do care while at the same time providing him with the means to obtain an education.

My bill, S. 2163, "The Vietnam Veterans Act of 1971" would:

1. Provide for direct payment by the Veterans Administration to educational institutions where veterans are enrolled on a half-time or more basis up to $1,000 per academic year for the cost of tuition, books, fees, and related supplies;

2. Provide a $175 per month subsistence allowance with a sliding scale for dependents to help meet other expenses;

3. Retain the current educational assistance allowance for individuals on active duty pursuing a program of education or for those pursuing exclusively a correspondence course, so that they would be entitled to the lesser of either the cost of tuition, and fees or $175 per month.

The Veterans Administration estimates that the total cost of the first five years of this program would be nearly $3 billion. However, according to the VA, we spent $14.5 billion under the old GI Bill to send World War II veterans, including me, back to school.

There is no question in my mind that the veteran of today, in addition to the many other problems and obstacles facing him, cannot provide for his own subsistence and also meet the rising costs of tuition, fees, books, and supplies in most of our colleges and universities. Despite the diligence of this Committee and the House Veterans Affairs Committee which have worked in behalf of our veterans, and the approval of the Veterans Readjustment Assistance Act of 1966 which led to increased payments in educational assistance, the cost of living increases and the rising costs of education continue to exclude many veterans from using their eligibility. When they can go to school, they do so at considerable financial cost to themselves and their families.

For example, in my own state of Maryland, the University of Maryland charged a total of $613 for tuition and fees for Maryland residents during the current school year. Beginning next fall, the cost will rise to $653. For out of state residents, the cost is $1,413 and will be $1,453 next year. At the community college level, the costs are also great. The Montgomery County Community College is charging $350 for tuition for county residents, $770 for non-county residents, and $900 for non-state residents during this school year. Beginning next fall, these figures will rise to $380, $850, and $1,200 respectively. It is clear, Mr. Chairman, that in Maryland, the rising costs of education are becoming so great as to be prohibitive for veterans under the current educational assistance program, when other needs such as housing, food, and clothing are also added to the veteran's budget.

However, Maryland is not unique, in this trend. These increasing costs are reflected all over our nation. In testimony before the Subcommittee on Educational and Training of the House Committee on Veterans' Affairs, last year, spokesmen for the American Legion referred to a report by the U.S. Office of Education on "Projections of Educational Statistics to 1976–77" which stated:

"The estimated average basic student charges (tuition, required fees, board and room) by publicly controlled institutions of higher education, in 1966–67 dollars, increased from $874 in 1956–57 to $1,034 in 1966–67. The charges are expected to reach $1,211 by 1976–77. The estimated average basic student charges by nonpublicly controlled institutions of higher education were $1,486 in 1956–57, $2,125 in 1966–67, and are expected to reach $2,748 in 1976–77."

From these estimates Mr. Chairman, it is clear that current benefits are inadequate.

My bill would cover almost all of the tuition cost in publicly controlled schools based on these estimates and almost half of the tuition cost at the non-publicly controlled schools for the 1976–77 school year.

One of the main objections to the direct payment plan is that a similar plan under the old GI Bill led to abuses. Many of these were caused by so-called "fly-by-night" schools which took advantage of the rather lax laws relating to accreditation of schools. My bill provides that no school could receive the payment for tuition, fees, and related supplies, until the Veterans Administration received certification that the veteran was actually enrolled, the number of semester hours of attendance, the customary cost of tuition and fees and other such information as the Administrator may require by regulation. This provision will give the VA the leverage to establish adequate procedures and safeguards to insure that there are no abuses in this program.

Furthermore, the Federal government now has the expertise, sophistication, and know-how of years of experience in monitoring and auditing various grant programs to educational institutions to insure that any abuses under a direct payment program would be limited, and even non existent. I am certain that the Veterans Administration could develop the appropriate safeguards against abuses so that this objection to a direct payment could be put to rest. Billions of dollars in federal aid is already going to institutions in the form of research grants, fellowships, and other programs from a variety of federal agencies. Such programs require proper accounting and auditing to insure that funds are spent and used according to the intent of the agency and Congress. The same procedures could be utilized and developed for the program which I advocate in my bill.

I would like to mention briefly the American Legion proposal, S. 3345, which also includes the concept of direct payment for tuition, books, and supplies. The Legion bill is a good one. I can say that, if my bill were not viewed favorably in this Committee, that I would wholeheartedly support the American Legion proposal. This bill also includes Veterans Administration guaranteed loans and direct Veterans Administration loans for veterans who cannot obtain the guaranteed commercial loans. Although I favor my concept, I want this Committee to know that I will join with the American Legion and support its proposal if that is the only way to obtain some form of direct payment.

My last recommendation of this Committee is that it consider making funds available *to the states for the education of the dependents of "Prisoners of War" at state institutions. I think that this is only a small token of the appreciation that we can show for the sacrifice of the POW's and their families*

In conclusion, Mr. Chairman, I am proud to say that I have discussed my proposal with many veterans organizations which represent millions of veterans throughout this nation. I have received letters and other communications of support for the concepts in my bill from the American Legion, the Veterans of Foreign Wars, the Military Order of the Purple Heart, which incidently urged adopting a $1,000 per year tuition benefit concept at its 1971 convention, and which has informed me it wholeheartedly received from the Military Order of the Purple Heart for the record. In addition to these organizations, I have received letters of support from the Vietnam Veterans Against the War, the Vietnam Veterans for a Just Peace, and from the National Association of Collegiate Veterans. I am pleased that my bill has received such praise and I am hopeful that this Committee will adopt the direct payment of tuition and subsistence allowance as part of its legislative proposals this year.

Finally, I wish to say that I am not asking anything for our veterans that I do not think they deserve. As I stated before, we have treated them as "second-class citizens" too long. Over 100 years ago, Abraham Lincoln stood on the battlefield at Gettysburg and urged that—

"We give increased devotion to that cause for which they gave the last full measure of devotion."

He was speaking of those dead who fought and died in the Civil War and was reminding his generation of Americans not to forget what that generation of veterans had done. Today, we have a new generation of Americans who fought in a bitterly contested and unpopular conflict. I come here today to ask this Committee and the Senate, not to forget that this generation of veterans has done its duty. They have sacrificed much for us. We must give increased devotion to the task of helping those who have given so much in the service of their nation. I think that my bill is a good start and a good down payment toward providing our veterans with all that they are due. It is a cause for which all Americans, rich and poor, black and white, northerner, and southerner, hawk and dove alike can and must unite. Thank you.

MILITARY ORDER OF THE PURPLE HEART,
Washington, D.C., February 21, 1972.

Hon CHARLES McC. MATHIAS, Jr.
Old Senate Office Building,
U.S. Senate, Washington, D.C.

DEAR SENATOR MATHIAS: Thank you for your letter acknowledging our National Convention mandates and discussing your S. 2163.

The Military Order of the Purple Heart wholeheartedly supports your S. 2163. It was resolution 41–C at our National Convention.

We take a strong stand on the belief that our veterans who served honorably should be given the opportunity to pursue a well-rounded education without the encumberances of financial turmoil, burdens of loans and loss of precious class attendance or study hours due to the necessity of part time work.

At present I am requesting all Chapters to write their Congressmen to support S. 2163 in addition to publishing my Press Release locally on this subject.

I have asked each Commander to conduct a survey of veterans attending college as to their financial needs hopefully to be able to provide you with additional ammunition to obtain passage of S. 2163 in its original form. I will be in touch as soon as possible on this.

Please keep me informed on the progress of S. 2163 and when the hearings will be held.

Thank you so much for your interest in this most vital investment in our young veterans.

Yours in patriotism,
KENNETH R. HUBBS,
National Service and Legislative Director.

VIETNAM VETERANS FOR A JUST PEACE,
Brooklyn, N.Y., June 24, 1971.

DEAR SENATOR MATHIAS: Vietnam Veterans For A Just Peace is most pleased at your initiative in proposing an addition to the present GI Bill for education of up to $1000 towards tuition and fees. We believe that no better investment could be made in the future of a free America than that young Americans who have honorably served their country be aided in furthering their education so that they can continue serving America as responsible, productive, informed citizens. The need is great and the hour late, and even much more is called for than can be contained in one piece of legislation, but we hope that your veterans Bill will be only the first of many leading to full parity for Vietnam era veterans with the benefits afforded veterans of other wars, in addition to new legislation meant to deal with the unique problems of Vietnam veterans.

With our thanks and best wishes,
Most Sincerely Yours,
BRUCE KESLER,
National Coordinator.

STATEMENT OF SKIP (G. D.) ROBERTS, NATIONAL EXECUTIVE COMMITTEE, VIETNAM VETERANS AGAINST THE WAR

The Vietnam Veterans Against the War is gratified to see concrete action being taken in regards to enacting our legislative proposals. We applaud the actions of Senator Mathias and his colleagues.

The principle of his amendment is one of equity for the contemporary veterans. Senator Mathias' amendment would do much to restore the benefits utilized by both World War II and Korean veterans. That there is a need for such legislation, there can be no doubt. While over a third of earlier veterans used the G.I. Bill, currently only a quarter of Vietnam Era veterans can manage to survive on the pitiful small amount provided today.

Vietnam Veterans Against the War calls for the speediest possible enactment of the principles embodied in the Mathias amendment to allow veterans to use it for the coming fall school term.

DOMESTIC COMMUNICATIONS SATELLITE SYSTEM

Mr. GRAVEL. Mr. President, the importance of NASA's space program to the people of this country and more particularly to the people of Alaska was recently demonstrated again by using one of NASA's applications technology satellites as a communication system to relay medical advice to Alaskans in remote areas. It resulted in the saving of two lives.

Communications in the State of Alaska are not as good as they are in the other 49 States; in fact, in vast areas of the State communications, as understood in the other 49 States, do not even exist. But they should exist because they are needed and good communications for Alaska are both technically and economically feasible.

Mr. President, a domestic communications satellite system would provide the people of Alaska with the same point-to-point communications that are enjoyed by the people of the other 49 States. The importance of such a satellite communications system to the health and welfare of the people of Alaska and to the very lives of those who live in remote areas can hardly be overestimated as demonstrated only recently through the use of a NASA satellite which resulted in the saving of the life of an 11-year-old girl and a severely injured Alaskan native.

The technical feasibility of such a communications satellite system has been demonstrated and there can be no question about the economic feasibility in terms of the resources available to this Government. Mr. President, I urge the executive branch of the Government, and particularly the Federal Communications Commission, to speed up its consideration of granting the appropriate licenses for domestic satellite systems. Just as strongly, I urge that the appropriate agencies make sure that any domestic satellite system that is permitted to be put up

meet the needs of the people of all areas of this great country and not only in terms of the economic justifications of the great corporations that propose them. The establishment of good communications is important to the life and happiness of the people of my State. Not to proceed with the establishment of a domestic satellite communications system that will provide good communications inside Alaska and other points of the Union is unconscionable.

Mr. President, I ask unanimous consent that NASA News Release No. 72–74 describing the missions of mercy I mentioned earlier be printed in the RECORD.

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

ATS AIDS IN ALASKAN EMERGENCIES

A five-year-old NASA satellite which helped save the lives of two Alaskans last year has again played an important part in helping two Alaskans meet medical emergencies.

From the remote village of Allakaket (population 125) in northern Alaska, a medical aide tried last month to contact the U.S. Public Health Service Hospital in Tanana using the local Applications Technology Satellite—(ATS–1) ground station antenna system to report on the condition of a seriously ill 11-year-old girl.

Unsuccessful, he then got in touch with the Mojave, Calif., ATS control station with the result that Public Health Service physician Dr. Brian Beattie answered his call from Anchorage, and Dr. David Duncan responded from Tanana.

During Dr. Duncan's consultation with the Allakaket medical aide, the little girl, Sally Sam, was diagnosed as suffering from acute appendicitis. An evacuation aircraft with PHS doctor, Robert Brown, aboard was airborne within 15 minutes.

Sally was evacuated safely to the Fort Wainwright Hospital. She is reported as progressing, but still under observation.

In a second case, the NASA satellite tracking facility at College received word from another tiny hamlet in northwestern Alaska, Huslia, that Lincoln Mark, an Alaskan native, had been severely injured in a snowmobile crash. He was suffering from lacerations, abrasions, dislocations and fractures. Through ATS–1, College contacted Tanana and again Dr. Duncan provided the needed advice. The injured man was immediately airlifted to Tanana Hospital where he received the necessary medical attention.

ATS–1 functions as a switchboard in the sky in a state-wide communications experiment with Alaska, the U.S. Department of Health, Education and Welfare and NASA. Twenty-six terminals provided by HEW are located in remote villages and hospitals, providing quality communications to medical, educational and programming personnel five hours a night, five days a week.

Goddard Space Flight Center, Greenbelt, Md., has ATS project management and the spacecraft was built by the Hughes Aircraft Co., Culver City, Calif. It was launched from Cape Kennedy, Fla., in December 1966.

THE GENOCIDE CONVENTION: NO EFFECT ON THE CONNALLY RESERVATION

Mr. PROXMIRE. Mr. President, some people who oppose the Genocide Convention do so because they believe that American ratification of this treaty will nullify the Connally reservation. This is not the case.

The Connally reservation applies only to our acceptance of Article 36(2) of the Statute of the International Court of Justice, the so-called "optional clause" providing for compulsory jurisdiction across the board. Article 36(2) gives the International Court the jurisdiction to hear cases between States in certain instances except when the case is within the domestic jurisdiction of a nation. The Connally reservation says that in cases involving the United States, the United States will decide what is within our domestic jurisdiction.

Cases arising as a result of our adherence of the Genocide Convention would come under Article 36(1) which covers the Court's jurisdiction as provided for in specific treaties. Since this is not the article to which the Connally reservation applies, the Genocide Convention does not effect the reservation. At this point we are talking about two different cases.

The spirit of the Connally reservation is that no case to which the United States is a party would be referred to the International Court without the express consent of the United States. By ratifying the Genocide Convention we would be giving our express consent. Thus we would be fulfilling the spirit of the Connally reservation even though the reservation does not apply to the convention.

Individuals have no standing before the International Court, only nations. No individual or group of persons can "haul" us before the Court. If some country disagrees with us as to the meaning of the convention they can ask the Court to settle the dispute and make clear the meaning of the Convention. No other power, and certainly not the power to try individuals for alleged acts of genocide, is granted to the Court or any other international tribunal.

Mr. President, I call upon the Senate to ratify the Genocide Convention without delay.

HOUSEWIVES DESERVE BETTER BREAK IN MARKETPLACE

Mr. TAFT. Mr. President, most American housewives are painfully aware of the fact that rising food prices have strained family budgets almost to the breaking point. The price of hamburger, for example, in February rose at an annual rate of 46.8 percent. During that same month sirloin rose at an annual rate of 33.6 percent. Seasonally adjusted, the price of meats, poultry, and fish rose in February at an annual rate of 52.3 percent.

The sharp rise in food prices is not limited to meats. Between October and January, the price of celery rose at an annual rate of 252.4 percent and from October through February the price of cucumbers shot up at an annual rate of 123.9 percent.

These increases present a difficult problem for the American wage earner. For those who are retired or living on fixed incomes, these price increases may present an almost impossible burden.

Certainly one thing is clear. The American farmers are not the source of the difficulty. Prices farmers receive today are only 7-percent higher than they were 20 years ago. Most family farmers are not reaping a financial bonanza. In January, for example, the actual farm parity ratio was only 72 percent. This ratio, as we all know, reflects the index of prices received by farmers and prices paid by farmers based upon a 1910–14 base of 100.

But to absolve the farmers is not to eliminate the problem. The American housewives will not content themselves with excuses and long explanations when they find they cannot provide the usual type of meals for their families.

I share the hope of the members of the Price Commission that food controls will not be necessary. Food chains have agreed to either lower or maintain their prices. In addition, wholesale food prices declined slightly in February. This should indicate that food prices will level off or decline in the weeks ahead.

Unquestionably, our experience with food price controls in World War II was less than satisfactory. Unquestionably, item-by-item controls would be difficult to enforce. If, however, food prices do not begin to decline but continue their upward surge, we will have no alternative but to undertake some type of controls on food prices.

The American housewives have had enough, and I agree with them that the time has come for them to get a better break in the marketplace.

THE GREAT PORPOISE MASSACRE

Mr. HARRIS. Mr. President, I call attention to an article entitled "The Great Porpoise Massacre" written by Scott McVay and published in the New York Times of March 19.

Anyone who has ever seen a porpoise would not want to kill it. These animals are harmless, they are graceful, they are intelligent. Yet, as Mr. McVay states, "200,000 to 300,000 porpoises must perish uselessly every year." This is the gist of his article. In what he calls wanton slaughter, he describes the way these porpoises are massacred each year by the tuna industry, not because anyone wants to kill them, but simply as something incidental to the tuna catch.

So far as I am concerned, Mr. President, this is a case of gross negligence. I have spoken against it in the past, and I shall continue to speak against it until this senseless killing has been stopped altogether. During the hearings on the Ocean Mammal Protection Act of 1971, which Representative PRYOR of Arkansas and I cosponsored, I said,

We've got to stop this slaughter of the dolphin before it goes any further.

I hold to that statement today. I will not be satisfied until the massacre has been ended once and for all.

On February 22 the Senator from Minnesota (Mr. HUMPHREY) submitted an amendment which will take us a long way toward achieving this goal. Mr. HUMPHREY's amendment, which will among other things, give the fishing industry 1 year to stop the killing of porpoises, is the kind of tough, forceful, and effective legislation that we need now. I strongly urge that all Senators support Senator HUMPHREY's amendment.

Returning to Mr. McVay's article, I sincerely hope that it will help to bring out a sense of outrage in Congress and in the people of the United States sufficient enough to end the killing of dolphins and porpoises. Mr. President, I ask unanimous consent that Mr. McVay's article be printed in the RECORD.

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

[The New York Times, Sunday, Mar. 19, 1972]

THE GREAT PORPOISE MASSACRE

(By Scott McVay)

PRINCETON, N.J.—Many of the bounties of the sea have been tainted by man's profligate ways: mercury in swordfish, hepatitis virus in clams and shrimp. Our tables have long been graced with unblemished tuna, one of our children's favorites. Now we learn that our tuna is contaminated by the death of thousands of porpoises. How come? Since the late 1950's American tuna fishermen have been capturing tuna by setting their purse-seine nets on schools of porpoises.

Five major canneries and a number of independent companies operate 132 vessels from southern California in the tropical waters of the eastern Pacific—twelve more vessels are under construction. The fishermen first spot a cluster of birds winging in and out of an area of great activity. Drawing nearer, they sight the familiar porpoise or dolphin fins, usually of the spotted porpoise (*Stelella graffmani*) or the "spinner porpoise" (*Stenella longirostris*) which is known for its spectacular aerial gyrations. Upon closing in, the tuna can be seen as a great dark mass below the porpoises, where they are also feeding on the smaller fish. In high-powered skiffs the fishermen round up the porpoises, which may number up to 1,500, and attempt to drive them into a tight circling school. Then the half-mile long purse-seine is set around the porpoises and the tuna below. The circle is constricted as the net is drawn together. Many of the porpoises panic, hit the net and drown.

In the early 1960's nearly all the porpoises entrapped with the tuna in the net died and were simply discarded to the sharks. The annual mortality is estimated to have run to many hundreds of thousands. For the last few years, a technique called backing down is permitting some three-quarters of the porpoises to escape, but the number that perish uselessly is still between two and three hundred thousand annually.

Three papers on this problem, written in 1968, 1969 and 1970 by William F. Perrin, a fishery biologist, caused a minor stir, but it was not until the public Congressional hearings last July on the proposed International Moratorium of Ten Years on the Killing of All Species of Whales that the problem began to reach a sizable segment of the public domain.

Porpoises are small members of the whale tribe. Thus, a revision in the bill's wording which now calls for a ban on the intentional killing of whales means that the passage of the legislation would exempt the American tuna fishery on the basis that the killing of porpoises in connection with catching tuna is accidental.

Also, one of the most troublesome problems facing the authors of the legislation now before Congress to ban the killing of all marine mammals is how to deal with the tuna fishery. Two of Mr. Perrin's conclusions illuminate the gravity of the problem: (1) the number of porpoises killed currently may exceed their reproductive capacity. How will fishermen catch tuna "if and when the porpoise disappear?" (2) the structure of the catch (number of males, females, juveniles) resembles the catch of the Soviet porpoise fishery in the Black Sea in 1963 and 1964—just before it collapsed.

Although various solutions have been proposed: using gates for releasing porpoises from the net, or using a small-mesh net that can supposedly be dropped to greater effect, these proposals have yet to be satisfactorily tested. Much still remains to be learned about the behavior of porpoises and tuna. Furthermore, the tuna industry—which grosses hundreds of million of dollars annually—has responded sluggishly to Federal efforts to reduce or eliminate the porpoise mortality. Most of the tuna operators have answered requests for observers on their vessels grudgingly or by complete refusal.

One thing seems clear: efforts at research on, and regulation of, the tuna industry are moving very slowly. Aroused and informed public opinion and Congressional reaction will not permit the wanton slaughter of porpoises and dolphins in the future as in the past. If the tuna industry is interested in retaining a prime place in the American home, it will have to pursue with openness, due speed, and determination the resolution of a problem that will require genuine cooperation between fishermen and scientists. Solutions must be found in a matter of months, not years.

THE FOREIGN TRADE AND INVESTMENT ACT

Mr. HARTKE. Mr. President, in response to the problems of high unemployment and a narrowing industrial base, I introduced the Foreign Trade and Investment Act of 1972. Designed to impose comprehensive trade quotas and to plug a variety of tax and tariff loopholes, the bill has brought forth howls of anguish from a horde of transnational companies.

In the past quarter century, there has been an astounding growth of these transnational companies. Responding in part to tax incentives at home and tariff barriers abroad, there are now more than 8,000 foreign subsidiaries of American based firms. Some of the largest and best known American corporations actually earn more than 50 percent of their income abroad. Such names as Standard Oil of New Jersey, Uniroyal, Gillette, and IBM have more at stake in their foreign operations than in their original American base. Our direct investments overseas $78 billion—a staggering amount by any standard.

The impact of these transnational corporation is enormous. In the world currency crisis, that is not yet behind us, transnationals played a major role. Hedging against expected changes in the value of different currencies frequently made devaluations and revaluations mandatory. It was the case of massive currency flows engineered by a few firms overruling the desires of even large European states. In smaller countries, the activities of these transnationals often have an even broader scope. The recent escapades of International Telephone & Telegraph in Chile come immediately to mind.

What the transnationals do not realize is that they still live in a world of nation states. It is these states that are charged with protecting their citizens welfare. It is these states that must lead the fight for domestic full employment, stable currencies, and regulated international trade. The growing challenge to their sovereignty is bound to bring to a backlash—and that can mean tough restrictions and even nationalization.

Nor are these expressions of national interest limited to a few Latin American countries. Right next door in our good neighbor to the North there are growing complaints against the power of foreign—mostly American—controlled corporations. Last week in the New York Times a letter to the editor alluded to a proposal made by Eric Kierans, the former president of the Montreal Stock Exchange. Kierans urged that Canada:

Through a program of currency devaluation and differentiated corporate tax rates, eliminate U.S. ownership over the next decade.

Because of its important implications for the security of billions of dollars of direct American investment, I ask unanimous consent that the letter be printed in the RECORD following my remarks.

By encouraging American corporations to concentrate on their domestic responsibilities, my bill may well save them from disastrous foreign losses in the not too distant future.

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

CANADIAN OPINION ON CAPITAL INFLOWS

TO THE EDITOR:

The U.S. Government is pressing the Canadian Government to agree to measures which would eliminate the Canadian trade surplus with the U.S. This ignores the fact that before 1968, Canada ran huge deficits with the U.S., averaging over $1 billion a year, and that it was obliged to expand its foreign indebtedness from $7 billion in 1945 to over $50 billion now, in order to finance those deficits.

It further ignores the fact that Canada is spending over $2 billion a year to service its external debts ($1.881 billion in 1970, an increase of $234 million over 1969) and must run current account surpluses to finance the payment of these servicing costs. Canada, therefore, must run sizable trade surpluses to finance the costs of run deficits, largely with the U.S., for almost a quarter of a century.

Canadian public opinion is decisively shifting on the subject of capital inflows, and the costs of foreign ownership. According to the Canadian Gallup organization, the percentage of Canadians opposing continued capital inflows from the U.S. has risen from 46 per cent in 1964 to 67 per cent now. It is not without significance that the percentage approving in 1964 was a scant 33 per cent, or far lower than those opposed.

In the advanced province of Ontario, the proportions are now 73 per cent opposed and only 18 per cent supporting, which is a ratio of almost four to one. This trend has not been a volatile movement, which might easily and dramatically abate again, but a steady and relentless upcreep.

Canada is in many ways an élitist society, and the élite of "mandarin" civil servants, university professors, bankers and big businessmen who pushed Trudeau into the position of Prime Minister is not distinguished for it deference to popular opinion, but the quiet, angry resolve forming among Canadians is likely to prevail even against these, so ordinarily impregnable, bastions.

Among the middle echelon executives in U.S.-owned corporations there is bitterness of unparalleled scope at the constant betrayals of Canadian national interest in such areas as manufactured exports, avoidable imports of U.S. machinery, components, services and the suppression of Canadian research. Among

these knowledgeable people the concept is widespread and growing that foreign ownership should be displaced.

Eric Kierans, the former president of the Montreal Stock Exchange and former national Minister of Communications, an unexceptionably responsible leader, has urged that Canada, through a program of currency devaluation and differentiated corporate tax rates, eliminate U.S. ownership over the next decade. The New Democratic party, which forms the government in Manitoba and Saskatchewan and is the official opposition in British Columbia, has embraced a full program of economic repatriation, while progressive elements in the Progressive Conservative and Liberal parties favor the eradication of U.S. ownership.

The insistence of Treasury Secretary Connolly that the U.S. must run exports surpluses at the expense of Canada, which Canada will then be compelled to pay for through increasing its nonresident indebtedness, is greatly strengthening the hand of those opposed to the perpetuation of the status quo. As the costs of foreign ownership and the repeated payment deficits which made it necessary are increasingly brought home to Canadians, they are turning against foreign control and demanding a program of national economic emancipation.

EDWARD CARRIGAN,
Research and Policy Development Committee, Committee for an Independent Canada, Toronto, March 18, 1972.

THE BOMBING IN NORTH VIETNAM

Mr. CASE. Mr. President, the bombing points up the essential importance of ending American involvement in Southeast Asia. We must renew our effort to get Congress to fix a firm date for the final termination of all U.S. military involvement, subject only to the release of American prisoners of war. So long as we are involved, the bombing will continue.

TAX PENALTY AGAINST MARRIAGE

Mr. PROXMIRE. Mr. President, since the passage of the 1969 Tax Act and the 1971 Revenue Act, working married couples have found themselves in a difficult tax position. For example, a married couple each making $10,000 would have to pay $300 more in taxes than an unmarried couple making the same income. Some believe this may even promote divorce or common law marriages in order to avoid the tax increase.

An economist at the University of Wisconsin in Milwaukee, Kenneth J. White, has done considerable research on this subject, I ask unanimous consent that an excellent article published in the Madison, Wis., Capital Times of Monday, February 7, 1972, which is both clear and self-explanatory about this situation, be printed in the RECORD.

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

UW ECONOMISTS SEES TAX BIAS PENALIZING MARRIAGE

(By Charlotte Robinson)

The federal government has unwittingly created a situation that might conceivably encourage working married couples to get a divorce and encourage unmarried couples living together to steer clear of matrimony.

The encouragement comes in the Federal Income Tax Code which requires a working married couple to pay a substantially higher personal income tax than if they were living together unmarried and filed as single taxpayers.

The so called "marriage penalty" is the result of the 1969 Tax Reform Act and the Revenue Act of 1971 which were designed to reduce the tax burden on single individuals.

University of Wisconsin economist Kenneth J. White, who has done extensive research on the subject and prepared a series of charts showing the level of tax differential, notes that the penalty reaches several thousand dollars in the upper income tax brackets.

White points out that the tax differential, which can run as high as $4,000, is due to the income splitting provision which is available to married couples filing joint returns and the nature of the tax schedules and standard deduction which tends to favor single persons.

"Each year since 1969 the tax laws have been changed to increase the tax penalty on marriage," White said.

According to White, the marriage penalty appears in practically all instances where both individuals have adjusted gross incomes exceeding, $2,000 and are taking the standard deductions.

For example, a couple making a combined $28,000 would have to pay nearly $1000 more in taxes for the privilege of being married.

A couple who both make $10,000 would have to pay over $300 more in taxes than two unmarried individuals.

A couple with the wife making $6,000 and the husband making $10,000 would pay $150 more in taxes if they were married.

A couple both making $8,000 would pay $200 for their marital bliss.

A couple with the wife making $4,000 and the husband making $8,000 would pay $100 more.

A couple with the wife making $12,000 and the husband making $14 or $15,000 would forfeit $500 if they stayed married.

A couple both making $12,000 would pay $250 more.

It is only when one married partner is making less than $2,000 that being married will not create a tax penalty. Then there is no advantage, married or unmarried.

The married state becomes an advantage when the wife is making more than $3,000 and the husband is making less than $2,000. Then, the family would pay $100 less than an unmarried couple.

The problem was recently brought to the attention of Congress by Rep. Martha Griffiths (D-Mich.) who produced a letter from a Detroit man who claimed he was getting a divorce to save $200 in taxes.

Rep. Griffiths demanded a change in the tax law and she may get some results. Sources have reported that staff tax experts are working on the proposal to adjust the situation.

OLD WYE MILL

Mr. MATHIAS. Mr. President, it is often valuable to take a trip into our own past, and we are fortunate in having so many reminders of America's past close at hand.

One such is the Old Wye Mill on Maryland's Eastern Shore. This mill, more than 300 years old, was restored in the 1950's and operated intermittently until last summer when it resumed regular operation under a program involving students at nearby Chesapeake College.

Among the early millers who owned the Old Wye Mill was Col. William Hemsley, who ground wheat there for George Washington's army. Colonel Hemsley later served in the Continental Congress, and one of his direct descendants, William S. Hemsley Jr., is currently a member of the staff of the Senate Judiciary Committee Subcommittee on Separation of Powers.

The mill now produces unbleached, stone-ground flour in cornmeal, wholewheat, rye, and buckwheat, as well as white flour. Under the Chesapeake College program, the mill is operating again and is open to the public as a working museum piece of early American agricultural industry.

The Wye Mill was recently featured in an article in the travel section of the Washington Post. 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:

WYE MILL: TRIP TO THE 17TH CENTURY

(By Barbara Guinn)

As the interest in natural food grows, men as well as women are bragging, "I baked it myself from scratch!"

My husband is a typical example. He shows off a crusty, brown round of sourdough saying, "San Francisco never produced better," or as a guest samples a thick slice of warm wholewheat, "If you think that's good, wait until you try my four-way loaf with rye, white, wholewheat and cornmeal."

I've tried them all and I am solid proof the homemade bread is irresistible. Once the ardent breadmaker has mastered the mysteries of yeast or a crock of sourdough starter, the next step is to locate unbleached and unadulterated stone-ground flour and meal.

One source, which involves crossing the Chesapeake and offers as a bonus a visit to a 17th-century village, is the Old Wye Mill, which has been operating at the same site on the Eastern Shore of Maryland since 1664. Owned by eight millers, including Col. William Hemsley, who ground wheat for Washington's army in April 1779, the mill is now the property of the Society for the Preservation of Maryland Antiquities.

After a four-year restoration and rehabilitation in the 1950's, Old Wye Mill was operated intermittently until last summer when John O. Bronson, Jr., librarian at nearby Chesapeake College, made arrangements with the society, the college and the government for students to run the mill under a federal work-study grant. Profits from the sale of flour and meal go to the Chesapeake College student financial fund.

Jeff Sarvey, 20, a history major, and David Mielke, 19, became apprentices under A. V. Lovelace, who was the head miller. After a brief period, Lovelace could not continue, but the students met the challenge. With the help of books and old-timers with milling experience, they learned to master the machinery that's powered by a giant water wheel.

When Sarvey and Meilke first opened the mill last summer, they were only grinding yellow corn. As they've become more experienced and word of Old Wye's operating has spread, they've expanded to meet the demand of customers who also want white cornmeal, unbleached white flour, wholewheat, rye and buckwheat. They have an 1889 grits machine, which they expect to start operating this summer. All of the grains are locally grown and the corn is removed from the cob in a hand-turned 1910 corn sheller.

In addition to his work at the mill and studies at Chesapeake College, Sarvey is doing historical research for the Wye Institute

(dedicated to educating young people about rural opportunities. The institute was founded by Arthur Amory Houghton Jr., major financier for the restoration of the mill and the Old Wye church. Houghton, who is president of Steuben Glass, owns the plantation, which was the historic home of Maryland's Gov. William Paca—a signer of the Declaration of Independence.

Although only the tiny office is heated by a pot-bellied stove, the mill is open for tours and on an unscheduled basis on Saturdays and Sundays throughout the year. Arrangements can be made by contacting John O. Bronson, Jr., Old Wye Mill Society, Inc., Hopkins Hall, Chesapeake College, Wye Mills, Md. 21679. Beginning the last weekend in April, however, it will be open from 9 a.m. to 5 p.m six days a week, and from noon to 5 p.m. on Sundays. There is no admission charge.

This is a pleasant one-hour, 15-minute drive from the Washington Beltway, with a $1 toll (car, driver and all passengers) each way on the Bay Bridge

DIRECTIONS

Take Exit 31 from the Washington Beltway and follow Rt. 50 (John Hanson Highway) east past Annapolis, over the Chesapeake Bay Bridge. Approximately 11 miles past the bridge, routes 301 and 50 divide. Stay on Rt. 50 to the right for approximately six more miles and then turn off to the right on Rt. 213, which is marked for Wye Mills. The oak and church are reached by continuing down the same road past the mill. This is interesting rural country—you will find it rewarding to explore some of the backroads with your car. Watch for the V-shaped flights of honking wild geese as they start their long flights back to summer quarters in Canada.

MISS SUSAN RAY, PERRY, GA., ADMITTED TO MEMBERSHIP IN NATIONAL LEAGUE OF AMERICAN PEN WOMEN, INC.

Mr. TALMADGE. Mr. President, I was very much pleased to learn that a young lady from Perry, Ga., Miss Susan Ray, has been admitted to membership in the National League of American Pen Women, Inc., an organization dedicated to arts, letters, and music.

Miss Ray, the daughter of Mr. and Mrs. Richard B. Ray, of Perry, Ga., and the niece of Miss Thelma Williams, former secretary to the late Dr. Frederick Brown Harris, Chaplain of the U.S. Senate, was accorded this high honor at the league's diamond jubilee convention meeting in Washington this week. Eighteen years of age, Miss Ray is one of the youngest women ever elected to membership in this outstanding organization of artists. She writes for the Houston County Home Journal, at Perry, a weekly column entitled "So What's New," that was particularly singled out for its excellent reflection of the younger generation.

Miss Ray will graduate from high school in May and plans to attend Wesleyan College in Macon. I personally congratulate her on this award and wish her every future success in her studies.

WYOMING'S MOUNTAIN MEN

Mr. HANSEN. Mr. President the National Geographic's School Bulletin for March 6 contains a delightful story by Ralph Gray about Wyoming's mountain men.

Each year, residents of southwestern Wyoming don the dress of the 1830's to reenact life in wonderful Wyoming in those days.

When Wyoming was but a territory, and the fur traders bargained for beaver pelts trapped along the Green River, mountain men like Jim Bridger, William Sublette, Kit Carson, Jedediah Smith, and Joe Meek explored the magnificent country and made their indelible mark on the history of the West.

As Mr. Gray says, Wyoming had men to match her mountains, and the story of their contributions and their colorful lives is skillfully retold each year by Wyoming citizens who reenact the Green River rendezvous.

Mr. President, I ask unanimous consent that Ralph Gray's article be printed in the RECORD.

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

FUR TRAPPERS RIDE AGAIN TO GREEN RIVER RENDEZVOUS

(By Ralph Gray)

With a hoorah and a yahoo, the "mountain men" swoop down to rendezvous. It is their one time of the whole year to howl—to swap yarns with fellow trappers, powwow with Indian friends, and haggle with traders from St. Louis over the price of beaver pelts.

Once a year mountain men like John Hoback (above) come to the rendezvous to trade, to talk, to raise cain—making up in one brief outburst for the year-long loneliness of the trapping trail.

The time: the 1830's.

The place: the upper Green River country of Wyoming.

Last summer, as though I had stepped back in time 140 years, I saw the rendezvous come to vivid, roistering life, resurrected from the dust of history by the citizens of Sublette County.

I was there for the once-a-year pageant staged by ranchers, cowhands, and townspeople of one of the least populated areas in the United States. With the snow-capped peaks of the Continental Divide as a backdrop, these modern-day mountain men gave the spectators a show long to remember.

Almost within view of the Pinedale, Wyoming arena lay half a dozen actual rendezvous sites. Each year fur companies would select the location for next year's get-together. The beaver-rich tributaries of the Green River headwaters provided a favorite region for these movable supermarkets of the moutains which were held from 1824 to 1840.

The spot was different each year, but the scene and often the characters were the same.

Watch as they gallop out of history, the kings of the mountain men—Jim Bridger, William Sublette, Kit Carson, Jedediah Smith, Joe Meek, Joe Walker—a reckless, restless breed. They live by their wits in the wilderness and are a cornerstone of North America's first continental industry, fur-trapping. Harvesting beaver as they move, they push to the source of every creek in the West, cross every height-of-land, and trap their way downstream on the other side.

Maps scratched in the dirt beside their campfires speak the geography of the West long before "Pathfinder" John C. Frémont appears, long before the first wagon trains roll westward to Oregon and California.

Here they come. Jim Bridger, later to be a wagon-train guide, is the curly old he-wolf of the mountain men. His rifle "Honey Gal" can knock down a buffalo farther than most folks can see. Jim knows all the tribes and how to get along with them. Many tall tales of the West originate with him. He tells about the huge "Echoing Canyon" where, when he beds down for the night, he yells, "Jim, git outen them blankets." Exactly seven hours and 10 minutes later the echo comes back to wake him up.

Bill Sublette, "Old Cut Face," is, like Bridger, a product of the Kentucky and Missouri frontiers. He is from a wealthy family, but he broke loose, pawned a few possessions, and struck west with Ashley in 1823. He will help buy Ashley out and make a neat pile in the fur trade.

Kit Carson, a little crittur, doesn't weigh much over 110 pounds soaking wet, but he's equal to 10 catamounts and half a dozen grizzlies. When 15, he ran away from a saddler in St. Louis, lit up the Missouri River with a trapping outfit, and never looked back. Later to be John C. Frémont's guide, Kit has an incredible memory for geography and can backtrail himself in the dark of a bad storm so easily that the others take off their battered hats to him.

Jed Smith is a strong Methodist and can quote the gospels as well as he can trap beaver or get downwind of a Sioux. Jed is restless, and he's covered more country from the Missouri to the Golden Gate than any other man of his time or for some time to come. He's 28 years old, but they still call him "Old Jed Smith."

Joe Meek is the merriest mountain man. Life is one grand rendezvous to him. He says, "I've got a powerful lot of friends and I sure like to be with 'em. But if thar ain't none handy, why old Maw Nature herself is a mighty swell gal to travel with."

Joe Walker learned his mountain craft from Tennessee woodsmen, but once he had hard luck and wandered half-starved into a Hudson's Bay Company post on the Columbia River. He was well treated, but the man in charge would not sell, lend, or give him a dime's worth of equipment when it came time to leave. "Why you doggoned Britisher," Joe fumed, "I got a rich uncle whose name is Sam, and some day he'll throw your whole outfit out the window."

These indeed are men to match the mountains. Add to them the hard-bitten traders, the friendly Shoshonis, the missionaries passing through, and you have the incredibly colorful mix of the Green River Rendezvous.

As I watched the action unfold I felt almost like that first dude to come west, the Scottish nobleman Sir William Drummond Stewart, who attended the Rendezvous of 1837. While he depended on his expedition artist, Alfred Jacob Miller, to document his trip, I relied on my cameras to bring scenes of the pre-settlement West to *School Bulletin* readers.

THE RICHARD B. RUSSELL FOUNDATION

Mr. TALMADGE. Mr. President, Georgians have formed a Richard B. Russell Foundation in honor of the late Senator Dick Russell, our departed friend and colleague who served with distinction and leadership in the Senate for 38 years.

The purpose of the foundation is to raise funds to establish a Richard B. Russell Memorial Library on the campus of the University of Georgia at Athens to preserve the personal and official papers of the late Senator. Never before in history has a Senator who was in the highest councils of Government for so long a period saved his papers and

made them available for students of history. It is a rare and unique collection which will bring scholars to our State for study as long as contemporary history is being written.

Our goal is $2,075,000, and the campaign was started by an anonymous $500,000 grant from a local foundation which we are on the verge of matching. Dick Russell was Georgia's own, and the memorial library will be a Georgia project. Campaign organizations are active across the entire State of Georgia in an effort to give every Georgian, at every level of life, an opportunity to participate in this extremely worthwhile project.

On a recent trip to Atlanta to address a student body assembly at Georgia State University, I was presented $500 for the Russell Memorial Library from the Alpha Phi Sorority there. I was very impressed by the energy and hard work of these young ladies in giving of their time to assist us in our project, as well as by their enthusiasm about the great historical legacy Senator Russell left to our State.

The sorority fundraising project was organized by a committee headed by Miss Paula Johnson, and it was conducted in connection with Alpha Phi's centennial year. Each chapter of Alphi Phi in the country was asked to do something worthwhile as part of the centennial observation, and the Georgia State University chapter chose the Russell Library because of the value of the Russell papers to history and education.

As chairman of the Russell Foundation, I am deeply grateful for their contribution, and I commend these young ladies for their interest.

MAKING EVERYDAY ENGLISH THE OFFICIAL LANGUAGE OF THE INTERNAL REVENUE SERVICE

Mr. MATHIAS. Mr. President, millions of Americans are emerging today, haggard and worn, from the labryinth of form 1040 and its related forms, schedules, declarations, and instructions.

Although the Internal Revenue Service—contrary to popular belief—does not deliberately make its forms obscure and its instructions baffling, I believe that substantial improvements are badly needed.

A year ago, I introduced a bill to authorize the establishment of a 15-member Advisory Commission on Federal Tax Forms, composed of taxpayers. This Commission would assist the Commissioner of the Internal Revenue Service in making Federal tax forms and materials easier for the average American taxpayer to understand and use. The bill would prohibit the Internal Revenue Service from distributing or requiring taxpayers to complete any individual or joint income tax forms which have not been approved by a majority of the Advisory Commission. The bill would subject all future income tax material—forms, schedules, returns, declarations, manuals, instructions, and tables—to the scrutiny and editing of a panel of average taxpayers before the materials are printed by the millions and released to the general public.

The Advisory Commission on Federal Tax Forms created by my bill would be appointed by the President. Each of the Commission's 15 members would be an American taxpayer who had filed returns for at least 5 years. The bill requires that the Commission as a whole shall be broadly representative of the great majority of American taxpayers, and shall include members representative of all major geographic regions of the United States, all major taxpaying economic brackets, all major taxpaying age groups, and all major occupational groups.

To insure that a majority of the Commission will be laymen in the tax jungle, the bill requires that no member shall be a Federal employee and that no more than two members may be attorneys at law or certified public accountants.

Congress has passed and the President has signed a bill I introduced last year as a companion measure to this one, which makes it unlawful for income tax preparation services to sell tax information. This was a major step, although it appears that we may have to take others, which benefits those taxpayers who have tax services prepare their tax forms. Now we must help the millions of others who, like me, try to fathom the forms, schedules, and regulations to do their own returns.

I do hope we will be able to act on this bill this year.

Mr. President, I ask unanimous consent to have printed in the RECORD an article on this subject published in the Washington Post Sunday, April 16, which dramatizes the particular dilemma of the elderly in facing income tax time.

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

INCOME TAX HITS ELDERLY HARD—FORMS SEEN COMPLICATED; EXEMPTIONS INADEQUATE

(By Oscar Kiessling)

Many government and private agencies are showing concern with the serious problems facing the swelling ranks of the over-65 age group but little attention is being given to a field of vital importance—taxation.

While the government has allowed exemptions for the 21 million elderly persons in that group—now nearly 10 per cent of our total population—that relief has been too little and much too late because the government still collects nearly 10 per cent of all personal income taxes—about $7.5 billion—from them.

At the same time, the tax forms have been getting more complicated for the elderly, requiring, for example, computation of the retired income tax credit. The Internal Revenue Service offer to compute the tax for those using the standard deduction does not help most of the elderly because 62 per cent of them itemize their deductions for obvious reasons. They have extraordinary medical, dental and personal care expenses and many owning homes have heavy property taxes. They would be unable to make ends meet if they took the standard deduction.

The tax return season at our house, I believe, is becoming more and more typical. My wife and I still are working and have kept in training, so to speak, although five junior Kiesslings in the tax-age bracket contribute somewhat to the strain. But Aunt Marge and Uncle Will, both over 70, add a new dimension. Aunt Marge's vision is clouded by diabetes and Uncle Will's arthritic hands no longer can hold a pencil. Like millions of nearest relatives all over the nation, we gather the necessary information and fill out their returns, too.

The U.S. Treasury reports receiving 7.2 million returns from persons over 65 but more than 4 million of them were joint returns so that they cover about 11.2 million individuals, approximately 54 per cent of the entire over-65 clientele. How many are in better or worse health than Aunt Margie and Uncle Will is uncertain, of course, but more than one-third of the over-65 age group are past 75 and 750,000 of them are in nursing homes. Old people also occupy a disproportionately large share of the 1,600,000 beds in regular hospitals.

But the filing problem is relatively minor compared to the effect of inflation. Pensions, interest and dividends constitute about 55 per cent of the income of the elderly compared, with only 10 per cent for the total population. Their pensions were earned and savings accumulated well before inflation had gathered its modern momentum and long before automatic cost-of-living increases were heard of.

A person who retired in 1960 with some nest-egg savings had a loss of 24 per cent in the purchasing power of such savings by 1970. Recent acceleration of inflation assures that more rapid erosion is already in the cards. With the average life expectancy of all persons at 65 being 14.6 years (12.8 years for men, 16.3 years for women), retirees can expect a loss of 50 per cent or more in the purchasing power of their savings over the next 15 years.

Aunt Marge and Uncle Will are more fortunate than many. Although they are largely confined, they have enough income from pensions and savings to get along. And since their expenses for medical and various other services are relatively high in most years, they have little or no taxable income. Nevertheless, tax regulations require them to fill out the forms with all the items listed. The Treasury reports that one-third of the returns from the over 65 age group are nontaxable, approximately 2.4 million returns reporting no-owe.

For all the returns filed in the elderly age group, the average adjusted gross income per person (1969 figures are the latest available) was $4,476 and the average taxable income was only $2,637. Moreover, 60 per cent of the returns showed adjusted gross incomes of less $5,000 and only 16 per cent showed incomes of $15,000 or more.

Some very rich people are included in the over-65 group but they do not figure significantly in the total returns, doubtless due to earlier arrangements made by clever tax advisors and attorneys. Reporting of oldsters in the $100,000-and-up bracket was a mere 0.3 per cent of the total.

Why isn't it time to provide a simplified, more operable one-page tax form for the over-65 age group and one with more liberal exemptions, say, a flat $10,000 per person with a flat 5 per cent tax above that amount with no deductions?

BILLINGS GAZETTE SIGHTS NAVY TARGET

Mr. PROXMIRE. Mr. President, the Billings, Mont., Gazette of April 11 editorialized about the Navy's orders "to spend $400 million more than was anticipated or else."

The editorial continues:

The "or else" provision is that unless the Navy can get rid of the $400 million extra before the end of the fiscal year the Congress

will not think that much more money is needed next year.

Noting that the revelation was made in hearings before the Joint Economic Committee, which were spread on the RECORD of March 30, the Gazette editorial concluded:

We do not advise reading it. You will get sick.

That is exactly right. One has to see the order in cold print to get a sickening feeling of spending money just to get more. That is waste that hurts.

Mr. President, I ask unanimous consent that editorials from the Billings Gazette be reprinted in the RECORD.

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

[From the Billings Gazette, Apr. 7, 1972]

WRONG SUBJECT

The U.S. Chamber of Commerce has rushed us another one of its Washington Report bulletins which has the headline "Chamber urges new steps to curb big spending."

Of course it can be safely assumed the C of C is referring to—

A $543.3 million contract the Army has given Raytheon for engineering development of the SAM–D.

The $40 million Navy correction to Grumman Corp. for a flub on the F–14.

The $48.9 million for 166 M60 tanks.

The $102.5 million for refitting 316 others for missiles.

And the $6 million President Nixon has requested for the Overseas Private Investors Corp. to guarantee U.S. business investments in Yugoslavia.

The list could go on, but it hurts too much.

[From the Billings Gazette, Apr. 11, 1972]

NAVY TARGET—SPEND!

Our U.S. Navy has its guns trained on a major target of great strategic importance this year. It has to spend $400 million more than was anticipated or else.

The "or else" provision is that unless the Navy can get rid of the $400 million extra before the end of the fiscal year the Congress won't think that much more money is needed next year.

This isn't a pipe dream, a fantasy stemming from some radlib or peace flag waver. That's the gist of an official memorandum that Admiral Zumwalt, chief of naval operations, sent to Admiral I. C. Kidd, chief, naval material command.

The memo came to glaring official light when Sen. William Proxmile of Wisconsin conducted a hearing of the Joint Economic Committee.

Zumwalt's official wording was "difficulty of achieving these targets during the remaining months of fiscal year 1972 fully appreciated but importance of avoiding shortfall in meeting newly established fiscal year 1972 targets to avoid resultant adverse effects on anticipated fiscal year 1973 outlay ceilings dictated need for top management attention."

Proxmire's summation was more to the point, "In other words, we have to spend up to the hilt this year so we can have more funds to spend next year."

The hearing covers 11 pages of the March 30 Congressional Record.

It constitutes a strong indictment on "How Defense Department Beats the Taxpayers."

We don't advise reading it. You'll get sick.

MODEL CITIES PROGRAM

Mr. BROCK. Mr. President, I ask unanimous consent an article entitled "Model Cities: Millions Spent but Little to Show for It," published in the Los Angeles Times of Sunday, April 9, 1972, be printed in the RECORD at the conclusion of my remarks. The article portrays in the most vivid terms the strengths and weaknesses of the model cities program.

Designed as the Nation's most creative answer to urban living, and currently funding community development programs of physical as well as cultural renewal, this program continues to hold out much hope for the future.

In its strengths I have found the common denominator of much of all legislation today, the strengthening of local community determination of priorities. In its weakness I have found the weaknesses of much of the legislation which Congress continues to pass today—the confusion that results from rewarding the most vocal agents in a community rather than the most responsible.

I hope that Senators and Secretary Romney will give the article their most serious attention.

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

MODEL CITIES: MILLIONS SPENT BUT LITTLE TO SHOW FOR IT

(By Ray Hebert)

Los Angeles has been funneling millions of dollars into Model Cities projects but the city has little to show for it after wrestling with the federally sponsored program for nearly a year.

Starting sooner but working with less money, Los Angeles County and Compton—the metropolitan area's other two jurisdictions with Model Cities community upgrading programs—have made slightly better showings.

But the programs' overall impact, so far, has been almost negligible among the more than 425,000 persons living in the metropolitan region's five model neighborhoods.

The three programs—the city's, the county's and Compton's—have touched the lives of a few people.

More than 200 persons, for example, have received help at a one-stop immigration service in Los Angeles' Lincoln Heights area and 400 or so have been given free advice at a legal services center.

Model Cities money also has provided some new facilities, such as a neighborhood youth center, a detoxification center and a drug rehabilitation unit.

The money has been used to clean up alleys and vacant lots. The county has program-funded street sweeping units operating and Los Angeles expects one any day.

Even so, some officials close to the programs believe they will have no lasting effect, even though millions of dollars more will be pumped into them before they are phased out in four to six years.

If they last the full five years of their projected lifetimes, the metropolitan area's three Model Cities programs will pour nearly $180 million—probably more—into the deteriorating neighborhoods. All of it is federal money which Congress has promised to earmark for a concentrated attack, as Model Cities administrators put it, on the neighborhood's social, economic and physical problems.

Generally, the money is being used along with some state, county and local public funds, as well as private resources.

In Los Angeles alone, more than $125 million in federal Model Cities money will go into the city's two model neighborhoods—the Greater Watts area and communities in the east-northeast section of the city—over the five-year period.

The Greater Watts area has a population of nearby 120,000. The eastnortheast section, including Lincoln Heights, Boyle Heights, El Sereno and other neighborhoods, has a population of more than 140,000.

"The tragedy is that very few people will know (after five years) what these programs were all about," says Los Angeles City Councilman Thomas Bradley.

His City Council committee has the job of monitoring each project developed as part of the city's $26.3 million-a-year Model Cities spending program.

Bradley's pessimism is echoed by some other city officials, as well as by a number of outside observers. "Give it another year, maybe two," said a former program employe. "Then Los Angeles will have to shut down the program."

COUNTY VIEW ROSIER

County officials take a rosier view of what their programs are doing in the unincorporated Florence-Firestone and Willowbrook neighborhoods.

Together they have a population of nearly 90,000. The county's yearly Model Cities grant is $8.1 million.

"Everyone is benefiting," a county official insists. "Everyone!"

That appraisal, however, is tempered by the fact that the programs are shielded within the county's massive bureaucratic system.

They do not receive the same close day-to-day scrutiny given Los Angeles' Model Cities program.

Compton, on the other hand, has the advantage of operating in the shadow of the Los Angeles and county programs. Its Model Cities projects are funded at $1.3 million a year.

In approving grants for the city of Los Angeles, the county and Compton, federal officials said the three government agencies were to coordinate their programs.

But queries to each agency showed that none knew what the others were doing. Nor did they seem to care.

Even so, the three programs are in a competition to see how fruitfully they can spend the money Congress is handing out.

It has not been easy.

Even Los Angeles Dep. Mayor Joe Quinn, head of the Los Angeles Model Cities board, is unhappy with some phases of the city's program. He put it this way:

"It's not going as well as I hoped. I had hoped we would try more innovative projects. We have the brains and ideas here. . . ."

Nationally, there are 144 other cities and counties—from New York City to Seattle—with Model Cities programs. Almost all, according to U.S. Department of Housing and Urban Development officials, are having some problems.

The federal program has built-in failings. Despite the size of some grants, the program is underfunded.

New York City has the nation's largest Model Cities program. The city gets a block grant of $65 million a year. Yet Mayor John V. Lindsay has said it would take more than $50 billion to correct New York City's ills.

Based on dollar value, Los Angeles has the nation's third largest program. It was slow getting started and just did get in under the wire when HUD selected the final group of cities to take part in the program.

Bungling, ill-conceived applications for Model Cities funds as well as a lack of rapport between Mayor Sam Yorty's administration and Washington were blamed for the poor start.

YEAR OF PLANNING

Los Angeles, just as other cities did, spent a year planning how it was going to spend its Model Cities money. Last May it started its first "action year" to implement those plans.

Some cities are now in their third "action year" and most are well into their second.

Los Angeles has had problems common to many of those cities, ranging from dissatisfied community participants (community participation is a basic part of the Model Cities program) to administrative wrangles.

It has been troubled by charges of conflict of interest, complaints that the money is not being spent in the right way and allegations that some Model Cities officials were using dictatorial tactics.

The cumbersome Model Cities machinery is responsible for some problems. The program is new and federal guidelines are more a matter of interpretation—and guesswork—than hard and fast.

With $26.3 million flowing in annually, the Los Angeles Model Sities agency is committed to a $500,000-a-week spending program.

It has been unable to keep up the pace. Getting citizen approval for individual projects, contracting with public and private agencies to run them and going through the city's review process have often brought the program to a near halt.

As a result, the city has received a two-month extension of its first "action year," lengthening it to 14 months. HUD is now insisting on another extension to 17 months.

Los Angeles County and Compton also were given more time for their first-year programs.

HUD officials pointed out that such delays are not unusual. For example, Cleveland, notorious for its inability to handle federal programs, spent two years getting through its first Model Cities year.

The Los Angeles City program involves 68 separate social, economic and cultural improvement projects. In theory, but not always in practice, they were selected by citizen groups on the basis of community need.

WIDE RANGE

They range from a neighborhood beautification project and drug information center in the Greater Watts area to a multipurpose service center and youth training and employment project in the east-northeast area.

They are administered, through contracts with the Model Cities agency, by city departments or other public agencies or by community or neighborhood organizations.

The city's Department of Recreation and Parks and Board of Public Works, for example, served as contracting agencies for an east-northeast portable pool program last summer. The same type program was provided in the Greater Watts area.

"You can spend thousands of dollars on programs like this and they're forgotten the next day," a city official complained.

After 11 months, only 45 of the city's 68 planned projects actually have been implemented. This means they are operating, although in many cases visible results may not show for months.

For example, one of the major projects in the east-northeast neighborhood is the Lincoln Park Latin-American Cultural Center. It involves restoration of the old Lincoln Park boathouse and construction of other facilities.

The Los Angeles Model Cities agency earmarked $147,000 as part of the project's cost last June, yet ground was broken only a few days ago.

BIG HEADACHE

One of the agency's big headaches has been its inability to get planned housing and economic development corporations—one for each of the two model neighborhoods—started.

They are among the Los Angeles program's most ambitious—and most expensive—projects. Many people feel they could have a significant impact on the neighborhoods.

Yet, after 11 months, because of community wranging, inexperience of the Model Cities staff and other problems, the four corporations only now are ready to function. A few days ago they cleared the city's approval-review mill.

Financed up to $1.2 million for the first "action year," they will provide some new housing and aid to established and new business.

For example, in the Greater Watts area, where new housing was given top priority, one neighborhood set a goal of significantly reducing the area's 10,000 substandard dwelling units.

The housing corporation was to be the catalyst. So far nothing has been done. Some citizen groups have complained about the lack of action, as well as a cutback in the corporation's planned financing from $1.1 million to less than $378,000.

But by now such complaints have become at most routine for the city Demonstration Agency, the department created to administer the model Cities program.

Circumstances have made it a bureaucratic pressure cooker. On one hand, it has the 15-member CDA board, with Quinn as chairman, and the City Council to satisfy. HUD is also watching.

EXPERIENCED HELP

Administration is nerve-wracking. Federal guidelines say employes hired at salaries up to $1,000 a month much come from the model neighborhoods. But experienced help is hard to find.

The Model Cities staff has grown from 60 a year ago to 160 now and the payroll—$2.8 million a year—is about 12% of the HUD grant. However, this is not considered excessive.

Many staff members have quit—discouraged, frustrated or unable to do the work.

Laurence Whitehead, 39, the CDA administrator, often has shared their frustration. Not long ago he urged an executive session of the CDA board to consider whether he should continue running the program.

In addition to all its other problems, the agency was in a turmoil for many weeks over where to locate an administrative center for the Greater Watts area.

OLD JAIL

Administration of the east-northeast area was already centered in the old Lincoln Heights jail.

The Greater Watts center became an angry issue.

A site at 108th St. and Central Ave. finally was chosen. But it seemed incongruous to some observers that $293,000—all but $15,000 of it federal funds—should be used to buy land and put a portable office on it for a program that would last only four more years.

Other facets of the agency's spending program have caused concern.

Last November the City Council called for a quarterly report on its financial operations.

Whitehead's first report, issued in December, showed that nearly one-third of the money spent up to that time was for administration.

This was due, he explained, to the time lag—three months or longer—in getting projects started.

Later, at a March review session with HUD officials, he reported expenditures of $8.3 million for the program's first 10 months.

By June 30, the end of the extended "action year," all but $692,000 of the original $26.3 million grant would be spent or committed, his report promised.

This would be accomplished by channeling $7.6 million to not-yet-financed projects and reprogramming others.

But the report also showed that Los Angeles would fall far short of spending all its $26.3 million the first year.

More than $8 million is eligible for "carryover," as the balance sheet put it, into the second "action year."

Too many appearances in the spotlight have given Whitehead the look of a harried administrator.

GIVES IMPRESSION

His county counterpart, Adam Burton, is just the opposite. He gives the impression of a model executive, the relaxed administrator running an efficient operation.

A former aide of Supervisor Kenneth Hahn, Burton has only Hahn and HUD officials to worry about.

Hahn is involved because the county's two model neighborhoods, both spotted with blight, are in his district.

Burton's agency has managed to mount some projects that are having a visible—but perhaps only temporary—effect in the county's Florence-Firestone and Willowbrook communities.

The two areas are predominantly black and abut, on the north and south, the city's Greater Watts model neighborhood.

It took Burton's staff 14 months to get through the first year. The emphasis for its programs is on strengthening services already provided by county departments rather than developing new projects.

This year, for example, 75% of the county agency's projects—52 holdovers and seven new ones—will be administered by county departments.

Most of the projects are aimed at improving the physical environment of the two depressed neighborhoods or bettering educational, health and other social facilities.

During the first year, for example, the agency provided $175,000 to the weed abatement section of the County Department of the Forester and Fire Warden to clean up 1,000 vacant lots.

In addition to street and alley maintenance and other "high visibility" projects, the agency helped intensify the county's animal control services, impounding more than 5,000 stray animals and picking up 2,600 carcasses.

Despite the county agency's newspaper and magazine, which are part of the program's $338,440 annual Citizens Participation Corp. to keep model neighborhood residents informed, there is a sad lack of community knowledge about the programs.

Most persons, a sidewalk sampling showed, either have never heard about the projects or if they have, they identify them with urban renewal programs.

Compton's program, also in its second year, is unique because it has been expanded from the original model neighborhood on the city's northside to include the entire city.

The original area has a population of 10,000. It was broadened because city officials felt the projects were too restrictive and should serve all of Compton's 78,000 residents. Seventy-five per cent are black.

Compton city officials consider their program, with such projects as park improvements and Operation Clean Sweep, an alley-vacant lot cleaning effort, one of the best in the nation.

Among its 13 operational projects, the city, in cooperation with Compton Community College, has a manpower resources program which has trained and counseled nearly 380 persons for jobs.

Compton's Model Cities officials are trying now to get more money since the program has been reshaped to serve almost as many people as there are in the county's two model neighborhoods.

Even so, Compton's appraisal of its own program may be over-optimistic. Twenty cities were selected among the nation's 147 with Model Cities programs to try different variations of block grant funding.

Most are being given an opportunity to

use increased federal help on a citywide scale. Compton was not selected as one of those "planned variation" cities.

In the meantime, the proximity of the Compton, Willowbrook, the Greater Watts area and the Florence-Firestone neighborhood to one another has posed peculiar problems for HUD's Model Cities overseers.

The four neighborhoods run together, forming a giant community with many common problems. Yet there is the lack of coordination.

One attitude was summed up by a Los Angeles Model Cities official who, tallying the $131.5 million the city will get over a five-year period, said:

"Hell! The money's going somewhere. We've got our's. Why share it?"

MODEL CITIES—TEST IN SLUM REBUILDING

The Model Cities program is a test for city and county governments, as well as federal agencies, in slum rebuilding.

It was conceived during President Johnson's Administration as a new way, using the total attack approach, to upgrade depressed neighborhoods and improve the lives of people living in them.

Congress passed an act in 1966 in an attempt to coordinate and speed up the flow of federal help through block grants—massive doses of financial aid for many different uses—to deteriorating inner cities.

Coordinating help for new slum area housing, transportation, education, welfare and other neighborhood problems was difficult at the federal level.

The idea was to give cities a free hand—as well as more responsibility—in making the best use of federal programs and funds.

With slums as the target areas, federal incentives were to be used in conjunction with some state, local and private resources.

The concept was lofty. The vision, as one observer put it, was to transform the face of the nation.

At first it was called the Demonstration Cities program. Basically it is still a demonstration.

It is an opportunity for cities, counties and even an Indian reservation to demonstrate what they can do on their own to halt and turn around a depressed neighborhood's downward spiral.

How the 147 demonstration cities will handle their Model Cities programs under current plans for future revenue sharing programs to return more money to state and local governments is questionable.

Some observers believe both the Model Cities program, as well as the Office of Economic Opportunity's war on poverty, also a product of the Johnson Administration, are headed for relative obscurity.

But others view the start the Model Cities program has made, however haltingly, as a foundation other cities could follow in dispersing new federal revenue sharing funds, provided Congress approves the concept.

A WYOMING FATHER ASKS TO BE HEARD ON THE HANOI OFFENSIVE

Mr. HANSEN. Mr. President, I received a very moving telephone call from Mr. Houston Martin, one of my Democratic friends in Green River, who wanted to express his support for the action President Nixon has ordered in response to the invasion of South Vietnam by the Communists.

Mr. Martin is 75 years old and himself a veteran of military service to our country. Six of his sons have served in the uniform of our country, two of them in Vietnam. One of his sons currently is serving a third tour of duty in Vietnam—an assignment for which he volunteered.

Mr. Martin asked that I convey to other Members of the Senate the following thoughts in his words:

I have been a Democrat all my life, but I am ashamed and disgusted at the statements some Democratic Senators have made criticizing the action President Nixon has taken in support of our troops, when they should be supporting him.

Anyone with a son in Vietnam wants to be sure that everything possible is done to assure his safe return.

Personally, Mr. Martin added:

I would favor the use of any weapon including those in our nuclear arsenal to assure my son's safe return.

Mr. President, my friend and constituent, Mr. Martin, believes, as I do, that most Americans are behind the President in his decisions. We do want our American troops out of Vietnam, and believe that the sooner this massive attack with troops, armor and artillery by Hanoi is repelled, the better will be the prospects for getting Americans out of Vietnam safely, in accordance with the withdrawal plan laid down by the President.

Mr. Martin feels that we should not engage in a war that we do not intend to do what is necessary to win, and I believe this reflects the feeling of a lot of the American men presently in Vietnam, and the feeling of families that have members in Vietnam.

Mr. President, the wholesale invasion of South Vietnam by North Vietnam is a clear admission of failure by the Hanoi dictators of their efforts to take over the south merely by convincing the people of the merits of communism.

In the past, the Communists' attempts at a takeover of the south have largely been through subversion and covert attacks by scattered force. But the attacks of the past several weeks have been much more than that. Militarily, they indicate that Vietnamization has been working.

The North Vietnamese are engaged in open warfare more blatantly aggressive than ever before. This invasion poses a crisis for the American troops yet in Vietnam. The success or failure of this latest attempt by Hanoi to make captive South Vietnam may mean life or death for some Americans.

Some have sought to blame the President for the blood shed by the invaders in a war which the President had no part in starting or escalating. The President's role has been just the opposite. He has done the will of the American people and brought all but about 95,000 Americans out of Vietnam. These men now are in danger, and I believe it is President Nixon's duty to order whatever is necessary for their safety.

I believe these American troops are entitled to the support of every American, including those of us in the U.S. Senate.

NO FAULT INSURANCE

Mr. MOSS. Mr. President, the image building attempted by some trial lawyers has reached an all-time low, but I refused to fall into their trap and be used as a public relations ploy, a fate which has unfortunately befallen some others. Friday in New York, the American Trial Lawyers Association held a gala luncheon and established a group called Action for Consumers Today. In order to capitalize on the public's concern for consumer safety, and to whitewash its miserable performance in "no-fault" insurance, these trial lawyers set up this group with the hopes of regaining the respectability which members of the profession should possess.

Our distinguished colleague from the other body, JOHN MOSS, had been invited to address the luncheon on product safety. At one point last week, it became evident that he could not attend, and thus I was asked to fill in for him at the gala luncheon.

But before I had even accepted, discussion arose as to subject matter and press coverage. Herman Glaser called my office and left word that I was not to speak on no-fault insurance. Moreover, if questioned by the members of the press expected at the luncheon as to my views on no-fault, I was to offer a "no comment" in response. Now it happens that I do have some views on no-fault. I have studied the proposed legislation and I have sat in Senate hearings on the matter. But I am directed to stay mum—to respond "no comment" if asked about no-fault.

Mr. President, no one is ever going to dictate to me what to say or not to say. Furthermore, as chairman of the Consumer Subcommittee, I consider no-fault insurance to be one of the most important consumer issues which the Congress can undertake and solve. Billions of dollars are going down the drain due to the inefficiencies of our old tort liability system.

In any case, I will not be a party to the public relations activities of these men. I ask unanimous consent to include in the RECORD a number of documents which I believe will be found particularly interesting. They include, "A Trial Lawyer's Legislative Workbook," a form of primer on lobbying; a press release from these trial lawyers; a memorandum on lobbying from the trial lawyers; and several articles on the subject.

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

A TRIAL LAWYER'S LEGISLATIVE WORKBOOK

Q. "What do you feel is the best method to establish and keep rapport with sympathetic legislators and how do you suggest bill introductions, legislative advocacy and hearings be conducted?—Do you have an active 'Legislative committee' in your state trial lawyers organization and how does it work?—Do any trial lawyer groups make campaign contributions to candidates to legislative office, or is this done on an individual basis? Outside of finance, do they aid him in vote-getting? How do you go about encouraging bright young plaintiff-oriented lawyers to seek legislative office? In general, how does your state organization handle 'legislative advocacy', appearance before committees, and follow-up on bills? Do you think it is necessary to have a full or part-time man on the job at the state capitol to keep members informed?"

(Texas: William R. Edwards)

We have found that the best method of establishing and keeping rapport with legislators whether sympathetic or not (hopefully

securing the help of those who are not necessarily sympathetic by so doing) is what I like to call the "buddy system". By this we mean the real responsibility for each of the legislators is placed on the trial lawyers located within their respective districts. We expect our members to befriend the legislators, to get to know them not only as political friends, but as personal friends. We endeavor to secure representative trial lawyers' membership in the district of each legislator. By virtue of such personal contact, we are able to secure the help and understanding of many legislators who are not lawyers and who have not had any real experience with our problems. Additionally, in the past year, we have made some progress toward securing help from non-lawyers convincing them that our programs are right and that by contributing their money and influence through us, persons may be able to be of much greater influence in securing passage of such legislation than they could otherwise. One such non-lawyer from Dallas was of extreme help to us in our recent passage of the Texas Tort Claims Act, his interest in the matter having accrued by virtue of the death of a daughter caused by governmentally-immune conduct. Generally speaking, if a bill to be introduced is on its face one which is of a public nature, that is for the good of the people, as opposed to the good of the lawyers, we do not hesitate to have one of our strong supporters in the legislature, even one of our members, introduce the legislation, and in fact encourage it. However, as to strictly lawyer legislation, we prefer to get a non-lawyer member, one whose interests are not apparently aligned with ours to introduce the bill if possible. Because of our continued twelve-month-a-year program of legislative contact, we have never had any difficulty in securing introduction of any bills by the "proper" people. With respect to legislative hearings, our experience has indicated conclusively that if we will work closely with those committee members who agree with our position as to any particular legislation, and actively participate in the preparation of the case for our side of the bill, much as we would prepare a court case, that by virtue of careful preparation, including expert witnesses, statistics, etc. that we are ordinarily in a position to place before the committee hearing the bill a far better picture and far more effective case than the other side has usually taken the time or the effort to prepare. *Careful preparation* of the case for or against the bill cannot be overemphasized.

We have a legislative committee and it is very active. It is the function of our legislative committee to see to the election of representatives who will support our positions, to formulate our legislative programs, to secure introduction of the bills we propose to pass and to shepherd those through to final passage and signature by the Governor. During the legislative session, in our office in Austin [state capital], we maintain a continuous program of public relations including an open bar and a buffet luncheon. During the last session of the legislature, we averaged in the neighborhood to twenty or twenty-five representatives and senators for lunch each day the legislature was in session. We have *one cardinal rule* with respect to the office we maintain in Austin across the street from the Capitol grounds: No lobbying may be done in the office. No pending bills may be discussed unless a particular legislator brings up the subject and asks that it be discussed. We have tried to make our office a place where the members of the legislature can come to escape the continual bombardment of lobbyists—where they get a drink or a good meal and relax. We are convinced that the legislators appreciate this rule.

Approximately two years ago we instituted a bank-draft plan whereby our members and anyone else we can persuade to do so contributes $10.00 a month to a fund maintained in Austin. The fund has been recently renamed and designated LIFT (Lawyers Involved For Texas). This fund is available for use in election contests for either State Senator or State Representative—it is not available for use in the campaign of any candidate seeking state-wide office. The fund is administered by the legislative committee and the President of the Texas Trial Lawyers Association. It is distributed carefully to secure the greatest effect by the use of the money. We expect contributions wherever possible to be made on an individual basis. This program is in line with the "Buddy System" outlined above. However, there are obviously areas in which our membership is not in a position to adequately finance a candidate. Funds are made available on such a basis. Occasionally, there will be an extremely important race between a good friend and a bad enemy of the Association. In such instances we may apply rather substantial amounts of money to the particular contest. Our members are encouraged to participate actively in the campaigns of legislators and candidates. We do all that is within our power—financially and otherwise—to support actively the election of candidates who are philosophically attuned to our goals. This is the only way it can be done.

The best encouragement that can be given to any candidate for elective office is the chance of winning. We find that our program in Texas has enabled us to secure candidates—both trial lawyers and non-lawyers—to run for office. The non-lawyers are only too ready to assist us when they fully understand our goals and programs. After all, what we are attempting to secure in the way of legislation is in the final analysis good for the people. So long as we continue to that posture, we do not feel it is important to lawyer as opposed to non-lawyers represent us in Austin. So long as our representatives are properly attuned to our programs, the non-lawyers are often more effective in securing the passage of our legislation, than are lawyer members.

With respect to each bill that is introduced, a subcommittee of the legislative committee of the Texas Trial Lawyers Association is appointed. This subcommittee has the primary responsibility for the particular bill. The subcommittee is charged with: (1) drafting the bill, (2) securing the sponsors in both the House and Senate, and (3) shepherding the bill through the legislature. The subcommittee is responsible for the preparation and presentation of evidence at committee hearings. The subcommittee is also responsible for keeping the association informed of the bill's progress so that the association may—if necessary—put on a "show of force" at hearings or votes, etc., by calling the membership to Austin at appropriate times. We maintain a constant review of bills introduced to assure that no legislation simply slips by us without our knowledge. This is another task of the legislative committee. Regular reports on what is happening in Austin is disseminated by letter to all the members of the Texas Trial Ass'n.

[Because of space limitations, only the Texas responses have been reproduced. They appear to contain in more comprehensive form most of the ideas mentioned by other states' Key Men.]

Additional Texas ideas mentioned at regional Key Man Meeting, Denver, June 19, 1970:

"We have approximately 1,200 members in the TTLA. The only requirements for membership are that (1) one pay $100 a year in dues and (2) be a lawyer who does not habitually represent insurance companies.

"We have had an executive director since 1962. The present Executive Director is a *professional lobbyist*, not a lawyer. He teaches us "To have a successful trial lawyers' legislative program:

1. You have to have an appealable piece [pieces] of legislation.

2. You have to have a significant number of people who are able to discuss completely and intelligently the merits of that legislation.

3. Your program should be neither a Democratic nor a Republican program; neither a Populist nor an American-ist program. It must be a program for the public.

4. The scope of the legislative program should be very narrow: to get more justifiable money into the hands of claimants.

"Legislative advocacy is a complicated art; there are no simple routes to effectiveness. The most unsuccessful lobbying group at the last session of the Texas legislature was a group that left a fifth of best-quality whiskey in every legislator's car. Reaction: "Huh, those ——— think they can buy my vote with a bottle of booze. ——— them." Subtlety and hard, intelligent work are *essential.*

UP, UP AND AWAY

Lift is the latest effort of Texas Trial Lawyers Association. It stands for Lawyers Involved for Texas, and it's a runaway success . . . The *El Paso Times* reported in its Capital Column June 14th, that Lift was responsible for the Democratic nomination in this year's primaries of six of the eight candidates it backed for the *State Senate.*

Lift is a legislative kitty which is paying off. Most of your officers are contributing $10 per month on a bank draft authority to Lift.

If you want to be a part of the movement for *comparative negligence* in Texas, for statutory authority to let jurors know what they are doing in *special issue verdicts,* and for a successful rejection of *Keeton-O'Connell* schemes, in other words, if you want your practice to *survive,* better get with it.

Send a check, any amount to *Lift, 201 Westgate Bldg., Austin!*

Observation by Nebraska State Senator [Nebraska has only one house of legislature—49 Senators] at Denver Key Man meeting, June 1970:

"We *never* hear from the lawyers of Nebraska except when we are about to vote on a bill that is of interest to them. Thus, it is not surprising that when we voted on repeal of the automobile guest statute, there were only 8 votes out of 49 in favor of repeal. Contrast the trial lawyers whom we never see with the bankers who are the most highly organized group in the State. The Nebraska Bankers Association is always around to lobby and to help and to answer questions—including questions totally unrelated to legislation affecting banks. We build up confidence, rapport, friendship with the bankers. The lawyers are unknowns whom we ignore in turn."

AMERICAN TRIAL LAWYERS ASSOCIATION,
Cleveland, Ohio, January 11, 1971.

MEMORANDUM

To: Selected ATL Leaders
From: Richard M. Markus, President.

Approximately one month ago, I wrote you requesting the names of trial lawyers in your area who are believed to have close relationships with certain specified key senators and congressmen. Thus far, I have not received any suggested contacts for the following:

California—Congressman John E. Moss
Kentucky—Congressman Tim Lee Carter
Michigan—Congressman John D. Dingell
Nebraska—Congressman Glenn Cunningham
New York Congressmen James F. Hastings and John M. Murphy
North Carolina—Congressman James T. Broyhill
Ohio—Congressman Clarence J. Brown
Pennsylvania—Congressman Fred B. Rooney
Rhode Island—Senator John O. Pastore
Tennessee—Congressman Dan H. Kuykendall
Texas—Congressman J. J. Pickle

Utah—Senator Frank E. Moss

Virginia—Senator William M. Spong, Jr., Congressman David E. Satterfield

Wyoming—Senator Clifford P. Hansen

Please direct your attention to this subject as soon as possible, since it is urgent that we have such contact for the senator or congressman from your geographical area as soon as possible.

AMERICAN TRIAL LAWYERS ASSOCIATION,
Cleveland, Ohio, January 11, 1971.

MEMORANDUM

To: Selected ATL Congressional Contacts

From: Richard M. Markus, President.

We are informed that the Congress will probably hold hearings on "no fault" legislation sometime after the beginning of March this year. It is extremely important that we contact Senators and Congressmen on the Committees which will hold those hearings—preferably before any of the hearings occur. I understand that you know the Senator or Congressman identified above so that you would be in a position to arrange an appointment to discuss the matter with him.

If you feel sufficiently knowledgeable to discuss the subject with him, please arrange an appointment to see him at a time when he is in his own home state. You may well wish to take one or more other trial lawyers with you when you visit him. If so, try to select lawyers who are knowledgeable about the subject. This may include defense lawyers if they are available and cooperative.

While you may not be able to obtain any commitment from him, try to form an impression as to his reaction to this subject, after you have spoken with him about the problems lurking behind so-called "no fault" proposals. We must determine the general attitudes of these legislators in order to effectively fashion our legislative approach. Please let me know as soon as you have formed any such impression.

If you plan to attend the Midwinter meeting at Las Vegas, you may wish to arrange the appointment for a time following that Convention, since I plan to hold a meeting of all of the key legislative contacts to whom this letter is addressed. That meeting will occur at Caesar's Palace Hotel in Las Vegas on Wednesday, February 24, 1971, from 7:00 p.m. to 8:00 p.m., in a room which will be posted in the hotel. If you are able to attend the Midwinter Convention, please try to attend that meeting, whether you have contacted your Senator or Congressman or not. There may well be later contacts which are necessary, and we will certainly want to discuss our general legislative approach during that meeting.

Your cooperation in this effort is critical. The faith and trust of trial lawyers across the nation rests with you. Please do not fail us in this essential project.

KEY CONTACTS

SENATE

Warren G. Magnuson (Washington-D)—Hugh Horton (Kennewick), Leon L. Wolfstone (Seattle)

John O. Pastore (Rhode Island-D)—

Vance Hartke (Indiana-D)—David Matthews (South Bend), Leonard Kinkaid (Terra Haute), Donald Brunner (Shelbyville), Paul Hirsch (Indianapolis), Charles Williams (Paducah, Ky.), Sydney L. Berger (Evansville), John Jennings (Evansville), Theodore Lockyear, Jr. (Evansville)

Philip A. Hart (Michigan-D)—Eugene D. Mossner (Saginaw)

Howard W. Cannon (Nevada-D)—Toy Gregory (Las Vegas), Neil G. Galatz (Las Vegas), David Goldwater (Las Vegas), Louis Wiener (Las Vegas), Howard McKissick, Jr. (Reno), C. E. Horton (Ely), John W. Diehl (Fallon) Paul A. Bible (Reno), Peter Echeverria (Reno), Paul A. Richards (Reno)

Russell B. Long (Louisiana-D)—Lawrence Smith (New Orleans), Henry A. Politz (Shreveport)

Frank E. Moss (Utah-D)—David E. Bean (Layton)

Ernest F. Hollings (South Carolina-D)—D. Kenneth Baker (Darlington), Richard J. Foster (Greenville), Henry H. Edens (Columbia), Senator James P. Mozingo, III (Darlington), Ellis I. Kahn (Charleston), G. Ross Anderson, Jr. (Anderson), Walter G. Charles B. Bowen (Greenville)

Daniel K. Inouye (Hawaii-D)—Chuck & Fujiyama (Honolulu), Meyer C. Symonds (Honolulu), Frank Padgett (Honolulu), James H. Ackerman (Long Beach, Calif.)

William B. Spong, Jr. (Virginia-D)

Norris Cotton (New Hampshire-R)—Paul Rinden (Concord)

Hugh Scott (Pennsylvania-R)—Watzman & Watzman (Pittsburgh), Milton D. Rosenberg (Washington)

Winston L. Prouty (Vermont-R)—Robert K. Bing (Burlington)

James B. Pearson (Kansas-R)—Don Smith (Dodge City), John Shamberg (Kansas City); Don Concannon, 120 W. 8th, Hugoton (not member)

Robert P. Griffin (Michigan-R)—Robert Van Leuven (Muskegon)

Clifford P. Hansen (Wyoming-R)

Howard H. Baker, Jr. (Tennessee-R)—Joe Guess (Knoxville); Joseph M. Boyd, Jr. (Dyersburg); Robert Crossley, Valley Fidelity Bank Bldg., Knoxville (not member);

Ernest F. Hollings (South Carolina-D)—James R. Turner (Spartanburg), Isadore E. Lourie (Columbia), DeRosset Myers (Charleston), William McG Morrison (Charleston), Edward E. Saleeby (Hartsville), William K. Charles (Greenwood)

Howard W. Cannon (Nevada-D—Robert D. Stitser (Reno), Virgil H. Wedge (Reno), William N. Forman (Reno), Thomas R. C. Wilson, II, (Reno)

HOUSE

(Influential (X))

X Harley O. Staggers (West Virginia-D)—Michael Tomasky (Morgantown), Sam Angotti (Morgantown)

Torbert H. Macdonald (Massachusetts-D)—Abner R. Sisson (Boston), William J. Lee (Boston)

John Jarman (Oklahoma-D)—Floyd Martin (Oklahoma City)

X John E. Moss (California-D)

John D. Dingell (Michigan-D)

X Paul G. Rogers (Florida-D)—Bill Colson (Miami), Al Cone (West Palm Beach), Ward Wagner, Jr. (West Palm Beach), James M. McEwen (Tampa), Bill Frates (Miami)

Lionel Van Deerlin (California-D)—Thomas Golden (San Diego)

J. J. Pickle (Texas-D)

Fred B. Rooney (Pennsylvania-D)

X John M. Murphy (New York-D)

David E. Satterfield (Virginia-D)

Brock Adams (Washington-D)—Camden Hall (Seattle), Leon L. Wolfstone (Seattle)

X W. S. Stuckey, Jr. (Georgia-D)—Robert Elsner (Atlanta), J. S. Hutto (Brunswick), Cullen M. Ward (Atlanta), Hon. Will Ed Smith (Eastman) Hon. Harry L. Cashin (Atlanta), Ben B. Mills, Jr. (Fitzgerald)

X Peter N. Kyros (Maine-D)—Charles W. Smith (Saco), Herbert Bennett (Portland), Severin M. Beliveau (Rumford)

X Bob Eckhardt (Texas-D)—John Collins (Dallas), Herman Wright (Houston), John Patterson (Houston)

Richardson Preyer (North Carolina-D)—J. W. Clontz (High Point)

X William L. Springer (Illinois-R)—Philip Zimmerly (Champaign)

Samual L. Devine (Ohio-R)—Harold Wonnell (Columbus)

Ancher Nelson (Minnesota-R.

X Hastings Keith (Massachusetts-R), George Wainwright (Brockton).

X Glenn Cunningham (Nebraska-R).

X James T. Broyhill (North Carolina-R).

X James Harvey (Michigan-R), Eugene D. Mossner (Saginaw), Richard G. Smith, 1212 Phoenix Building in Bay City, Michigan, 48706 (not member, was in same defense law firm).

Tim Lee Carter (Kentucky-R).

Donald G. Brotzman (Colorado-R), Harold Feder (Denver), John O'Hagen (Greeley), Williams, Taussig & Trine (Boulder), James G. Martin (Boulder), Gerald A. Caplan (Boulder), Jim R. Carrigan (Denver).

Clarence J. Brown (Ohio-R).

Dan H. Kuykendall (Tennessee-R).

Joe Skubitz (Kansas-R), Davis Carson (Wichita); Dan Skubitz (son), 530 North Market, Wichita; Darb Ratner (Wichita), Ora McClellan (Neodesha, brother-in-law).

X Fletcher Thompson (Georgia-R), J. S. Hutto (Brunswick), Cullen M. Ward (Atlanta), Alfred Wall (Atlanta)

James F. Hastings (New York-R).

CONTACTS WITH OTHER CONGRESSMEN AND SENATORS

Congressman Melvin Price, John E. Norton (Belleville, Illinois).

Senator Charles Percy, John E. Norton (Belleville, Illinois).

Senator Herman E. Talmadge, Cullen M. Ward (Atlanta, Georgia).

Congressman Keith Sebelius, member of ATL and at one time active in Kansas Trial Lawyers Association, "good man to carry ball for Kansas" (Patrick F. Kelly, Wichita).

AMERICAN TRIAL LAWYERS ASSOCIATION,
Cleveland, Ohio, March 22, 1971.

CHARLES T. HVASS, Esquire
Cargill Building, Minneapolis, Minn.

DEAR CHARLIE: Dick Jacobson sent me a copy of your letter of March 11, 1971. Your letter suggests that the Minnesota State Bar and the Minnesota Trial Lawyers Association might consider supporting the N.A.I.I. While superficially, that proposal may meet some of the goals which you discuss in your letter, I think you will find upon further, reflection that it is in fact a very bad Bill. Moreover, although I can understand the fatigue which follows a long defensive battle against such proposals, I want to reassure you that I personally feel the end is in sight.

Turning first to a review of the N.A.I.I. proposal, I suggest that this makes a very poor effort at eliminating the so-called small cases. The standard for determining whether an action for general damages is still available depends largely upon the artificial $1,000 medical bill threshold. I am sure you are familiar with a multitude of cases involving relatively serious injury (without dismemberment, disfigurement, or death) involving less than $1,000 medical expenses. Consider the cases involving a nonoperated herniated disc, a non-operated torn meniscus, or post-traumatic epilepsy without prolonged hospitalization. These and many other cases might well involve less than 1,000 medical expense. The DOT studies inform us that ½ of all automobile injury claims are settled for a total of $500 or less. This is not $500 medical expense, but $500 total settlement value. The Economic Consequences Study by the DOT shows the following somewhat remarkable statistical data. 89.2% of injured auto victims have medical expenses of less than $500. 95.8% were not hospitalized at all or were not hospitalized for as much as two weeks. 94.4% missed no time from work or less than 3 weeks work. For those not employed, 98.2% were disabled from their regular activities for less than 6 weeks. The DOT studies defined persons as "seriously injured" for their purposes as anyone who had medical expenses of $500 (not including hospital) *or* 2 weeks of hospitalization *or* 3 weeks of lost work *or* 6 weeks disability from regular activities for those not employed.

Using those definitions, the DOT found that only 19.8% of the injured victim popu-

lation would be described as "seriously injured". This means thaat the N.A.I.I. threshold (at least $1,000 medical expense) would limit the tort remedy even further, so that there might only be 10% of the injured victims who would have any right of recovery. Further, many of the persons described as "seriously injured" by the DOT studies would not be eligible to maintain a tort action under the N.A.I.I. plan. Frankly if any threshold concept made sense on the basis that it is necessary to eliminate the "smaller claims", more than ½ of all the claims could be eliminated with a threshold requirement of $100 expense for medical bills and wage loss together. In other words, more than ½ of all tort claims from auto accidents involve special damages of less than $100. For this reason, I say that the N.A.I.I. proposal is grossly miscalculated for the goals which you describe in your letter.

In my first paragraph, I suggested that the end of this controversy may well be in sight. I say that because it is becoming increasingly obvious that the real struggle is between the alternative proposals of "no-fault" automobile insurance and national health insurance. These remedies are at least in part mutually exclusive. Certainly, a general health insurance program would eliminate the need for any first party insurance for medical expense arising from automobile accidents. The DOT studies tell us that medical expense represents fifty-three percent of all special damages for accident victims. Moreover, if compensation for medical expense is removed from the auto insurance picture, the insurers now pushing "no-fault" will be virtually forced to reverse their present position drastically. If they eliminate most general damages, and if medical expense is taken away from them, there is very little left for them to insure. Therefore, a national health insurance program may well require every insurer now supporting "no-fault" to become its vigorous opponent—at least if they wish to remain in business. This is particularly true if the Kennedy-Javits form of health insurance (governmentally funded through social security) is adopted.

Since I consider that national health insurance has a huge head start on auto insurance in Congress, I have optimism that the present controversy will die of its own weight within the next two years. For all these reasons, I ask you to reconsider the position suggested in your letter, for your own good, the good of the Minnesota bar, and for the good of the public in Minnesota. I think you will agree with me that generalized health insurance is a worthwhile social remedy—far more important than a social remedy that seeks to assist the 16% of accidental injuries which are represented by automobile victims or the even smaller percent of total accident and illness victims which are represented by automobile injuries. Therefore, I say let's make the liberals support true liberal legislation. The auto insurance proposals are phoney liberal legislation that is being pushed by auto insurers that are desperately frightened about the potential consequences of a generalized health insurance program.

Very truly yours,

RICHARD M. MARKUS.

[From the Baltimore News American, Feb. 22, 1972]

NO-FAULT WITNESS TIED TO LAWYERS

(By T. Lee Hughes)

ANNAPOLIS.—A special legislative no-fault auto insurance committee has failed to identify as a top executive of the American Trial Lawyers Association (ATLA) a key witness whose testimony apparently had considerable influence on the committee's position on the no-fault issue, it has been learned.

The witness, William Schwartz of Massachusetts, is identified in the committee's final report only as a professor of Boston (University) Law School.

Minutes of a committee hearing held early last month in Massachusetts state only that Schwartz "wanted to make it clear that he was not an actuary nor representing any organization or institution . . ."

However, Schwartz is general director of the ATLA, which has an economic interest in defeating no-fault auto insurance legislation and is conducting a nationwide campaign against it.

Virginia H. Knauer, special consumer affairs assistant to President Nixon has said the techniques used in the ATLA campaign "would appear to be so devious, misleading and blatantly self-serving as to cast a long shadow over the integrity of the entire legal profession."

Timothy Clark, legislative assistant who arranged Schwartz's testimony, said he did not know of Schwartz's ATLA position.

He said Schwartz told the committee before his testimony that he was not representing the ATLA or anyone else. No one on the committee pursued the issue any further, he said.

Five of the committee's eight members were lawyers earning income handling accident cases under the present "fault" insurance system.

The committee was described early last month as particularly impressed with Schwartz's testimony against the no-fault concept, and it later recommended a very weak no-fault bill.

Schwartz has been criticized elsewhere for using his teaching post at Boston University to further the ATLA cause.

The issue surfaced again last week when Del. Alan M. Resnick, D-Balto. 5th, disclosed he had asked Schwartz to testify before the Senate Economic Affairs Committee, which has recently taken up study of the no-fault issue.

Resnick, a lawyer with a lucrative auto accident practice, said he had issued the invitation on behalf of a lawyer's group known as the Foundation for Insurance Reform and Education (FIRE).

Schwartz couldn't come and recommended instead a Boston University colleague named Neil Hecht, said Resnick.

Hecht, too, began his testimony before the Senate committee by insisting that he was "not speaking on behalf of any organization or institution." Only under questioning did he admit his expenses were being paid by FIRE.

Resnick was also a member of the special no-fault committee that went to Massachusetts.

[From Business Insurance, Feb. 14, 1972]

LAW PROFESSOR CALLS NO-FAULT A GIMMICK

HOUSTON.—A critic of no-fault auto insurance, Prof. David J. Sargent of Suffolk University Law School, Boston, said, "I think there is something wrong with the brand of no-fault insurance which the public has been presented thus far which takes benefits away from innocent victims in order to finance the same kind of benefits to the wrong-doers who caused that injury."

Prof. Sargent was in Houston speaking at the University of Houston Law School convocation and before the Houston Trial Lawyers Assn.

Citing the pioneer Keeton-O'Connell no-fault plan, Mr. Sargent said, "Under the plan, compensation will be paid to the drunken driver, to the dope addict operating under the influence of narcotics, to the escaping criminal who crashes his motor vehicle while trying to elude police, and to the driver who is guilty of willful, wanton and reckless misconduct in the operation of his car."

Mr. Sargent called no-fault a "gimmick" and said that legislation of the type now proposed is not in the interest of the consuming public.

"My basic objection is the reduction of benefits," he said, "and the public is not generally aware of this portion of the plan. People believe they will have auto insurance at cheaper rates. But they do not realize that even if you do give them a cheaper policy, which is highly questionable, you are guaranteeing that they are going to get a very small fraction of the benefits that they receive under the traditional system (of justice)."

Mr. Sargent opposes present no-fault proposals because of the elimination of the right to recover general damages. In a reference to U.S. Senate Bill 945, Mr. Sargent stressed that a complete exemption from liability for property damage is contained in the bill. "We can hit each other's car and there is absolutely no liability," he noted, "which means that we then have to go out—unless we are going to take an awfully big gamble—and buy at some high prices some collision insurance.

"That's one of the great misnomers of these no-fault plans," said Mr. Sargent "in that by and large they deal with the bodily injury aspect. Nationwide, only one-third of the insurance premium dollar of the traditional motorist is consumed by the bodily injury coverage; two-thirds is for property damage."

NEW YORK STATE TRIAL LAWYERS ASSOCIATION NEWSPAPER ADVERTISEMENTS

I. All references to increases in the *over-all* cost of auto insurance in Massachusetts since no-fault became effective are intentionally misleading; a "guilt-by-association" kind of attack.

It would have made just as much sense—and have been just as inaccurate a barometer of no-fault—to ask people if their *homeowners* or *life insurance* premiums had gone up since no-fault auto insurance became law.

A. Fact: The Massachusetts state insurance department has estimated that Massachusetts motorists realized a savings of $76 million because of no-fault based on what 1971 compulsory rates would have been under the fault system.

B. Fact: Because the Massachusetts courts sustained a long-delayed increase in rates for property damage, collision and comprehensive coverages, many Massachusetts motorists did experience a rise in the *over-all* cost of their auto insurance last year, as they reported. But that had *nothing to do with the no-fault law*, which then applied only to bodily injury insurance.

C. Fact: *Every* Massachusetts motorist received a 15% *decrease* in 1971 in the rate for bodily injury insurance because of the no-fault law.

D. Fact: If no-fault had not been enacted, rates for bodily injury coverage would have had to be *increased* by about 20%. (That represents a net difference of some 35% in rates for bodily injury insurance.)

E. Fact: Because of no-fault, premiums for medical payments coverage were *reduced* 25% for those who purchased that optional coverage.

F. Fact: As a result of the first year's experience under no-fault, premiums for bodily injury insurance have been *reduced* another 27.6% for 1972, an additional savings of $30 million for Massachusetts motorists.

Thus, in terms of the typical Boston driver the savings look like this: In 1970—before no-fault—a young male driver paid $375 for the compulsory bodily injury insurance. In 1971—under no-fault—his rate was reduced to $318 and in 1972 it was further reduced to only $237. The average driver over 25 years of age paid $117 in 1970, $99.50 last year and only $74 in 1972 for bodily injury insurance.

G. Comment: It is pure distortion to make it appear that the increases in cost for prop-

erty damage insurance in 1971 were *in any way related* to no-fault insurance. No-fault did not apply to property damage coverages in 1971. Because of the success of no-fault in bodily injury insurance and in an effort to slow the rise in premiums for property damage coverages, the legislature extended the no-fault concept to property damage, effective January 1, 1972.

In announcing rate increases in property damage coverage for 1972, Commissioner of Insurance John Ryan stated that he would have fixed higher charges for those coverages if no-fault had not been extended to property damage.

II. Figures in the "graph" are subject to question. Originally presented in late fall of 1971, they purport to show payments to accident victims for 1970 and 1971. 1971 data has to be incomplete—could have represented nine month figures at best. Question: is the comparison valid? No time periods are divulged.

III. The charge that insurance companies gained from no-fault at the expense of the public in not paying for "genuine pain and suffering" is misleading on several counts.

A. First, insurance companies themselves *received* over $50 million *less* in premiums on bodily injury insurance in 1971 than they did in 1970.

B. Second, the Massachusetts no-fault law clearly is having the effect of reducing, if not eliminating, ersatz claims for bodily injury. The Massachusetts Registrar of Motor Vehicles states that there were 50,000 *fewer* personal injuries reported in 1971 under no-fault than in 1970 (101,000 vs. 151,000), while the number of accidents reported dropped by only 17,000 (152,000 vs. 168,944). This, of course, is a prime factor in reduced over-all payout.

C. Third, the trial lawyers ignore the fact that the Massachusetts law permits people to sue for intangible losses whenever their medical expenses exceed $500 or they suffer certain, defined serious injuries, including fractures. Thus, people are recovering for "genuine pain and suffering" every day in Massachusetts, just as they did before no-fault. On the other hand, many obviously needless and inflated claims that formerly were made under the fault system at the expense of the public as a whole are being eliminated under no-fault.

IV. It is a gross distortion to try to show that Massachusetts accident victims received less back per personal injury premium dollar under no-fault than under the fault system, and a clear deception to imply that the "statistics" come from the U.S. Department of Transportation.

A. The only actual Department of Transportation statistic in this example is that under the fault system only 44 cents of the premium dollar goes for benefits on the average, because 56 cents is consumed in legal fees, claims adjustment expenses and overhead associated with trying to determine legal liability, and with other company administration and sales costs.

B. It is a false and misleading computation to reduce the 44 cent return per premium dollar under the fault system by the 73 *percent* reduction in average claim costs in *dollars*. Because bodily injury insurance premiums, legal and claims adjustment expenses all have been *reduced* under no-fault, injured motorists are now receiving a greater return in benefits on their premium dollar under no-fault than they were under the fault system. The trial lawyers' computation is an apples-and-oranges type of sham.

V. Because the lawyers themselves propose payment of medical expenses and wage loss to all injured victims on a no-fault basis—without restricting or modifying damage actions or payments for intangible losses—the only place where savings can be achieved in their system is in the large deductible on property damage. This, of course, removes none of the high frictional costs of the fault system and simply leaves the public underwriting a higher percentage of its actual losses.

IF YOU THINK "NO-FAULT" WILL SAVE YOU A LOT OF MONEY . . . THINK AGAIN

The figures have been flying fast from all directions . . . and by now you may even feel convinced that if "no-fault" becomes a reality in New York State . . . your auto insurance will cost you a lot less. Forget it! You're being hoodwinked. The fact is, with "no-fault" insurance . . .you lose . . . insurance companies win.

MASSACHUSETTS "NO-FAULT": MANY PEOPLE ARE PAYING MORE MONEY!

On January 1, 1971, "no-fault" went into effect in Massachusetts.

72% of all Massachusetts accident victims interviewed between November 29–December 19, 1971 reported that the over-all cost of their auto insurance has gone *up* or stayed the same. Only 6% reported a reduction! (Source: Opinion Research Corporation, Princeton, N.J.)

So-called premium "savings" apply to only ⅓ of the total premium (for bodily injury) and *only on the basic minimum required.* (Only 30% of the people take basic coverage . . . *70% require more.*)

The cost of the other ⅔ (property damage insurance) is going up 4½ times faster than bodily injury insurance.

In Massachusetts, under "no-fault", premiums for property damage and collision have gone *up* and are still going up!

Who gained? Insurance companies. They paid out 73.3% *less* under "no-fault" because accident victims were not paid for genuine pain and suffering.

Who lost? People hurt in accidents. They were paid 73.3% less. They received 12¢ back per personal injury premium dollar compared with 44¢ before "no-fault". (Based on statistics of the U.S. Dept. of Transportation.)

In other words . . . in Massachusetts to get the kind of insurance they need . . . "no-fault" costs many people more money . . . and their fundamental rights have been severely limited or wiped out completely!

WE SUGGEST A CHANGE FOR THE BETTER—AT 40% LESS COST!

Auto insurance reform is long overdue and necessary . . . but the "no-fault" bills now in the New York State Legislature are stacked against you. If any one of them gets through . . . you lose . . . you lose big. You lose your rights and you will be forced to buy the highest profit type of insurance in exchange for the least amount of benefits.

The "no-fault" proposals represent a high-profit guarantee for the big auto insurance companies. They are "no-benefit/no pay" plans wrapped in an appealing name . . . designed by the same companies which have arbitrarily cancelled your policies, refused you coverage and raised your rates.

We oppose "no-fault" as it has been presented because it *takes away basic rights* and would nullify the effect of progressive legislation which protects you.

We have drafted an insurance reform plan which provides for prompt and just compensation to all victims at a savings of 40% in *total* insurance costs.

Our proposed "Automobile and Consumer Protection Program" provides for *immediate* payment for medical expenses and loss of income on a no-fault basis.

Our program would increase your minimum protection. It would promote car, driver and highway safety . . . and eliminate costly, discriminatory and unfair insurance company practices.

Don't be forced to swallow a "no-fault" pill before you know what's really in it.

With today's proposed "no-fault": You lose. Insurance Companies win!

Let's have a change for the better . . . for a change.

New York State Trial Lawyers Association, 401 Broadway, New York, N.Y. 10013, (212) 925–0009.

[From the Journal of Commerce, Feb. 8, 1972]

AIA LAUDS NYC BAR ON ITS NO-FAULT PLAN

A proposal of a total no-fault auto insurance by the Association of the Bar of the City of New York has won the endorsement of the American Insurance Association.

T. Lawrence Jones, president of the AIA, said yesterday: "The report and conclusions of the Association of the Bar of the City of New York on no-fault auto insurance proposals should remove any remaining doubt that the existing lawsuit system of auto insurance must be abolished."

The bar's plan contains not only the usual no-fault of compulsory insurance, recovery for lost wages and medical expenses, and avoidance of duplication of benefits, but also calls for the complete abolishment of auto negligence lawsuits.

The New York bar, considered one of the most prestigious in the country, thus places itself in opposition to the American and New York State Trial Lawyers Association both vigorous opponents of any type of no-fault program.

The American Bar Association, at its semi-annual meeting in New Orleans this week, is expected to review various no-fault proposals. But, indications are that the national organization will not take a stand on no-fault until its annual meeting in August.

In his statement on the New York Bar's proposal, Mr. Jones said: "When a group of the nation's lawyers in one of the country's most distinguished bar association so thoroughly condemn the existing system and completely endorse the no-fault principle, it should be clear to everyone that the merits of the issue and plain truth and justice demand a change in the system.

"The bar's report completely refutes the arguments of those who would seek to preserve the fault concept as a means of compensating auto accident victims.

"We commend the Association of the Bar of the City of New York for its fair and objective study and its forthright analysis and conclusions."

If you think "no-fault" will save you a lot of money . . . think again.

Under the "No-Fault" Law in Massachusetts, Many People Are *Paying More Money!*

On January 1, 1971, "no-fault" went into effect in Massachusetts.

72% of all Massachusetts accident victims interviewed between November 29–December 19, 1971 reported that the over-all cost of their auto insurance has gone up or stayed the same. Only 6% reported a reduction! (source: Opinion Research Corporation, Princeton, N.J.)

So-called premium "savings" apply to only ⅓ of the total premium (for bodily injury) and only the basic minimum required. (Only 30% of the people take basic coverage (. . . 70% require more).

The cost of the other ⅔ (property damage insurance) is going up 4½ times faster than bodily injury insurance.

In Massachusetts, under "No-fault", premiums for property damage and collision have gone up and are still going up!

Who gained? Insurance companies.

They paid out 73.3% less under "no-fault".

Who lost? People hurt in accidents.

They were paid 73.3% less. They received 12¢ back per personal injury premium dollar compared with 44¢ before "no-fault". (Based on statistics of the U.S. Dept. of Transportation.)

Foundation for Insurance Reform & Education, 222 St. Paul Place, Baltimore, Maryland 21202 (301) 385–0950.

[From New York Sunday News, May 2, 1971]

"No-fault" auto insurance is a hoax!

You've heard about a proposed "no-fault" auto insurance law. The New York State Legislature in Albany is now considering various 'no-fault" proposals. We believe that you have to know much more about them and that, in the public interest, the Legislature should not take hasty action on any proposal.

A law which penalizes a union member so that he may lose full use of his fringe benefits is a bad law.

A law which says that a poor man may not be able to recover full payment for pain and suffering but a rich man might—because his medical bills might be higher for the same injuries—is a bad law.

Under the New York State insurance department plan:

A housewife, a child, a retired Senior Citizen, or any unemployed person, will get NOTHING for the loss of a leg, an eye, or other bodily mutilation. Only some medical bills may be paid.

You will no longer be able to sue for damage to your car caused by a careless driver.

If you're employed, you will get nothing for bodily mutilation. You will only be paid for lost earnings and medical bills if the insurance adjuster sees it your way.

You will need more insurance. NOT LESS.

In order to protect yourself, you will need high priced collision insurance . . . Extra insurance for accidents outside of New York State and other special coverage . . . all at additional cost.

Under other "no-fault" proposals:

You are not guaranteed payment of your expenses.

You may have to bring two lawsuits to get paid.

Your right to full recovery for pain and suffering may depend on an arbitrary minimum of approved medical expenses.

None of the "no-fault" plans guarantee payment of your medical bills and lost earnings.

Property damage (car damage, clothing, etc.) eats up 2/3 of your auto insurance premium (71 to 73% in New York City). Only ⅓ deals with bodily injury.

None of these proposals deal with property damage.

In Massachusetts, the only state with a "no-fault" law, property damage premiums are up 38%.

If you are a family man . . . with a decent income . . . you may have to pay more for insurance . . . than a single persons . . . a younger person . . . a "hot-rodder" . . . in order to protect yourself and your family.

The "no-fault" idea relieves the reckless driver of the responsibility for his own negligence and can often be more generous to the guilty party than to the victim of an accident.

There are a lot of pitfalls in all of the "no-fault" plans.

Don't let your legislators take hasty action! Write or call your State Senator and assemblyman *now!*

Sample: Hon John Doe, State Senate (Assembly) Albany, N.Y. 12224

Help halt "No-fault"!!

"Citizens against No-fault," Room 392, Hotel Commodore, New York, N.Y. 10017, (212) 683–6694.

Chairman: Max Condiotti, Co-chairmen: Leonard R. Cuevas, Mary Duda, Ron Gold, Anthony Goncalves, Diane Goncalves, Kathy Harms, Aaron Lebow, Leonard Meyerson, Sarah Plen, Edward Shiller, Miriam Shulman, Alan P. Silver, Alvin Solomon, Irving Spivack, Rosalind Spivack.

[From the Cincinnati (Ohio) Post, June 7, 1971]

IN MY OPINION

(By Walter Bortz)

(NOTE.—This is another in a series of guest columns written by Cincinnatians on any topic they choose. Our purpose is to stimulate thought by presenting a wide range of diverse local opinion.)

Today's guest is Walter Bortz, attorney and 1955 graduate of the University of Cincinnati College of Law. He is chairman of the Cincinnati Bar Assn. Committee on Improvement of the Administrative of Justice, former executive committeeman and chairman of the Common Pleas Court Committee and is on the board of governing trustees and treasurer of the Ohio Academy of Trial Lawyers.)

There is much talk about so-called no-fault plans these days. Unfortunately, there is very little substance to what appears in news accounts on the subject—too much heat, and too little light!

No-fault is a misnomer and a fraud on the public promoted by a powerful segment of the insurance industry for only one reason: to earn guaranteed high profits! By simply supporting the no-fault concept, instead of printing factual material on the subject—The Post violates the masthead promise "To give light" so that "the people will find their own way."

A recent Gallup Poll found that 81 per cent of the public is uninformed or undecided on the merits of no-fault plans.

No-fault is a plan to overcompensate the wrongdoer, and undercompensate the innocent—not because it is right but because it might be cheaper.

In America today, we enjoy a procedure which has evolved over centuries of human experience, and has withstood the ultimate test of time. Our system is based on the proposition that individual freedom and individual rights are balanced by individual responsibility.

Here is how no-fault would work. Assume a reckless driver runs a red light causing a violent collision, critically injuring the driver and passengers in the car that was proceeding properly, and demolishing their car. Applying the concept of no-fault, this reckless driver is not at fault. He is not liable for the hospital-medical bills of the victims, for their lost earnings, nor the car damage. He is not accountable for the permanent disfigurement, disability, pain and suffering—the "human losses."

He will receive—within the limits of the plan—a percentage of his lost wages and payment of hospital-medical bills. The reckless driver will receive exactly the same benefits under the no-fault plan as will the innocent victim! If the policyholder has other sources of protection, however, for example Blue Cross-Blue Shield, or group insurance at work that provides medical-hospital plus wage continuation benefits, these sources must be used up first—before the no-fault policy would even be applicable.

The victim will recover nothing for the property damage to his car. (He will have to buy a separate insurance policy at additional cost for car damage protection.) He will recover nothing for loss of limb, loss of sight, disfiguration, disability, and the pain and suffering.

The above is a basic outline of the no-fault concept. There are now more than 50 different varieties. A few have added provisions for retaining the current liability system through the courts for death or disability, in an attempt to make the schemes more palatable—but the hard-rock features of no-fault remain constant.

Because of special circumstances, in Massachusetts (highest nationwide auto insurance rates; no required auto damage liability insurance), the politicians, during an election year, were able to "sell" the vulnerable public through the Madison Avenue slogan that: "Everyone will be paid, and it will cost less." These entrancing phrases played on the public's naive quest for a bargain. Of course, the public wasn't told that in order to make equal payments to the negligent wrongdoer, the innocent victims would have to forfeit some of the compensation to which they are entitled under the present system. The result: justice for nobody.

And the promised reduction in premium costs never materialized. The Massachusetts no-fault law called for an across the board reduction. The insurance industry petitioned the Massachusetts Supreme Court and won a Court ruling that the forced reduction in property damage and collision coverage was unconstitutional. They then asked for and received increases of 38 per cent on property damage coverage and 26 per cent on collision coverage. The net result is an overall increase in insurance costs for the people of Massachusetts.

The public's concern over rising auto insurance costs is understandable. Yet, it must be stressed that these costs are increasing at a lesser rate than many other consumer needs! The way to attack these increasing costs is not through socially revolutionary no-fault schemes which would throw the baby out with the bath water!

Consider these statistics: (1) Two-thirds of premium dollars goes for car damage coverage, and more than 10 times as many people suffer car damage as personal injuries. (2) The snappy new cars are fragile. They sustain about $200 damage in front-end collision at 5 mph, and $650 damage in a front end crash at 10 mph. (3) 63,000 persons were killed on the highways last year—and alcohol was a factor in 55 per cent of the deaths.

We must work to reduce the real cause of increased premiums, the auto accidents themselves: by designing cars that can withstand damage at low speeds, and suffer reduced damage at high speeds; by improving safety features on cars; by providing better highway design; by reducing the number of car thefts; by enforcing higher standards for driver training and licensing; by requiring better traffic law enforcement, and in particular, eliminating the drunk drivers from the highways.

While it may be true that trial lawyers have a special interest, they also have a first-hand understanding of the virtues in our present system. To favor no-fault because lawyers oppose it is nonsense! Lawyers also favor freedom of speech and the press—as does this newspaper—but certainly that is no basis for opposing free press and free speech! Let us test no-fault on its merits and forget personalities.

Responsible groups of trial lawyers are working to improve our present system, to make it productive of the highest quantity and quality of justice. Recommendations include: more judges; arbitration of smaller claims without prolonged litigation; legislation to remove the drunk driver, and make cars more crash resistant; comparative negligence, rather than contributory negligence, so that a driver only 5 per cent negligent as compared to the other driver's 95 per cent negligence, will recover 95 per cent of his losses (whereas he is now barred from recovering anything). Incentives for earlier settlements by insurance companies, such as interest from date of suit to run until settlement.

Surveys indicate that when fully informed on the facts, the public overwhelmingly prefers our present fault system over the no-fault proposals!

[From the (Ohio) State Underwriter, June 1971]

CALLED ADOPT: ATTORNEYS ESTABLISH FUND WHICH WILL FIGHT NO-FAULT

A group of Ohio attorneys is forming a special trust fund to aid political candidates who push legislation that the attorneys feel is in the best interest of the general public. Among the first issues to which the attorneys will address themselves is that of no-fault insurance.

The group intends to fight no-fault in whatever form it may be presented—pure

no-fault or partial no-fault, a spokesman said.

Most of the group is expected to be made up of members of the Ohio Academy of Trial Lawyers. It was members of the organization who started the fund. But the trust fund will not be part of the academy itself because the academy could lose its tax exempt status if it engaged directly in political activities.

Walter Bortz, a Cincinnati attorney who is secretary and trustee of the academy, said that attorneys outside of academy membership are expected to join in contributing to and working for the fund which is officially designated ADOPT (Attorneys Dedicated to Ohio People Totally).

Mr. Bortz denied the expected allegations that the trial lawyers were merely fighting no-fault to preserve a source of income for themselves.

He said the motivations for forming the fund goes much deeper than that. "We simply are not in favor of eliminating the liability tort system," which Mr. Bortz feels is a cornerstone of the society that must be preserved.

But most of the no-fault plans that have been proposed are really only partial no-fault plans that do not really eliminate the tort system. In light of that why would the attorneys want to fight the idea?

Mr. Bortz said that attorneys generally fear that even a partial no-fault system represents a first step in the eventual destruction of the tort system. For that reason the trustees of the fund intend to fight even partial no-fault plans.

Besides, there is a great deal of room for reform of the automobile reparations system in its present form, Mr. Bortz suggested. And he indicated that such reforms would be welcome—reforms such as streamlining of the court system which, he noted, the Chief Justice has called for.

While repeating the oft heard criticisms of no-fault plans—such as the possibility that insureds will artificially blow up claims in order to reach a level where someone can be sued—Mr. Bortz emphasized that the attorneys' chief concern in this matter is the attack on the jury trial system that he thinks is implicit in all no-fault plans.

"These are really no-responsibility plans which are merely steps toward the socialization process," he said.

The Cincinnati attorney said that if the society tears down—either partially or wholly—the jury trial system, the society will, in effect, be separating its citizens from the only personal contact that it has with the jury trial system. The citizenry would thus lose all contact with the system of justice, Mr. Bortz said.

But wouldn't the element of responsibility be preserved in criminal law, even if civil trials should become less of a factor in our society? Also if a defendant has large liability limits in his automobile policy can he really feel a sense of responsibility or fault when he knows that any large settlement against him will be paid by his insurer?

A Cleveland attorney, John Martinsdale, answered "no" to both questions. (Mr. Martinsdale made his comments several weeks ago apart from any consideration of the new trust fund.)

Mr. Martinsdale said that eliminating the civil case jury trial would, in effect, eliminate a majority of the jury trials and would thus effectively separate the citizen from experience with our system of justice. He feels as strongly as Mr. Bortz about the importance of keeping the citizen in contact with our system of justice through jury trials.

And even though the insurer is going to pay any settlement that may be imposed by a jury against a defendant, Mr. Martinsdale said it has been his experience that the element of responsibility still remains with the defendant. "I have seen many defendants breath a large sigh of relief when the jury comes in and rules in his favor," even though that defendant was not likely to suffer any financial loss, Mr. Martinsdale recounted.

Sources close to the Ohio General Assembly indicate that no-fault legislation is not likely to get passed at least during the next two years. Even Gov. John J. Gilligan has indicated he is not anxious to see the state rush into such a plan without first seeing the experience of other states which may adopt a no-fault plan.

In light of this, why have the attorneys formed a fund to fight no-fault so vigorously?

Mr. Bortz said it was merely an indication of attorney's desire to do something tangible on an issue they consider of vital importance to citizens of Ohio. Also he noted that the fund (which is not a lobbying tool as described in at least one other publication) cannot be influential until the political campaigns of 1972. Ohio legislators do not run for office this year.

But in 1972 the trustees intend to use whatever money is available in the fund to support candidates who the trustees feel support issues that are in the best interest of Ohians. The issue of no-fault will probably preoccupy the trustees in the early stages of the fund activities, Mr. Bortz indicated. But he added that other issues will also come into play.

Funds will also be used in attemps to defeat candidates who the trustees feel will not act in the best interest of Ohioans, the Cincinnati attorney added.

Expressing only his own personal feelings and not those of the trustees, Mr. Bortz suggested that the fund may eventually align itself with issues that are of vital concern to the insurance industry right now—such as seeking tougher laws against drunk drivers and seeking high standards for automobile design.

Mr. Bortz said he was not aware of any goal that has been set for the size of the special fund but that it will welcome contributions from any source including insurance organizations.

He said he was aware of only one other such fund in the country, one that was established in Texas which is also designed with no-fault in mind.

Mr. Bortz' comments came a day before the Wall Street Journal described the no-fault plan of Puerto Rico as a large success. Nevertheless, the newspaper article, like many articles before it, did not concern itself with the issue that will be presented by Mr. Bortz and his associates in the ADOPT fund, namely the issue of the possible undermining of the nation's system of justice relative to the citizenry.

[From the Erie (Pa.) Times-News, Apr. 25, 1971]

WE BELIEVE "NO FAULT" INSURANCE IS A HOAX!

Pennsylvania's "No Fault" Insurance plan . . .

It will increase your automobile insurance premiums.

It will pay the negligent and careless driver while limiting what the innocent and faultless driver will receive.

It will deny the innocent victim (man, woman and child) the right to a jury decision of what just determination for an injury should be.

It will encourage more claims . . . more unjustified claims, more malingering and more payments. This must result in higher costs for all motorists, including the careful driver.

Do not be misled! No fault insurance sounds good, but it certainly should be called "pay out insurance" since it will pay the faulty drivers and limit benefits to the innocent victims of automobile accidents.

Before your state legislator votes for a no-fault insurance plan, ask him why . . .

Why shouldn't the careless and negligent driver be the one to bear higher insurance rates rather than all drivers . . . the great majority of whom are careful and safe?

Why shouldn't the innocent victim have a just day in court . . . and let a jury of his peers find the careless driver negligent and force him to pay in full?

Why shouldn't your automobile insurance premium be based upon your own record of safe driving . . . not on the total record of all drivers, including both the careless and the innocent?

Think about the proposed no-fault plan. Do you . . .

Do you want your automobile insurance premium used to finance the "red-light runner", the "speed merchant", the "tail-gater" and the "non-lookers"?

Do you want your own record as safe and careful driver to mean nothing, for your record to be lumped with the irresponsible and careless driver?

No-fault insurance serves the interests of the driver "at fault", not the safe driver with "no fault". You can have health and accident insurance—Blue Cross and Blue Shield, group insurance—of your choice. You now have an automobile insurance policy. Why pay more premiums than you already do?

The time to act is now! Call or write your assemblyman and state senator. Tell them you want positive programs in Pennsylvania that will place the burden on the "At-fault" driver, not you the "No fault" victim. Tell them you do not want the No-Fault Automobile Insurance program now being considered.

Committee Against Higher Insurance Rates in Pennsylvania, John E. Britton, Chairman
P.O. Box 1744, Erie, Pa. 16512.

[From the Chicago Sun-Times, May 12, 1971]

NO-FAULT REFORM IN THE STATES?

(By Charles Bartlett)

DENVER.—Lawmakers in the state capitol here have made the point that they are improbable instruments of reform on a tricky issue like auto insurance.

The White House counted on the Colorado legislature to support President Nixon's contention that the initiative on no-fault auto insurance can safely be left to the states. The Republican legislature seemed to be moving aggressively enough to enact the no-fault principle before it adjourned in late April.

The White House insurance expert, George Crawford, came out here twice to help push the bill through. The Colorado Bar Assn. joined in aiding the chief sponsors, house leader Carl Gustafson and Democratic Rep. Donald Horst, to draft legislation that would seem to reform the system without eliminating the trial lawyers' opportunity to bring suits.

"I honestly believe," Denver attorney Kenneth Kripke wrote Richard Jacobson of the American Trial Lawyers Assn. on April 1, "that it is not only a no-fault bill but that it is the real answer to the no-fault system, at least in Colorado, and I have given a personal commitment to the legislature to back it all the way."

Kripke's correspondence has come to light through the defection of Robert Joost, an employee of the American Trial Lawyers Assn. The letter describes how Kripke persuaded the legislators to draft a law that would require insurance companies to pay first party benefits up to $15,000 but enable accident victims to sue for damages above that.

The measure swept through the Colorado House 53 to 2. The sponsors knew that much of the momentum derived from apprehension of the legal fraternity that if Colorado did nothing Congress would be more disposed to pass a stiff federal measure, perhaps even the Hart-Moss bill which rules out liability suits unless the damage is catastrophic.

But the momentum suddenly evaporated in the Judiciary Committee of the Colorado Senate. The bill was bottled up by the votes of Republican lawyer-legislators and the legislature adjourned after passing a change in rate regulation which had no bearing on no-fault reform. The House sponsors discovered in conference with the Senate that they were butting against a stone wall.

The explanation is that the American Trial Lawyers Assn. had persuaded Kripke to change his position. The president of the association, Richard Markus, wrote him on April 13 that "the proposed legislation may not be as favorable as you seem to feel."

Markus pointed out that the legislation "will eliminate all special damages from virtually all cases" because the statistical record shows that medical expenses and wage losses exceed $15,000 in less than 1 per cent of all cases. The effect, he warned, will be to cause the insurers to discourage their insured against retaining counsel to file claims.

"Perhaps," Markus concluded, "the Colorado Trial Lawyers Assn. could reconsider and determine whether they wish to push this legislation. Without the push of the bar, I don't believe that this legislation will get anywhere in your state senate."

The lesson of the episode is that Congress cannot in good faith leave the enactment of no-fault auto insurance to the total discretion of state legislatures.

A Reply to WCAU–TV Editorial

Subject: No-fault auto insurance.

Speaker: James E. Beasley, President of the Philadelphia Trial Lawyers Association.

Announcers. A WCAU–TV Editorial supported the concept of no-fault auto insurance. In response, here is Attorney James E. Beasley, President of the Philadelphia Trial Lawyers Association.

There is a lot of fault with no-fault. "Everyone wins", "no one loses", "no delay", and "payment now" are catch phrases used to generate acceptance by the public of a bargain-basement sale tagged no-fault insurance. It is apparent that for everyone to be paid and there to be no losers, benefits must be taken from the innocent and used to pay the wrongdoer.

Insurance Commissioner Denenberg clearly stated on March 27, 1971 that if no-fault becomes the law of Pennsylvania, insurance premiums will remain the same and probably increase in the future.

No-fault will not reduce insurance premiums, it will only reduce the compensation due the innocent accident victim. Obviously, if everyone is to collect, including the drunk and the hot-rodder, the money must come from somewhere, and that somewhere is your premium dollars or a reduction in your benefits or both. Under all the no-fault schemes, the innocent are punished and the wrongdoer rewarded. No-fault is a compensation plan for the benefit of the insurance industry, not the people.

You decide—do you want your insurance premiums to be used to pay drunks' claims and in exchange you have less coverage for your wife and children? Do you want to trade in the benefits that you presently enjoy for a Mickey Mouse type insurance program where the innocent victim gives up benefits to insure that wrongdoers are paid? That is the fault with no-fault, and there is a lot more.

We Believe "No-Fault" Auto Insurance Is a Hoax

We believe that a law which would penalize a union member so that he may lose full use of his fringe benefits is a bad law. We believe that a law which says that a poor man may not be able to recover full payment for pain and suffering, but a rich man might—because his medical bills may be higher for the same injuries—is a bad law.

You've probably heard about a proposed "no-fault" auto insurance law. It sounds like everybody gets fully paid, faster, at less cost—and without having to sue.

The whole thing sounds pretty simple . . . *if that's all you know.*

The New York State Legislature in Albany is now considering various "no-fault" proposals. We believe that you have to know much more about them and that, in the public interest, the Legislature should not take hasty action on any proposal.

The New York State Insurance Department plan:

Did you know that a housewife, a child, a retired Senior Citizen, or any unemployed person, will get nothing for the loss of a leg, an eye, or other bodily mutilation? Only some medical bills *may be paid.*

Did you know that if you're employed, you will get nothing for bodily mutilation? You will only be paid for lost earnings and medical bills *if the insurance adjuster sees it your way.*

Did you know that you will no longer be able to sue for damage to your car caused by a careless driver?

Did you know that you will need more insurance—not less?

Did you know that in order to protect yourself, you will need high-priced collision insurance . . . *Extra insurance* for accidents outside of New York State . . . *and other special coverage . . . all at additional cost?*

Other "no-fault" proposals:

Did you know that you are not guaranteed payment of your expenses?

Did you know that you may have to bring two lawsuits to get paid?

Did you know that your right to full recovery for pain and suffering may depend on an arbitrary minimum of approved medical expenses?

Did you know that none of the "No-Fault" Plans guarantee payment of your medical bills and lost earnings?

Did you know that property damage (car damage, clothing, etc.) eats up 2–3 of your auto insurance premium (71 to 73% in New York City)? *Only 1–3 deals with bodily injury.*

Did you know that none of these proposals deal with property damage?

Did you know that in Massachusetts, the only state with a "no-fault" law, property damage premiums are up 38%?

Did you know that if you are a family man . . . with a decent income . . . you may have to pay more for insurance . . . than a single person . . . a younger person . . . a "hot-rodder" . . . in order to protect yourself and your family?

Did you know that the "no-fault" idea relieves the reckless driver of the responsibility for his own negligence and *can often be more generous to the guilty party than to the victim of an accident?*

There are a lot of pitfalls in all of the "no-fault" plans.

If you believe you can get something for nothing . . . If you still like the idea of "no-fault" insurance . . . *You probably don't know much about it.* Let us give you the facts.

If you've read enough . . . Write, wire or call *your* State Senator and State Assemblyman or Hon. Earl W. Brydges, Senate Majority Leader, Albany, New York 12224, Hon. Perry B. Duryea, Jr., Speaker of the Assembly, Albany, New York 12224, Hon. Joseph Zaretzki, Senate Minority Leader, Albany, New York 12224, Hon. Stanley Steingut, Assembly Minority Leader, Albany, New York 12224.

Help halt "No-fault"!! Peoples' Committee Against No-Fault, Room 392, Hotel Commodore, New York, N.Y. 10017.

[From the Washington Post, May 7, 1971]

Lawyer's Plan To Beat No-Fault Aired on Hill

(By Morton Mintz)

An official of the American Trial Lawyers Association, in surprise testimony on Capitol Hill, exposed yesterday what he said was his group's strategy for using money and persuasion to defeat federal and state legislation that would compensate victims of auto accidents regardless of fault.

Submitting internal documents to support his "act of conscience," Robert H. Joost testified that ATLA opposes no-fault bills not for the high-minded reasons it professes, but to enable it to go on feed-automobile negligence work."

ATLA's 25,000 members earn a substantial share of their fees by litigating auto accident claims, a practice that no-fault legislation would drastically impair. The fees from auto cases are estimated at $1 billion a year, or about one-quarter of the total income of the legal profession.

One of the papers Joost produced is a letter included in "A Trial Lawyer's Legislative Workbook," a 408-page guide that he edited and compiled for ATLA's campaign against no-fault insurance.

The letter, written by William R. Edwards of ATLA's tax-exempt Texas affiliate, tells about the state group's unit for financing campaigns. About 600 Texas lawyers each contribute $10 a month.

Edwards said the unit, called LIFT (Lawyers Involved for Texas), is concerned exclusively with state legislators. Last June the trial lawyers' news letter in El Paso claimed credit for nominating six of the eight state senators they backed in the Democratic primary.

When the legislature meets in Austin, Edwards said, his state association maintains "an open bar and buffet lunch" in its offices. Each day, he said, 20 to 25 legislators stroll across the street from the capitol grounds to lunch there.

Joost, 33, joined ALTA in 1962, became assistant to the chairman of its legislative section in 1968 and is the only lawyer on the staff of TRIAL, its bimonthly legal newsmagazine. He calls himself "a trial lawyer's lawyer."

He appeared before the Senate Commerce Committee. Chairman Warren G. Magnuson (D-Wash.) termed his testimony "very potent." Sen. Philip A. Hart (D-Mich.) praised him for an act "of considerable courage."

Joost's testimony may improve the outlook for no-fault bills sponsored by Hart and Magnuson and, in the House, by Rep. John E. Moss (D-Calif.).

Joost also has dealt a blow to the White House and those segments of the insurance industry that favor an alternative route to reform of an industry that, each year, collected $14 billion in premiums while paying out $7 billion to policy-holders and claimants.

That alternative route is a proposed congressional resolution appealing to the states to enact no-fault laws of their own.

Testifying 24 hours after ATLA appeared before the committee to denounce the Hart-Magnuson bill as "heartless," a threat to "civil rights," a bonanza for insurers and a bargain for "the guilty," Joost said that a decision to leave no-fault legislation to the states "is in fact a decision to retain the automobile negligence system with all its waste. . . ."

ATLA's spokesmen, Richard M. Markus and Craig Spangenberg, both of Cleveland, could not be reached last night.

In support of this assertion, Joost described meetings of ATLA "key men"—members interested in influencing state legislatures. The sessions were exclusively dedicated to defeat-

ing no-fault, at both the federal and state levels, he testified.

At an April 24 session in Chicago, Joost said, the "key men" discussed LIFT, which the El Paso news latter called "a legislative kitty that is paying off" for lawyers who oppose no-fault and want their practices "to survive."

Joost said he learned at the meeting that at least one other ATLA affiliate, the Academy of Ohio Trial Lawyers, has a counterpart to LIFT called ADOPT.

The academy's Thomas A. Heffernan of Cleveland, Joost recalled, "unequivocally predicted that the Ohio legislature will never enact any no-fault . . . in any form." In addition, Joost said:

Joost's boss in the legislative section of ATLA, Jerry Finn of Newark, N.J., summed up "by saying, 'Let's all adopt LIFT.' No one objected."

Jon Carlson of Belleville, Ill., said that "every member of the St. Clair County Bar Association has been assessed $100 for a fund to fight Gov. (Richard) Ogilvie's insurance-reform legislation." Carlson and Leonard Ring of Chicago said the Ogilvie proposal "doesn't have a chance to become law because we control the Senate . . . "

On the same day in Chicago, ATLA's executive committee unanimously voted to create a "department of federal-state relations" to be financed with a dues increase and with dismissals—including Joost's. He said the committee had not known of his secret decision to testify against ATLA's "party line." He was given two weeks' notice which expires today.

Joost indicated that the new department—which will have a $322,500 budget, 25 per cent of ATLA's total—will be mainly an anti-no-fault public relations effort. Its head will be Alan Locke, brother of a special assistant to Secretary of Transportation John A. Volpe, and its Washington representative will be Wayne Smith. Neither, Joost emphasized, is a lawyer.

At the first meeting of "key men, on April 17 in ATLA headquarters in Cambridge, Mass., Leon Roscassi of Hartford, Conn., reported that trial lawyers in his state "had had good luck in raising funds from the sheriffs and constables who serve legal papers," Joost testified. "Apparently the deputies are fearful that no-fault would mean fewer legal papers to serve . . ."

[From the KSL AM-FM-TV]

NO-FAULT

It has been a few years since KSL drew your attention to something called "no-fault" auto insurance. It was a new concept then and we said it was worth watching.

A little while after that Massachusetts adopted laws permitting the no-fault concept. With interesting results. The state recently ordered a premium reduction of 27½%. And the industry has been told to set aside reserve funds to provide a further 27½% credit against 1972 rates. These cuts will apply to bodily injury insurance only. Now, we should also remember that there was a 15% reduction of these premium rates for last year.

These figures are startling. And there are more. Testimony at public hearings in Massachusetts was that the average cost per claim to the insurance industry declined by 60% last year, the first year of no-fault.

Now this does not mean that all no-fault plans are good. KSL does not believe that to be the case. Some of them could be disastrous by leaving a person injured in an auto accident without remedy in the courts. That is a matter for careful scrutiny and regulation by state government.

But on the basis of present evidence no-fault can do this. It can eliminate the legal wrangling which takes place before settlement of a substantial proportion of claims. These court costs and legal fees come out of premiums of course and the injured party never sees this money. A spin-off benefit is to relieve the pressure on our court system, which has become clogged by these cases.

No-fault appears to be an idea whose time has come. KSL hopes the Utah State Legislature will examine its possibilities.

[From the Journal of Commerce, Aug. 17, 1971]

NEW ATLA HEAD MAPS ANTI-NO-FAULT DRIVE

SAN FRANCISCO, Aug. 16.—The American Trial Lawyers Association will beef up its public education program concerning what it terms "the perils of rationing justice under the no-fault auto liability system" and will more fully evaluate the current Massachusetts limited program in order to form its strategy to preserve the existing tort law industry.

Nor does ATLA fear very immediate danger of Congress and—or most state legislatures moving to enact new legislation from the "more than 200 varieties of no-fault already put forward, even though some legislators are getting very hot under the collar about it and a few insurance industry people think the change is inevitable."

These are views of Marvin E. Lewis of the San Francisco law firm of Lewis, Rouda & Winchell, installed early this month as ATLA president.

In an interview with The Journal of Commerce, Mr. Lewis said he considers his three-to-one election majority "a mandate by the 25,000 attorneys of ATLA and its 25-year-old predecessor, the National Association of Claimants Counsel, to continue this battle to preserve the inherent right of every citizen to have his full day in court."

He plans to "key in on the no-fault concept, which is spreading like wildfire, even though it is a bill of goods being oversold to the public," when he addresses Oregon and Washington ATLA groups next month prior to several nationwide speaking tours. But he stresses that car liability is only a single issue troubling trial attorneys, albeit a war involving million of dollars of insurance claimant payoffs and attorney fees are at stake.

SOARING RATE

The general public has no idea what is involved in its skyrocketing insurance rates, nor of the reasons behind unjustified policy cancellations, Mr. Lewis said, adding that "it has just been sold on this miraculous plan, providing full compensation, reduced rates and a Santa Claus visit, and this just isn't going to be so."

Referring briefly to what he called an "intra-industry infight" between old line stock companies and mutual insurance firms as having brought on the no-fault liability "stampede," Mr. Lewis said the swing behind the growth of the American Insurance Association (AIA) appears aimed at putting either the separate states or the federal government into the insurance business in a way that will do away with the need for trial lawyers, and ultimately, he warns, "a significant portion of the underwriting industry."

The ATLA plans to ask public questions, and get some answers, at every type of public forum and hearing on legislative proposals, concerning what the insurance companies have been doing. This will be in such questionable areas as the need for laws to curb some of their bookkeeping practices, investment returns accounting, wrongful cancellation of policies, the fallacies involved in reports of division of awards between claimants and attorney fees, the attorneys financing of claimant costs for seeking legal redress, and others, he said.

"The public is going to find out who the villains are. We aren't. The insurance companies are," Mr. Lewis said, while adding that "the trial lawyers don't consider themselves unfriendly to or opposed to a true free enterprise insurance industry.

"The big question is whether the trial lawyer can be eased out of the auto liability arena, first, to be followed by the same treatment in areas of, say, medical malpractice, product liability, property liability, and so on. We think when the women of the country realize they are to be left out completely by locked courtroom doors from recovery for pain, suffering, lost earnings and earnings capabilities, they will have more to say on the matter of their legislators," Mr. Lewis said.

Of particular interest in ATLA's battle, he said, will be the outcome of the pending legislation in Massachusetts requiring the state insurance commissioner to determine each firm's "excess profit" for purpose of returning that amount to auto liability policyholders, if legally possible. Without commenting on the bill enacted by the lower house, Mr. Lewis said the hard infighting between that state's governor and some legislators over the first six month statistics "represents the crux of the entire no-fault issue."

ATLA expects the statistics will show clearly that fewer benefits are being paid and the so-called excess profits are being dearly acquired at the expense of many injured parties clearly being denied benefits that are justified, Mr. Lewis claimed.

NO-FAULT SAID TO BE A HOAX, A "BIG FRAUD"

PORTLAND, OREG., Aug. 5.—The new president of the American Trial Lawyers Association sees plans for no-fault automobile insurance as a "hoax and a giant fraud being perpetrated on the public."

San Francisco Attorney Marvin E. Lewis took the reins as president of the group Wednesday and used the occasion to lambaste no-fault bills, which he said "erode the system of justice in this country."

He called on the 28,000 member organization to assume responsibility for educating the American people about this type of insurance plan.

200 VARIATIONS

He said no-fault insurance was being proposed across the country in more than 200 different variations. The policy basically provides that bodily injury claims are paid by the policyholder's own insurance company, regardless of who is at fault in the accident.

Proponents of no-fault auto insurance say it will cut insurance rates and relieve congestion in the courts by eliminating the costly and lengthly court suit battles.

The new president said that rather than cutting rates, the plan will only revise the rate structure "so that the careful driver will end up paying for the hotrodder."

The no-fault insurance plan, Mr. Lewis said, will ony hurt the innocent traffic accident victim "who will probably end up in a semi-private hospital room, with compensation for a portion of his lost wages and nothing more."

NUTLEY, N.J.,
November 13, 1971.

Senator WARREN G. MAGNUSON,
Washington, D.C.

DEAR SENATOR MAGNUSON: I am writing to tell you how much no-fault Auto Insurance is needed in New Jersey.

I was a passenger in a car that was involved in a three car accident on Jan. 9, 1971—I received a back injury and partial loss of the use of my right arm and hand (I am not a south paw). I have not been a minute without pain since the accident and have been going to an Osteopath twice a week since Jan.

This Doctor wants me to see an Orthopedist and go into a Hospital for at least a week in traction. I have learned that Orthopedists and other doctors refuse to treat victims of accidents—they do not want to be-

come involved in insurance cases. Although all the cars involved in the accident were insured, none of my medical bills have been paid—my doctor is on my back about his bill $625. As a result of this accident I lost my job and all Hospitalization and long term disability insurance carried by my employer.

I have an Attorney who is conveniently "in conference" or out of the office when I call—his secretary will take a message but needless to say he doesn't return calls. I do not know the names of the auto insurance companies or whether any action has been taken—my Attorney's Secretary doesn't have this information. The court calendars here are so crowded it takes from two to three years for a case to come up.

What is a person in my position supposed to do? I am 60 years old and have worked for nearly 40 years. I am alone and must support myself. It will take months of therapy for me to try and regain the use of my arm so I can get another job. Must I wait until my case is heard before I can get the necessary medical treatment—prolonging treatment I am risking complete loss of the arm. I haven't been without pain since the accident.

I wish a No-Fault Insurance bill covering disability insurance could be promoted. I have carried this type of insurance for years and cannot collect now.

Thank you for your effort to help victims like me.

Sincerely,

(Mrs.) CHARLOTTE M. PETERSDORF.

CAPITAL TIMES CITES "INCREDIBLE REPORT"

Mr. PROXMIRE. Mr. President, the Capital Times of Madison, Wis., said editorially on April 11 that "a majority of Wisconsin voters are sick and tired of the way the country is being run and the way their taxes are skyrocketing."

The editorial goes on:

That discontent has been underscored by the incredible report from Washington that the Navy's top admiral has urged his command to hurry up and spend $400 million by June 30 lest their budget for next year be slashed by Congress.

I agree, that this attitude is, indeed, incredible. Making our country No. 1 in defense is an insurance policy that we cannot afford to be without. But, wasting money in the process is a good way to negate the benefits of such a policy.

Mr. President, I ask unanimous consent that the editorial of the Capital Times be reprinted in its entirety in the RECORD.

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

PROXMIRE: PENTAGON WATCHDOG

If last week's Wisconsin presidential primary did nothing else, it told the rest of this country that a majority of Wisconsin voters are sick and tired of the way the country is being run and the way their taxes are skyrocketing.

That discontent has been underscored by the incredible report from Washington that the Navy's top admiral has urged his command to hurry up and spend $400 million by June 30 lest their budget for next year be slashed by Congress.

The nation is indebted to Sen. Proxmire, the watchdog of the Pentagon, for this latest shocker. The "spend, spend, spend" directive came from Adm. Elmo R. Zumwalt, chief of naval operations, in an unclassified message to Adm. Isaac C. Kidd, chief of Naval Material, with copies to other top officers, Proxmire reported.

Proxmire disclosed the incredible Zumwalt memo last week. But before the taxpayers start going after Zumwalt's hide, they ought to realize that he is merely carrying out orders that obviously came directly from President Nixon.

The Defense Department issued a predictable denial of Proxmire's charge that it is out to "spend, spend, spend this year," so that it can spend "even more" next year. It acknowledged that it will do its best to "obligate" $2 billion extra in the fiscal year ending June 30.

In his memo Zumwalt suggested various ways for his subordinate commands to hurry outlays of the $400 million by "expediting provisional payments on claims" and possible "unlimited overtime."

Is it any wonder the electorate is listening to George Wallace?

Thank heavens for Bill Proxmire.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time allotted for the transaction of routine morning business has expired.

BLACK LUNG BENEFITS ACT OF 1972

The PRESIDING OFFICER. At this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business, H.R. 9212, which the clerk will report.

The legislative clerk read as follows:

Calendar No. 712, H.R. 9212, a bill to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Debate on the bill is controlled and limited. Three hours has been specified, the time to be equally divided between the Senator from West Virginia (Mr. RANDOLPH) and the Senator from New York (Mr. JAVITS). Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. RANDOLPH. Mr. President, I yield myself such time as I may desire.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

PRIVILEGE OF THE FLOOR

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Gerald M. Feder, Eugene Mittelman, Richard Siegel, and Robert R. Humphreys of the staff of the Committee on Labor and Public Welfare, and Philip V. McGance, my legislative assistant, be permitted on the floor during the consideration of and voting on H.R. 9212.

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

Mr. ROBERT C. BYRD. Mr. President, will my distinguished senior colleague yield for two unanimous-consent requests before he begins his opening remarks?

Mr. RANDOLPH. I am happy to yield.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON THURSDAY, APRIL 20, 1972.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, April 20, 1972, immediately following the remarks of the two assistant leaders or their designees, the distinguished Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

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

ORDER FOR ADJOURNMENT UNTIL WEDNESDAY AT 9 A.M. AND POSSIBLE ADJOURNMENT UNTIL TOMORROW AT 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, if the Senate completes action today on the pending business, it stand in adjournment until 9 o'clock a.m. on Wednesday morning; but, if the Senate does not complete action today on the pending business, it stand in adjournment, at the close of the day, until 11 o'clock a.m. on tomorrow.

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

BLACK LUNG BENEFITS ACT OF 1972

The Senate continued with the consideration of the bill (H.R. 9212) to amend the provision of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

Mr. RANDOLPH. Mr. President, we begin in this Chamber a discussion, and later today a determination, of important legislation that concerns itself with the further commitment of the Members of this body to justice and equity. We shall make such a commitment if we approve today what we call the Black Lung Benefits Act of 1972. "Pneumoconiosis" is a rather long word and, indeed, for some persons difficult to pronounce, but pneumoconiosis or black lung is a dread disease which has stricken tens and tens and tens of thousands of the miners of this country who go beneath the earth to bring forth coal which has been necessary for fuel to energize this Nation and to provide for our people.

I think we have an overdue debt that we are going to be able to pay in part with the passage of this legislation. It will be paid to a vital working population in our country. I believe my colleagues agree it is a debt which our society as a whole—not one segment, not one section, but society as a whole—owes to the coal miners who for so many years worked in the underground mines to bring forth millions and millions of tons of coal to, as I have said, energize this Nation.

The stark realization of the total inadequacy of Government policy and programs to protect the health and safety of the coal miner came to us—the distinguished Presiding Officer in this Chamber will recall—once again with a tragic and sorrowful period after November 20, 1968. That was a day of tragedy and of disaster. I hope we shall never forget the violent explosion that occurred on that date near Farmington, W. Va. The lives of 78 miners were lost in that disaster.

In a sense, in this country we so often act after the fact. That is human nature. But what took place then was the impetus for the Congress to enact the Federal Coal Mine Health and Safety Act of 1969, giving proof to the adage that "dead miners have always been the most powerful influence in securing mining legislation." Under the leadership of the Senator from New Jersey (Mr. WILLIAMS)—the Senator from New Jersey is chairman of the Labor and Public Welfare Committee at the present time; at that time he was chairman of our Subcommittee on Labor—and the leadership of the Senator from New York (Mr. JAVITS), we worked within the Subcommittee on Labor and we brought here to the Senate Chamber a strong and effective and a fair measure.

That was the way I characterized the legislation at the time it was considered. It was to protect the lives of miners and to improve their working conditions. If ever we had a milestone in this type of legislation, that was it. This was an effort—a very real effort at the national level—to insure the safe working conditions for a large segment of the working men and women of this country.

No longer, I believe, do officials of Government tend to dismiss incidents of unhealthful or unsafe conditions as being isolated. Rather, there has been generated by the Federal Coal Mine Health and Safety Act of 1969 a real responsiveness to possible dangers in the lives of the working men and women in all industries—not only in this type of industry but, later, in other industries through the Occupational Health and Safety Act. It is right that we should not falter or relax until we have provided, not just the minimum, not even the median, but the maximum degree of safety and health protection for the workers in industry throughout this Nation.

With this specific legislation, Congress has responded to more than just the immediate disaster which caused the death of 78 miners, for in that legislation Congress laid the groundwork for eliminating from the lives of the Nation's coal miners the threat of the dread disease called coal workers' pneumoconiosis, commonly known as black lung, and we have provided, under title IV of the act, a system of benefit payments and minimum compensation standards for miners and the widows of miners who had been totally disabled by that disease.

It was my responsibility and privilege to sponsor with the cosponsorship of my colleague from West Virginia (Mr. ROBERT C. BYRD) and Senators WILLIAMS, PROUTY, JAVITS, COOPER, SCOTT, COOK, SCHWEIKER, and SAXBE, the amendment accepted unanimously on the Senate floor to provide a program of payments to miners totally disabled by black lung.

I remember the support, the response of the Senators here to the challenge to do what was right, and to do it then.

This was the first time, Mr. President, that Federal legislation recognized the inadequacy of compensation for this dread disease which afflicts coal miners. I want to be very fair: Not all coal miners, but it afflicts many, many coal miners.

As the Senate report on the original act stated, this irreversible disease was "believed to have afflicted 100,000 of the Nation's active and retired miners." President Nixon, in his March 1969 message which called for a new coal mine health and safety act, said:

> Death in the mines can be as sudden as an explosion or a collapse of a roof and ribs, or it comes insidiously from pneumoconiosis, or black lung disease.

Mr. President, this is a disease which creeps into the body progressively and leads to that period, sometimes several years away, sometimes in years near at hand, when the miner becomes incapacitated, even though many, many times he is a relatively young man.

At the time the Coal Mine Health and Safety Act was signed into law, only 2½ years ago, it was generally thought that coal miners' occupational breathing disabilities were encompassed by the term "pneumoconiosis." I so thought, Mr. President, and most Members of Congress, I believe, so understood the situation. The knowledgeable press—and there was close attention to this legislation—and many physicians believed that that was the case. It was generally believed that title IV of the act relating to black lung benefits would be a satisfactory means of compensating miners who were incapacitated by respiratory diseases, as well as the surviving widows and children of miners who had died from the dread black lung.

Since the passage of that basic, necessary, desirable, urgent act, however, experience has taught us that all is not as we expected. As of March 3, 1972, 356,857 claims had been filed since the effective date of the act, December 30, 1969. According to the Social Security Administration, 91,784 disabled miners and 74,809 widows have received benefits, for a total of 166,593 claims, while 169,999 claims have been denied.

The total of those receiving benefits, I repeat, is 166,593.

Not only have the number of claims far exceeded those earlier expectations of Congress, indicating a more widespread and more serious problem than they anticipated, but also the rate of denials—more than 50 percent nationwide, and as high as 72 percent in some States—suggests strongly that the solution has not been nearly as complete as we in Congress had believed and expected it would be.

Clearly the implementation of the black lung benefits of the Coal Mine Health and Safety Act is not—I repeat, is not—reaching and aiding the large number of miners and survivors who urgently need assistance and whom Congress in 1969, I think, intended to aid.

The approval or denial of black lung benefits—the determination of disability—for a miner in many instances constitutes a matter of life and death. It very often determines whether a miner and survivors will be able to maintain a halfway decent standard of living. Black lung benefits can mean the difference between adequate or substandard housing; sufficient diet or undernourishment; and minimal medical care or no medical care for a miner and his family. An issue having such a bearing on the lives of people—thousands of people—demands thorough and timely attention of Congress and affirmative action.

Mr. President, may I ask the Chair how much time I have consumed?

The PRESIDING OFFICER. The Senator has 62 minutes remaining.

Mr. RANDOLPH. How much time have I consumed?

The PRESIDING OFFICER. Nineteen minutes in all, and the quorum call consumed 9 minutes of the Senator's time. 62 minutes remain.

Mr. RANDOLPH. That the Congress intended a significantly more substantial degree of aid under black lung benefits is, I believe, entirely clear. As chief sponsor of the amendment, title IV, I believe I know what the thinking of the sponsors of the amendment was and what was intended. We did not anticipate the circumstances of the existing program under which so many disabled miners and survivors are unable to secure assistance.

At the time of the enactment of the black lung benefits program, the Congress was required to make a medical decision based on a limited amount of what we call hard information and under severe time limitations. That decision to base a program on the determination of "complicated pneumoconiosis" was thought to take into consideration the unique and extensive health problems created by the frequency of pulmonary or respiratory diseases among coal miners—these impairments working their way to the final result, pneumoconiosis or black lung disease—and the resultant inability of miners to continue working due to these diseases. This record is open and well known.

We know today that the legislation as written did not encompass the complexity or scope of respiratory diseases among miners. It did not recognize the unusual and dramatic problem so well described by the ranking minority member of our subcommittee, Senator JAVITS, when he called attention to "our sublime insensitivity to what is probably the worst occupational disease in the country—black lung" and stressed that "there exist today in the United States literally thousands of former coal miners who have reaped, as their sole reward for long and faithful service underground, ravaged lungs, enlarged hearts, and retirement years spent as semi or complete invalids, slowly choking to death. All because of coal dust."

We know today in far greater detail the case histories of miners whose work

in the mines has resulted in totally disabling respiratory diseases. I have listened to these case histories. I have reviewed them carefully. I have attempted to document them with the Senator from Pennsylvania (Mr. SCHWEIKER). We have gone into the field, into West Virginia and Pennsylvania. We have heard the testimony, and we have talked with these people.

These respiratory impairments not only prevent miners from engaging in gainful employment but also cause a continued physical deterioration which makes normal daily activity extremely painful, if not impossible.

We know today, based on extensive hearings in Washington and in the coal fields of West Virginia, the terrible burden being borne by disabled miners whose claims are being denied after 35 and 40 years in the mines. When you meet and talk to these men, you know without doubt that they are disabled by respiratory diseases. Many of them—and this is not an exaggeration—do not have the breathing capacity to carry on a normal conversation.

The degree of suffering of these men is attested to by the following statement of a miner the Subcommittee on Labor interviewed in Beckley, W. Va. He said:

I have worked in the coal mines 37 years. I started in there when I was 16 years old. I ran motors for about 37 years, and in the last work I had done, I worked about 8 years. My lungs went bad on me, and I had to go into the hospital. I did not know what was the matter with me. I could not get no breath, I would get tired, I would work a half a day, and that is all I could stand, I would have to go home.

I had to crawl to work, and with the smoke, the bad air, I then went into the hospital, and they told me, they said your lungs were peeling off, so I said all right. They made me stay there in the hospital, I expect for 10 days, and I got a little better, and they went down in me, and they found inside a growth.

For about 6 weeks, they could not take it out, and I come to Beckley Hospital to have it taken out, and they told me in Beckley, they said, "You know what is the matter with you, you say you worked 37 years in the coal mines, you know what is wrong with you." I said, "Yes, I know," and I ain't never been able to do a thing since.

I signed up on this, and I did not think I would have any trouble at all, getting my black lung. I then signed up for 2 years. I have been turned down twice.

I cannot eat, I cannot sleep. I have got to prop up in the bed. I cough that stuff up all night long. Sometimes I get full of it, and it is that it shuts my wind off. I have got to get up.

I sleep 2 hours a night, just about on the average. Sometimes not that much. If I get a little bit of cold, I have to sit up and put a quilt around me. When I lay down, I just rasp, and there is nobody around me that can sleep. I cannot sleep either. Sometimes around in the morning, I will get coughed out, and maybe I will doze off and sleep a little bit. When I get up, I ain't got enough wind left.

I spit coal dust up for about 5 years, and now it just looks like cotton, big balls of stuff, just looks like white cotton.

Mr. President, I want to be fair. I said at the outset that not all miners become afflicted with black lung. I want to make that very clear. But what I do say with emphasis today is that when a miner has contracted the dread disease, black lung, pneumoconiosis—and Congress has provided in the 1969 act, title IV, benefits for that miner and the widow—we have a right to expect that he will not be denied benefits by the Social Security Administration. In the pending legislation, we provide that a miner will not be denied black lung benefits solely upon the basis of an X-ray. We want other matters to be considered. Many, many people can help in the determination of whether he has or does not have black lung.

Mr. President, what I have just said about one miner is not an isolated case. I wish there were fewer stories such as that, but they are, over and over again, the case histories we have heard.

The miners of this country and their families have paid a terribly high price to provide us with the fuel and energy which our industrial society has demanded. I believe it our responsibility as a Nation to insure that they receive deserved and urgently needed compensation for their labors.

I think we should remember today that about 54 percent of all the thermal power in this country used to fuel and energize our industrial society comes from coal.

All over America, in every State, the results of what the miners have done relative to the production of coal has been vital to the well-being of this country and its people—even to the security and the safety of its men and women.

An estimated 10 percent of each individual personal income expenditure goes for energy, either directly or in the production of consumer goods or the furnishing of consumer services. Coal represents, as I stated, some 54 percent of this energy or 600 million tons each year—3 tons for each person. Approximately 28 percent of the increased household use of electricity in the last 10 years was due to new air conditioning and space heating, and this demand has been most difficult to satisfy in such large urban areas as New York City. Whereas early man consumed about 2,000 calories per day, the average U.S. citizen today uses more than 200,000 calories per day to feed himself and to account for the consumption by various industries that support him. We have increased our energy consumption by a factor of at least 100 in providing the machinery, so to speak, that relieves us of physical burden.

This fantastic increase in our standard of living has been accomplished through abundant sources of low cost and reliable energy with more than half of today's energy being derived from coal.

Miners are absolutely essential to the production of this energy. They and their families have suffered agony in satisfying the energy needs of our industrial society. The miner will be absolutely essential to meeting future energy needs.

But the miners will not be there in the future unless the Congress and our Nation continue to take affirmative action to minimize the risks of this dangerous occupation and to lessen the suffering and anguish when injury and disease strike.

Mr. President, we must remember that today we have a strong country because of the strength of these men that I have mentioned.

I shall talk about it a little more later on, but someone might say the black lung program is costing more than was anticipated. Early today, I heard the distinguished Senator from Wisconsin (Mr. PROXMIRE) talk about some of the physical hardware of this country where the costs are above what was anticipated. We know that this takes place time and time again. For example, the "cost growth" of many defense contracts is well known. I would like, at this point in the RECORD, to place a chart of some cost overruns.

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

"COST GROWTH" IN CERTAIN GOVERNMENT PROGRAMS

[In millions]

Defense Department	Navy S3A aircraft	C5A aircraft	F-111 aircraft	DD963 destroyer	Improved Hawk missile	Seavan 8 and 9
Planning estimate	$1,763.8	$3,423.0	$4,686.6	$1,784.4	$335.5	$946.5
Current estimate through completion	3,138.8	4,555.2	6,667.9	2,715.2	752.1	1,233.8
"Cost growth" or overrun	1,375.0	1,132.2	1,981.3	903.8	416.6	287.3

Source: General Accounting Office.

Mr. RANDOLPH. Mr. President, we attempt to cope here, however, with the heartbeat of a human being rather than the hard facts of physical hardware of one kind or another.

This legislation is very important to people in all parts of our Nation, and I know that it is considered so in this body.

I have said that it is not sectional. It is not. I would point out that we have cosponsors other than the original cosponsors and the members of the committee who joined in reporting this measure to the Senate. I recall the cosponsorship of the Senator from Alabama (Mr. ALLEN), the Senator from Indiana (Mr. BAYH), and the Senator from Minnesota (Mr. HUMPHREY).

Now, Mr. President, I should like very quickly to state the scope of this program and have placed in the RECORD as I have the opportunity to do so, some charts, graphs, figures, and statistics relating to this measure. I should say now that we have a table showing the State-by-State breakdown on current beneficiaries. This table also includes counties in the various States.

Are the claims being paid only in the Appalachian region? Is it in Ohio? Is it in Pennsylvania? Is it in West Virginia or Kentucky? Yes, it is all of these areas. But they are also being paid in New York. They are being paid in New Jersey. In New Jersey 1,900 were paid. So we know that the benefits, based upon the determination of black lung, the dread disease, are being paid throughout the 50 States; 62 in Manhattan alone. We

emphasize, of course, that this legislation is to help those who need help, those who have given of themselves in the production of the necessary fuel, almost to the point of life and death.

Mr. President, I ask unanimous consent to have printed in the RECORD these statistics.

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

NUMBER OF BLACK LUNG CLAIMS ALLOWED, TOTAL CUMULATIVE PAYMENTS SINCE ENACTMENT AND TOTAL MONTHLY PAYMENTS, BY STATE OF CURRENT BENEFICIARY RESIDENCE, AND COUNTIES, WITH 50 OR MORE CLAIMS ALLOWED—AS OF DEC. 31, 1971

State and county	Claims allowed	Monthly payment amount	Total cumulative amount
Alabama	6,301	$1,237,762	$24,503,194
Bibb	207	40,886	842,503
Cullman	61	12,776	215,707
Etowah	56	11,280	159,300
Jefferson	3,581	701,474	14,387,897
Marion	162	32,549	625,974
St. Clair	82	17,247	269,929
Shelby	179	36,232	675,436
Tuscaloosa	158	32,439	618,748
Walker	1,463	284,284	5,714,670
Alaska	5	918	19,834
Arizona	241	46,445	764,618
Maricopa	153	29,461	484,169
Arkansas	659	126,055	2,455,765
Franklin	88	16,874	307,772
Johnson	146	28,024	549,238
Logan	121	24,398	520,687
Sebastian	219	41,091	799,953
California	765	137,495	2,277,267
Los Angeles	302	53,850	877,837
Orange	61	11,054	191,690
Colorado	582	106,949	1,855,568
Boulder	86	15,684	308,658
Denver	72	13,500	219,721
Huerfano	65	12,619	205,905
Las Animas	134	25,235	461,456
Connecticut	426	75,120	1,327,734
Fairfield	200	35,613	638,455
Hartford	76	12,879	228,593
New Haven	121	21,072	377,283
Delaware	141	24,803	470,152
New Castle	120	20,749	385,841
District of Columbia	77	13,875	231,692
Florida	1,313	253,270	4,397,997
Brevard	77	14,055	229,514
Broward	101	18,824	321,121
Dade	96	17,366	290,241
Hillsborough	130	25,496	442,276
Orange	102	19,591	341,143
Pinellas	168	32,808	606,779
Volusia	64	12,484	223,645
Georgia	117	21,007	349,720
Hawaii	3	473	10,393
Idaho	20	3,746	69,561
Illinois	8,533	1,591,468	25,437,026
Christian	274	48,606	831,870
Clinton	73	13,383	139,939
Cook	266	45,753	718,787
Franklin	2,119	399,454	7,339,462
Fulton	162	29,531	445,365
Jackson	186	34,698	575,113
Jefferson	52	10,248	172,230
Macoupin	362	63,342	892,573
Madison	171	30,331	369,730
Marion	109	20,688	256,880
Montgomery	110	20,154	248,289
Peoria	75	12,964	188,097
Perry	376	69,612	1,107,175
Randolph	173	31,947	475,677
St. Clair	152	28,592	358,116
Saline	817	157,224	2,502,623
Sangamon	349	62,899	904,383
Tazewell	51	9,330	134,689
Vermilion	430	80,848	1,091,267
Williamson	1,579	303,621	4,945,549
Indiana	2,058	372,463	6,187,114
Clay	73	13,454	210,304
Gibson	100	18,165	335,151
Green	160	27,783	489,919
Knox	250	44,460	802,604
Lake	63	11,473	193,560
Marion	96	17,323	286,318
Sullivan	206	36,481	587,008
Vanderburgh	51	8,834	130,634
Vermillion	159	28,424	449,401
Vigo	288	51,590	857,539
Iowa	849	158,410	2,202,012
Appanoose	299	57,160	813,320
Marion	82	14,799	196,203
Monroe	113	21,152	284,196
Polk	107	19,432	250,657
Kansas	161	27,448	396,811
Crawford	77	12,928	208,667
Kentucky	10,789	$2,094,994	$41,370,293
Bell	873	173,425	3,756,029
Boyd	77	14,080	230,277
Breathitt	62	13,035	264,905
Clay	160	35,277	695,779
Fayette	57	10,172	186,238
Floyd	1,065	196,046	4,032,981
Harlan	1,453	283,015	6,290,206
Hopkins	600	117,118	1,987,637
Jefferson	93	16,373	254,041
Johnson	265	51,323	968,733
Knott	168	33,123	659,814
Knox	244	47,839	939,007
Laurel	127	25,509	476,359
Lawrence	75	15,009	292,480
Leslie	91	18,903	393,226
Letcher	692	134,052	2,567,475
McCreary	293	58,297	1,201,277
Martin	108	21,524	460,539
Muhlenberg	521	100,004	1,612,540
Ohio	80	15,318	218,493
Perry	588	117,361	2,382,965
Pike	1,627	311,618	6,547,849
Union	102	19,504	264,600
Webster	223	41,972	695,256
Whitley	366	71,899	1,410,857
Louisiana	23	4,012	64,789
Maine	1	123	5,756
Maryland	1,708	281,530	4,666,496
Allegany	846	131,545	2,164,858
Anne Arundel	69	11,572	186,280
Baltimore	113	19,022	314,886
Baltimore City	124	20,743	348,138
Garrett	222	38,706	628,207
Montgomery	73	12,710	223,156
Prince Georges	142	25,006	404,291
Massachusetts	54	9,806	150,153
Michigan	1,264	226,882	3,593,511
Genesee	54	10,034	146,565
Macomb	88	15,832	255,246
Oakland	133	24,519	275,376
Wayne	750	133,258	2,084,895
Minnesota	11	2,284	44,814
Mississippi	26	4,539	68,702
Missouri	212	38,524	494,616
Montana	109	18,110	269,997
Nebraska	10	1,835	15,705
Nevada	30	5,382	77,331
New Hampshire	7	1,147	11,115
New Jersey	1,891	337,234	5,841,844
Bergen	112	18,858	323,025
Camden	112	20,521	374,430
Essex	328	60,888	1,038,100
Hudson	127	22,422	391,775
Mercer	94	16,552	303,549
Middlesex	209	35,929	653,421
Morris	70	11,865	228,172
Passaic	128	22,381	387,118
Somerset	118	20,194	363,426
Union	273	50,340	821,109
New Mexico	232	44,954	788,041
Colfax	79	15,335	247,636
McKinley	68	12,665	270,315
New York	1,263	223,707	3,793,005
Broome	144	25,449	430,801
Erie	176	31,210	509,805
Kings	126	22,578	377,169
Monroe	65	11,702	204,035
Nassau	50	8,752	154,676
New York	62	10,863	178,831
Niagra	68	11,949	182,033
Queens	117	21,933	386,944
Westchester	60	10,556	181,477
North Carolina	321	58,737	1,081,897
North Dakota	10	1,863	24,390
Ohio	5,392	993,019	15,714,114
Athens	356	65,623	941,942
Belmont	663	118,438	1,772,266
Butler	83	16,064	243,926
Cuyahoga	769	139,588	2,224,755
Franklin	445	83,079	1,503,831
Gallia	110	20,686	348,567
Hamilton	220	40,046	663,926
Harrison	65	11,845	181,484
Jackson	59	11,366	183,884
Jefferson	295	53,616	769,807
Lawrence	61	12,160	200,506
Lorrain	103	18,234	291,365
Lucas	96	17,750	295,299
Mahoning	67	11,819	191,563
Meigs	93	19,271	295,083
Montgomery	308	54,948	883,857
Muskingum	73	14,864	230,912
Perry	123	21,826	307,263
Stark	125	24,471	373,596
Summit	159	27,632	445,562
Trumbull	74	13,960	222,826
Tuscarawas	72	12,620	228,349
Oklahoma	506	93,195	1,598,396
Le Flore	105	20,157	364,647
Okmulgee	86	15,454	273,869
Pittsburg	146	27,164	475,837
Oregon	41	7,353	117,714
Pennsylvania	64,587	11,612,898	228,400,826
Allegheny	1,809	324,173	6,098,613
Armstrong	475	89,629	1,671,239
Beaver	59	10,625	159,880
Bedford	249	$46,715	$850,950
Berks	132	22,686	416,591
Blair	60	10,097	182,114
Bucks	252	44,789	827,628
Butler	143	25,675	455,497
Cambria	4,263	771,103	15,504,509
Carbon	1,564	282,001	5,984,535
Centre	206	38,611	697,657
Chester	81	13,569	254,043
Clarion	218	41,622	688,781
Clearfield	1,113	206,966	3,729,892
Columbia	469	87,146	1,752,666
Cumberland	78	13,908	240,648
Dauphin	550	92,985	1,839,865
Delaware	222	38,928	707,907
Elk	187	34,209	627,970
Erie	83	14,579	256,959
Fayette	3,215	594,970	11,114,235
Green	739	136,014	2,528,238
Huntingdon	220	41,192	775,459
Indiana	1,436	262,579	5,005,371
Jefferson	450	85,349	1,508,380
Lackawanna	8,517	1,528,068	29,085,071
Lancaster	79	13,957	252,807
Lebanon	70	11,989	220,463
Lehigh	115	19,587	342,212
Luzerne	17,883	3,184,221	64,567,144
Mercer	64	12,137	217,704
Montomery	210	36,735	645,568
Montour	59	9,963	189,461
Northampton	118	21,073	398,652
Northumberland	2,893	520,168	10,314,090
Philadelphia	430	77,796	1,399,381
Schuylkill	8,228	1,447,322	30,332,164
Somerset	2,016	380,126	7,563,380
Sullivan	69	12,025	197,940
Susquehanna	287	51,382	990,403
Tioga	97	16,788	330,585
Washington	2,410	433,580	8,542,534
Wayne	164	30,610	558,362
Westmoreland	1,927	351,294	6,152,291
Wyoming	150	27,686	498,478
Puerto Rico	3	535	9,926
Rhode Island	10	1,682	25,484
South Carolina	54	10,462	177,072
South Dakota	4	917	16,094
Tennessee	4,205	834,904	15,659,545
Anderson	554	110,699	2,250,030
Campbell	783	156,676	3,238,018
Clairborne	183	36,506	768,054
Cumberland	74	13,993	213,555
Fentress	77	14,831	236,542
Grundy	280	56,378	1,083,635
Hamilton	197	37,534	550,635
Knox	191	39,710	718,907
Marion	262	53,104	984,086
Morgan	104	20,585	394,550
Putnam	63	13,314	274,335
Roane	394	78,050	1,444,242
Scott	112	23,683	493,469
Sullivan	216	40,931	722,549
Washington	52	10,439	176,100
White	188	35,308	510,399
Texas	116	22,387	353,434
Utah	479	91,855	1,423,400
Carbon	293	56,741	885,306
Salt Lake	72	13,475	192,623
Vermont	3	535	8,144
Virginia	6,727	1,358,528	27,055,936
Alexandria City	55	9,753	174,499
Bristol City	80	15,952	309,300
Buchanan	566	124,088	2,448,168
Dickenson	442	91,525	1,897,099
Lee	633	129,928	2,830,822
Montgomery	61	11,206	167,950
Norton City	228	43,357	873,967
Roanoke City	75	13,904	248,615
Russell	457	94,337	1,881,805
Scott	90	17,343	390,280
Smyth	88	17,909	326,494
Tazewell	1,404	286,368	5,950,792
Washington	96	20,058	377,685
Wise	1,347	266,021	5,455,258
Wythe	166	33,255	487,061
Washington	200	35,729	511,706
King	50	8,377	120,272
Kittitas	76	13,742	170,325
West Virginia	26,365	5,251,455	103,894,646
Barbour	304	57,602	1,003,068
Boone	867	173,065	3,363,137
Braxton	66	13,589	269,879
Brooke	78	15,568	289,137
Cabell	152	28,578	527,489
Clay	149	30,720	556,278
Fayette	2,902	566,406	11,698,026
Greenbrier	397	77,038	1,451,449
Harrison	691	133,764	2,324,227
Kanawha	1,686	319,579	5,980,266
Lincoln	190	39,442	763,562
Logan	2,362	483,579	10,410,224
McDowell	3,090	629,969	13,732,967
Marion	1,177	225,202	3,804,988
Mason	53	9,950	155,008
Marshall	121	23,042	366,583
Mercer	1,575	317,894	6,184,294
Mineral	101	19,849	316,454
Mingo	1,713	364,611	7,599,089

State and county	Claims allowed	Monthly payment amount	Total cumulative amount
West Virginia—Continued			
Monongalia	738	$141,349	$2,503,725
Monroe	69	13,447	257,266
Nicholas	322	64,321	1,138,568
Ohio	217	42,114	688,450
Preston	285	59,532	969,750
Putnam	107	20,550	315,015
Raleigh	3,887	764,973	16,377,341
Randolph	215	42,332	811,202
Summers	73	14,675	275,749
Taylor	124	24,219	421,030
Tucker	125	23,546	456,908
Upshur	125	25,707	426,463
Wayne	136	28,262	524,545
Webster	208	43,931	853,453
Wyoming	1,771	355,716	6,083,637
Wisconsin	51	8,992	145,000
Wyoming	525	97,590	1,828,792
Lincoln	54	10,104	200,419
Sweetwater	378	71,062	1,359,875
Total claims allowed	149,595	27,995,037	532,609,728

Mr. President, I cannot overstress the great urgency in securing the enactment of this responsible legislation. This sense of urgency is something I share with you and thousands of miners, their widows, and children who are anxiously awaiting what we are doing here. Those of us who went into the coalfields to hold hearings on improvements to the black lung benefits program know the anxiety felt by the coal miners and their families. Those of us who were in Beckley, W. Va., or Scranton, Pa., came away heartsick after hearing the quiet, anguished, but proud pleas for help from miners and wives and widows and children. They came to us not seeking a handout; they came seeking a helping hand. They came with the high purpose of the widow whose husband worked 28 years in the mines, and since his death she had raised seven children on her own. I call this woman gallant. I shall never forget what she said:

> I have been denied and I am testifying not to help myself, perhaps, but to help the miners of the future and their families.

Mr. President, when you hear such a story and you know what the expenditures for our physical hardware are in this country, you realize that we in Congress have a responsibility, as we have never had it before, to do now, without delay, what should be done to help these persons.

Our subcommittee returned from those hearings with a deep determination to assist the miners and families who now wait for the results of our action here in the Senate. We cannot and must not disappoint them.

We cannot and must not ignore the needs of thousands of persons who have been shocked when they are advised that they do not qualify for benefits under the black lung program. Many of these persons have spent 20 and 30 and sometimes 40 and 50 years working underground in the dark and damp atmosphere bringing forth coal which has enabled the people of this country to achieve a per capita energy consumption rate six times higher than the world average.

Mr. President, day in and day out, under the threat of roof falls, electrical fires, rock falls, poison gas, penetrating moisture, and always the ever-present coal dust, these men have performed loyal and faithful service. Although the mines have been improved—and I commend those companies and their officials who have worked so diligently for improvement—these same conditions continue to exist in many areas. We cannot ignore the needs of these men.

So now we earnestly desire to help those that need our help, those who form the mining population of this country. We will not ignore in this body the health and well-being of these people. I do not believe, when we can so easily turn on a light, press the television button, or adjust the air conditioner, that we will not realize the terrific flow of power for all Americans, which has been coming from the miners of this country through the production of coal—a production which will necessarily have to be increased in order to meet the future energy requirements of this country.

Mr. President, I said at the beginning that I think society—not a part of society but all of society—has a real debt to those thousands of miners who have been fueling the Nation. H.R. 9212, as reported by the Committee on Labor and Public Welfare—given very careful attention by the subcommittee and the committee, given attention by the distinguished member of the committee who is now presiding over this Chamber, the distinguished Senator from Iowa (Mr. HUGHES), given the attention of men regardless of party, and reported unanimously to this Chamber—is the legislation on which I hope in a few hours we will have a positive determination.

I urge the passage of the bill.

Mr. President, although the estimates of cost are eminently fair, certain of the coal associations have expressed displeasure with the committee bill through telegrams to Members of the Senate. I would like at this point to insert in the RECORD a copy of that telegram, along with a telegram which I have sent to all Members of the Senate.

WASHINGTON, D.C.,
April 17, 1972.

HON. JENNINGS RANDOLPH,
Senate Labor and Public Welfare Committee, Washingotn, D.C.:

The undersigned associations, representing more than 80 percent of U.S. bituminous coal production, respectfully request the Senate Committee on Labor and Public Welfare to reconsider its amendments to H.R. 9212, the so-called black lung extension bill, for the following reasons:

1. To secure and give careful consideration to the estimates of additional costs to both government and industry of liberalization of the present program as provided in the senate amendments. At present we are advised only that the projected costs would be a staggering 12 to 15 billion over the next 10 years, with a large but undetermined portion of that to be borne by the coal industry, the total volume of coal sales in 1971 amounted to less than $4 billion.

2. To ascertain the effect of such increased costs of the thousands of small companies that produce almost half the nation's coal. The 20 largest coal companies produce almost half the nation's coal. The 20 largest coal companies produce 55 percent of the annual coal tonnage from 350 mines. The remaining 45 percent is produced in 5,200 mines most of them run by small independent coal producers. Thus, a major share of the cost of liberalized program would fall on the small and medium-sized producers.

3. To reevaluate the proposed standards for diagnosing black lung. The expanded standards of the House bill, H.R. 9212, are adequate to take care of those applications already rejected by what is regarded to be an overly restrictive interpretation of the 1969 law by the Social Security Administration.

4. To reexamine enlargement of the program to cover respiration and pulmonary diseases, such as chronic bronchitis and emphysema.

5. To give further consideration to the proposed extension of this program to brothers, sisters, parents, and other collateral relatives. The number of beneficiaries under the present program already exceeds 240,000 including 91,000 miners and 74,000 widows. To put this is perspective, it must be noted that only about 120,000 miners are currently employed in the coal industry.

6. To give careful thought to whether a disaster-type program originally conceived as a temporary measure to terminate in 1976 should be converted into a permanent program under what amounts to a federalized workmen's compensation plan. The Senate bill would give the States only one additional year to adjust their compensation laws to provide for assumption of this complex and costly program.

To fully assess the effects of this program on the continued economic viability of the coal industry, on the national economy and the consumer who, in the end, would have to pay the bill in the form of higher rates for electricity and other essential goods and services.

We again respectfully request the committee to reconsider its amendments to H.R. 9212. The coal industry generally is on record as supporting the House bill. But the Senate amendments not only could be disastrous for the coal industry—they would have a profound effect on the U.S. economy.

Joseph E. Moody, President, Bituminous Coal Operators Assn. Inc., Carl Bagge, President, National Coal Assoc., Louis H. Hunter, Executive Secretary, National Independent Coal Operators Assn., Allen Overton, Jr., Executive Vice President, American Mining Congress.

TELEGRAM

I am very, very deeply disappointed that the coal industry associations are opposing the black lung benefits bill that will be brought to decision in the Senate on Monday. I refer to Senate Labor and Public Welfare Committee amendments to H.R. 9212. Four associations representing the bituminous coal industry have circulated a telegram to Senators decrying the costs of the black lung benefits program, and in doing so they have grossly overestimated the costs.

Both the Federal government and the coal operators will pay for the benefits provided and proposed to be provided for those persons and their dependents who have directly and indirectly mined the coal which has fueled and energize this country. In 1970 alone 54 percent of all the thermal power generated was from coal. I believe that coal's opposition to an equitable payment of the costs of this program is unwarranted.

JENNINGS RANDOLPH,
U.S. Senator.

Mr. President, the committee bill reflects a fair and equitable distribution of cost responsibility for the program, both as to Government and industry.

The cost estimates for both the Federal and the industry portions of the program so reflect. I ask unanimous consent that cost figures provided by the Social Secu-

rity Administration be inserted at this point in the RECORD.

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

COST EFFECTS OF H.R. 9212 AS REPORTED BY THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

(Memorandum from Lawrence Alpern, Deputy Chief Actuary, Social Security Administration)

The table below shows estimates of additional benefit payments under Title IV of P.L. 91–173, over and above expenditures under present law, that would result from enactment of H.R. 9212 as reported by the Senate Committee on Labor and Public Welfare, by jurisdiction of source of payments, fiscal years 1972-81 (in millions).

Fiscal year	Additional benefit payments[1] under title IV of Public Law 91–173, resulting from H.R. 9212 as reported		Additional benefit payments from the Federal disability insurance trust fund
	Pt. B	Pt. C[2]	
1972	$10		
1973	989	—$14	$7
1974	441	—47	3
1975	389	30	3
1976	369	79	2
1977	354	206	2
1978	340	407	2
1979	326	479	2
1980	313	547	2
1981	300	609	2
Total, 1972–81	3,831	2,296	25

[1] The estimates reflect the increase in black lung benefits that results from the 5.5-percent increase in the annual salary rate of Federal Government employees at step 1 of GS–2, effective in January 1972 and are based on the assumption that there will be no future increases in black lung benefit rates after January 1972. It is recognized that Federal salaries may increase in the future. It is not possible, however, to predict either the rate of increase or the timing when such increases would be reflected in salary scales and hence in benefit rates.

[2] It is recognized that there may be Federal jurisdiction over some payments under pt. C. It is not possible, however, to separate these expenditures from the total expenditures under pt. C. Negative amounts represent reductions in costs that result from the 1-year extension of Federal jurisdiction over initial claims under pt. B.

ESTIMATES OF BLACK LUNG BENEFIT PAYMENTS UNDER PRESENT LAW

(Memorandum from Lawrence Alpern, Deputy Chief Actuary, Social Security Administration)

Current estimates of benefit payments under present Title IV of P.L. 91–173 (black lung), by jurisdiction of source of payment, are shown below in millions.

Fiscal year	Black lung benefit payments[1] title IV, by jurisdiction of source of payment	
	Pt. B	Pt. C[2]
1972	$401	
1973	470	$14
1974	457	75
1975	413	124
1976	393	166
1977	375	123
1978	358	
1979	342	
1980	327	
1981	312	
Total	3,848	502

[1] The estimates reflect the increase in black lung benefits that results from the 5.5-percent increase in the annual salary rate of Federal Government employees at step 1 of GS–2, effective in January 1972 and are based on the assumption that there will be no future increases in black lung benefit rates after January 1972. It is recognized that Federal salaries may increase in the future. It is not possible, however, to predict either the rate of increase or the timing when such increases would be reflected in salary scales and hence in benefit rates.

[2] Under sec. 422(e)(3) of present law, no payment of benefits shall be required for any period after 7 years after the date of enactment (Dec. 30, 1969). It is recognized that there may be Federal jurisdiction over some payments under pt. C. It is not possible, however, to separate these expenditures from the nder pt. C.

ESTIMATED NUMBER OF PERSONS WHO BECOME IMMEDIATELY ELIGIBLE FOR BENEFITS UNDER PROVISIONS OF H.R. 9212 AS REPORTED BY SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

(Memorandum from Lawrence Alpern, Deputy Chief Actuary)

The number of persons who become immediately eligible for benefits as a result of the proposed changes in present law that are contained in H.R. 9212 are shown below, by category:

Survivors of deceased miners who were disabled at time of death:	
Orphans	2,000
Widows, based on relaxed eligibility requirements	10,000
Dependent parents, brothers, sisters	3,000
Children, where widow has remarried	8,000
Liberalized requirements for establishing pneumoconiosis	35,000
Expanded definition of disability	71,000
Surface miners and their widows	20,000

Mr. SCHWEIKER. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, as a Senator from Pennsylvania and as the sponsor of this legislation in its original stage and as a member of the Subcommittee on Labor which drafted this legislation, I strongly urge that the Senate adopt H.R. 9212, the Black Lung Benefits Act of 1972. This bill, as the Senator from West Virginia, my good friend, so ably outlined, is of vital importance to the coal miners of this Nation, their widows, and their children.

It moves to correct the shortcomings of the original black lung compensation program enacted as part of the Federal Coal Mine Health and Safety Act of 1969. That legislation has proved to be an excellent first step in paying this Nation's enormous obligation to the men who have mined the coal. But it is only a first step, for under the law as Congress wrote it in 1969, the coal miners and their widows have had only a 50–50 chance nationwide of having their claims approved.

As of March 3, 1972, out of 336,592 claims filed and processed, 166,593 have been approved, and 169,999 have been denied.

In my State of Pennsylvania alone, 24,579 coal miners and 11,071 widows have been denied benefits under this program. Fortunately, another 71,999 coal miners and their widows in Pennsylvania have been awarded their benefits.

Pennsylvania does have the highest rate of approval of claims—67 percent—among all major coal producing States. There is some reason for this, and it relates to the nature of coal mining in Pennsylvania. In Pennsylvania we have deposits of anthracite, hard coal, as well as bituminous, soft coal. In fact, the hard coal causes more cases and more serious cases of black lung than does soft coal. The anthracite coal areas in Pennsylvania have a higher incidence of the disease and have a higher rate of claims approved because the smaller size of the hard coal particles makes these particles easier to be inhaled into a miner's lungs. These particles literally cover the lungs with a black coating. Hence, we have the name black lung. That is really the cause of this disease that so tragically brings havoc and ruin to the lives of those who have mined the coal for our Nation. But the fact that Pennsylvania does have a 67 percent approval rate, the highest among the coal-producing States, does not help the 35,650 miners and widows in Pennsylvania who are going without their black lung benefits today.

In most cases that is because of the deficiencies and inequities of the present law. And it is certainly no comfort to the many who have been denied their claims for black lung benefits in the other States that also have extensive coal mining operations.

Mr. President, that is why I joined with my subcommittee and committee in recommending beneficial changes in the black lung program. Our subcommittee was headed ably and with such strong dedication by my friend, the distinguished Senator from West Virginia (Mr. RANDOLPH).

This version of H.R. 9212 is the result. The subcommittee held several days of hearings in different locations, two of them in the coal fields themselves—in Beckley, W. Va., on January 6, and in Scranton, Pa., on January 10.

I regret, I point out to my friend, the Senator from West Virginia, that our colleagues could not have been in some of those hearing rooms to see and hear the individuals who testified. The first thing that one noticed about the hearing rooms was that everyone in the hearing room was coughing because they have some degree of the disease of coal miners—miner's asthma, pneumoconiosis, black lung, or whatever one chooses to call it, that is an impingement on the heart-lung process. One could not help noticing that the people in the room were different from average Americans. They have already paid the price for mining our coal. As pointed out so ably by the Senator from West Virginia, 54 percent of our Nation's fuel supply is produced from coal. When we flick that switch to turn on the disposal or go to the refrigerator, we should all realize that someone had to go into the coal mines for 20 or 30 years and breathe the coal dust and get the black lung disease and have his life cycle and that of his family disrupted in order to produce that power.

I get a little bit short of patience with those people who say that this is a bill for West Virginia, Pennsylvania, or Kentucky, because those States happen to have coal mines located in them. I point out to those individuals that when one leaves the Pennsylvania borders, there is no Berlin Wall to stop the power that has been made possible in Pennsylvania from going to other States where it is utilized to the benefit of people in other States. There is no Berlin Wall across the railroad tracks to stop coal produced in Pennsylvania from leaving the borders and being of benefit to the people in other States.

We all benefit from the labor of those people who have sacrificed so much to give us that power. Only belatedly is the Nation having its conscience awakened to what these people have been doing for the Nation and what they have been suffering for all these years.

I get a little concerned when I hear

people say that this is a bill that benefits only a few coal-producing States, when the truth is that if those people had not been willing to mine coal and to sacrifice their limbs and their lives—and that is the plain truth—we never would have had the great industrial progress that this country has enjoyed. Certainly to say that this is a sectional bill is the furthest thing from the truth.

Today, the electricity made possible by the coal miners affects everyone who turns on an electric switch, everyone who enjoys the benefits of the modern technology in which we live.

There are no boundaries to stop the power produced by the coal that is mined from going out to the other States. The people in the other States enjoy the product for which the coal miners have paid such a tragic price. It is our desire to make sure that we afford some compensation, if not to those who cannot survive, at least to their survivors.

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

Mr. SCHWEIKER. I would be delighted to yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I think that the distinguished Senator from Pennsylvania might be charged with speaking emotionally. However, it would be a charge which should be one of honor. Here there are not only the humanitarian questions involved, but there are also the facts which make him speak out as he has.

One should think not only of turning the switch on the television, but he should also think of the willing hands of surgeons who operate under intense lights in thousands of hospitals all over the country in an attempt to ease pain and sustain life for literally thousands and thousands of people every 24 hours of the day in this country.

We should get closer to home where we turn on the power to realize what the power produced by these miners is used for.

It is a matter of life and death and the strength of the Republic and the well being of all our people.

I thank the distinguished Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I thank the distinguished Senator.

I am reminded very much of one hearing we held in Washington that was not a very pleasant hearing. Perhaps that is why I did raise my voice a moment ago. One cannot have a hearing on a disease that is the largest occupational killer in the world today without it having some impact on him.

I remember Dr. I. E. Buff, who was from the Senator's home State, when he came before our committee in 1969. He came in a rather unorthodox way—a way that I am sure put us all on the edges of our chairs—when he very dramatically brought out a lung from one of the latest autopsies he had to perform.

He placed it before us. It was completely colored black, to the point that if one had not been advised what it was he would not even be able to understand what it was that he was trying to tell us. He was trying to tell us he was getting tired of being the sole spokesman, the sole leader in this field. He told of autopsy after autopsy being performed that showed a lung so covered with coal it had become black, and had stopped the vital functions of life to the point where it could not pump blood. It was a sensational way to relate a message to the committee. One cannot attend committee hearings, see the pictures, and hear the witnesses, including miners themselves, without getting the message that these Americans have been neglected for years. Only belatedly are we beginning to realize that we all have a responsibility, the industry, the unions, and most important of all, the country.

Mr. President, that is what this bill is about and what it tries to do. It is a national bill; it is not a sectional bill, it is not a regional bill; it is a national bill. I hope we keep that in mind.

In our field hearings this year, we heard the miners and the widows tell their stories directly to us, while hundreds of other miners and widows sat as spectators, but no doubt with similar stories to tell if time had permitted.

In Scranton, for example, we heard testimony from miners who have worked 40 to 50 years in anthracite mines, who cough and wheeze continually, who cannot climb the stairs at night because their breathing is so impaired. They have to sleep in their living rooms because they cannot go upstairs to their bedrooms at night; it is too hard on their lungs.

This is a forgotten side of America. It is a problem we have forgotten and pushed under the rug. They have to bring their beds downstairs to the living room because they cannot climb the stairs to go to the bedroom at night. That is the kind of story we heard at the hearings, and it is the kind of story the Senator from West Virginia (Mr. RANDOLPH) and I are trying to tell to our colleagues today, and it is why we get somewhat emotionally involved in telling the story.

Those people cannot climb the stairs at night because their breathing is so impaired. They need to go to clinics three times a week for oxygen, and for one technical reason or another they have been unable to collect black lung benefits under the present law. They have to go to the clinic to get a concentration of oxygen because their black lungs filter out the normal oxygen we use; they cannot get by with normal oxygen and they have to get a high concentration of oxygen to get it past the imbedded particles of black dust in their lungs. That is why they need this treatment.

Just as impressive, if not more so, was the testimony in Scranton of several widows of miners. Their husbands had displayed all the same symptoms during their lifetime. Yet the widows, because of the way existing law is written, were barred from receiving benefits they justly deserve under the intent of the original law.

In H.R. 9212, then, we have made several key changes to existing law to make it more equitable.

I. MORE INDIVIDUALS COVERED

First of all, we have extended the law to many more individuals who were overlooked when the 1969 law was written.

Surface—or strip—miners and their families will be covered by the program for the first time. Under present law, only underground coal miners and their families are eligible for benefits.

Children of coal miners who have neither their father nor mother living will be eligible to receive benefits for the first time. Up to now, benefits have gone only to a living parent and these benefits were increased on behalf of the children.

And finally, in an amendment I introduced in the committee, a miner's surviving parents, brothers or sisters will be eligible for benefits if, when the miner dies, he leaves no surviving wife or children and if his parents, or brothers or sisters were dependent on him for support.

A number of cases in Pennsylvania came to my attention in which the miner had died leaving no wife or children, but was survived by a dependent sister who lived with him and kept house for him. I felt that in such cases, for example, this dependent sister should not be disqualified from receiving benefits.

II. "BLACK LUNG" AND "TOTAL DISABILITY" CRITERIA LIBERALIZED

Second, we have liberalized the criteria for determining whether a miner has black lung and whether he is totally disabled from it.

No miner applying for benefits will be turned down solely because of a negative X-ray. Other tests for pneumoconiosis will have to be employed. Under present law, as administered by the Social Security Administration, the principal test used has been the X-ray, even though medical opinion is divided on how reliable the X-ray is as a test for black lung. So in H.R. 9212, we have given miners the benefit of the doubt.

In addition, if a miner has worked 15 years in the mines and is disabled from emphysema, chronic bronchitis or another respiratory ailment, he will be presumed to have black lung, even if he cannot show a positive X-ray. This will allow many more veteran miners, thus far turned down because of negative X-rays, to qualify for black-lung benefits.

The distinguished Senator from West Virginia was most helpful in sponsoring this amendment which I shared with him as a cosponsor, because it is rather ironic the way we operate now. A Social Security examiner can find that a person has a pulmonary disfunction and is entitled to pulmonary disability benefits and has an excellent case and can prove it; his heart and lungs are not working correctly. However, simply because those black specks do not show up on an X-ray—and they may only show up on an autopsy—the worker is not eligible for benefits. A man by our standards fails the pulmonary test but he is dis-

qualified simply because the X-ray does not show these particles. Fortunately, this bill will rectify that problem, and the Senator from West Virginia played a very important role in connection with the measure.

Finally, the bill takes a new look at the criteria for "total disability" as applied to coal miners. The bill provides that a coal miner with black lung will be deemed totally disabled, and thus eligible for black lung benefits, if he is unable to do work similar to his work in the mines. Up to now the rule has been that a disabled miner who could still do "any substantial gainful activity" on some other job could not qualify for benefits. This may be a fair rule nationally, but coal miners, in their 40's and 50's, simply do not find many alternative jobs outside coal mining in their home areas. So we felt it was only fair to simplify the disability test for coal miners with black lung.

III. SPECIAL PROVISIONS FOR WIDOWS

Third, we have made two important changes in the law to eliminate technical and procedural roadblocks that have kept thousands of Pennsylvania widows from receiving their rightful black lung benefits.

In the bill, widows will have to establish only that their husbands were totally disabled from pneumoconiosis at the time of his death. Under present law, the widow has to show that the miner has actually died from pneumoconiosis or the widow receives no black lung benefits. This unnecessarily onerous test alone has kept thousands of widows in Pennsylvania from qualifying. As the committee report states at page 8:

> Under the operation of the law as it now exists, a widow is at the mercy of circumstance. Although her husband clearly had totally disabling pneumoconiosis, and would have been eligible were he alive, he may have died in a rock fall, an accident, or even a heart attack which may not be established medically to be causally related to pneumoconiosis. Under these circumstances his widow would not be eligible. However, the widow's neighbor, whose husband died of natural causes after receiving title IV benefits, is entitled to the widow's benefits of title IV. Such a result would seem to be unduly harsh with respect to widows whose husbands gave their health, and in many cases their lives, in the service of the nation's critical coal needs.

Another provision of importance to widows is the guarantee of a widow's right to submit lay medical evidence on her husband's condition when she applies for black lung benefits. Many widows in Pennsylvania and elsewhere have been simply unable to produce physicians' documents in support of their claim.

Pneumoconiosis, although it has been with us for years, has not been known by that terminology until recently, and still the medical experts cannot agree on just how it can be diagnosed and what tools are needed. Yet we have put the burden on widows to go back 5 or 10 years and try to prove medically what happened before, when in fact we are just learning at this time what the medical implications of this dread disease are—a rather inequitable provision of the law.

There are many reasons why widows are unable to produce physicians' records. In the case of miners deceased for several years, there is a good chance that the doctors they went to are also deceased and their office records are not intact. Even in cases where physicians' records may be retrievable, they may be of little value. After all, for decades black lung was not recognized by any physicians as either an illness or a contributing cause of death.

Thus I felt it essential, and pressed for appropriate language in the bill, to guarantee a widow a right to file affidavits from herself, from fellow workers of her husband, neighbors—anyone, in short, with knowledge of the husband's condition that would have some bearing on whether or not he was disabled.

IV. AID TO NEW AND EXISTING BLACK LUNG CLINICS

Fourth one of the most important findings our subcommittee made in its hearings was of the need for additional funds for examination and treatment clinics for miners with black lung and other pulmonary and respiratory diseases.

On February 10, I made a personal visit to the Anthracosilicosis Treatment project at Wilkes-Barre General Hospital, in the heart of the Pennsylvania anthracite region. This clinic is headed by Dr. Charles Myers, a dedicated and widely respected lung and chest specialist.

As an indication of the community support for this clinic, the Anthracosilicosis League of Pennsylvania, a grassroots organization of black lung victims, has collected funds from its members in 25 cents and 50 cents contributions and has donated over $25,000 to the project since it began in 1966.

In this clinic the visitor sees patient after patient taking dosages of pure oxygen on a several-times-a-week basis—the aftermath of all the years these men have spent toiling underground in anthracite mines, where the dust comes in smaller particles than in soft coal mines, and thus is more lethal to the miner.

Dr. Myers has done pioneer work at Wilkes-Barre, often in spite of meager resources. It is our aim in the bill to make it a direct Federal commitment to bring clinical services such as these to all the black lung victims who need them, both by helping existing projects go on and by expanding services to outlying areas not now being served.

Dr. Myers himself, in a statement contained as part of our subcommittee's hearing record, proposes new satellite clinics for black lung examination and treatment, using established centers such as his project as a central point of reference. He points out that many of his 400 current patients at the clinic have transportation problems reaching the clinic for their routine visits. Furthermore, there are certainly thousands of additional patients who need such care but are not getting it either because of transportation problems or the limitations of the size of the project.

Seeing this clinic in operation in Wilkes-Barre convinced me all the more of the importance of direct Federal aid to black lung clinics, and I was pleased to support inclusion of this section in our bill.

V. FEDERAL PHASE OF PROGRAM EXTENDED 1 YEAR—WHOLE PROGRAM MADE PERMANENT

Fifth, and finally, this bill extends, for 1 year, the Federal Government's full liability for all new black lung claims filed and approved. This means that through the end of 1972, claims filed will, if approved, be paid for life by the Federal Government. For claims filed during 1973, the Federal Government will pay benefits only during that year, and for later years, the coal industry employers will be liable for these 1973 claims. After January 1, 1974, all claims will be paid by the coal industry employers.

I favor this additional extension of Federal responsibility, and in fact, cosponsored, with the Senator from West Virginia (Mr. RANDOLPH) his bill S. 2675, which included a 2-year, rather than a 1-year, extension of the Federal Government's liability for black lung claims. The committee, however, adopted only a 1-year extension. State governments need additional time to gear up their workmen's compensation systems for this additional caseload and financial burden. This is the position of my own State of Pennsylvania, which, incidentally, has done more than any other State thus far to compensate black lung victims, out of general taxpayer funds as well as through the regular workmen's compensation system, which relies on employer contributions.

This program also becomes, by action of this bill, a permanent program, instead of expiring in 1976. This will assure all future applicants for benefits that their benefits, like the ones already awarded under the program, will be for the miner's or widow's lifetime. It eliminates the possibility that if there is no suitable State action by the end of 1976, benefits being drawn by that time would be cut off.

Mr. President, in summary I feel that this bill is a worthwhile one, as a further response to our obligation, as a Nation, toward the coal miner and his family, who have sacrificed so much in life and limb, in this most hazardous of occupations, so that all of us in this Nation could have heat and energy for our daily needs.

In 1969, Mr. President, Congress saw the need to take direct Federal action to compensate the victims of black lung. By this legislation, Mr. President, we continue in that spirit to improve and make the Federal Black lung benefits program fairer to all. I urge that the Senate act promptly to pass H.R. 9212.

The PRESIDING OFFICER. Who yields time?

Mr. SCHWEIKER. Mr. President, I yield such time as he may consume to the Senator from Ohio (Mr. TAFT).

The PRESIDING OFFICER. The Senator from Ohio.

Mr. TAFT. Mr. President, I am pleased today to rise in support of H.R. 9212, the Black Lung Benefits Act of 1972. This measure will eliminate inequities that have arisen under title IV of the Federal Coal Mine Health and Safety Act of 1969.

The bill now before the Senate represents a compromise which I helped to fashion out of the original bill introduced by the distinguished Senator from West Virginia (Mr. RANDOLPH).

There are basically two issues under this bill. The first goes to the question of what benefits shall be available and the second goes to the question of who shall pay the cost of this program.

None of us in this Chamber would do anything other than to subscribe to the very strong and very appropriate remarks already made by the distinguished Senator from West Virginia (Mr. RANDOLPH) and my distinguished colleague from Pennsylvania (Mr. SCHWEIKER) as to the need for this bill, as to the justification for it, and as to the equities that are involved.

As to benefits, the existing law provides that benefits shall be paid only to miners or their widows. Under this law if a miner and his spouse are both deceased, the surviving children are not able to claim any benefits. I do not believe that this problem was foreseen by the drafters of the 1969 act, and there has been no question on the part of committee members about extending the act in this regard.

The bill also expands the ability of widows to secure benefits under the act. Under this bill, if a coal miner was totally disabled by pneumoconiosis at the time of his death, his widow may obtain benefits, notwithstanding the fact that his death was from a cause unrelated to pneumoconiosis and notwithstanding the fact that he was not receiving benefits at the time of his death. In effect, what this law says is, if a miner was totally disabled and could have been receiving benefits if the present law had been in effect during his lifetime, then his widow shall be entitled to benefits under this act.

It seems to me that the present rule to deny benefits to a widow whose husband had not applied under the act but to allow benefits for a comparable widow whose husband had made application for benefits is very harsh and arbitrary. The mere fact that a coal miner totally disabled by pneumoconiosis failed to make an application for benefits, perhaps not even knowing of them or of his condition, should not of itself deny his widow the benefits to which she would have otherwise been entitled.

The most important feature of this bill is the provision that benefits can no longer be denied solely on the basis of a negative X-ray. This X-ray rule has also proven to be a harsh and unfair requirement under the existing law. Testimony is clear that a negative X-ray does not establish the absence of pneumoconiosis. Autopsies of coal miners indicate that pneumoconiosis does exist in a great numer of cases where the chest X-ray was negative. Testimony has indicated that there is an error factor of approximately 25 percent in diagnosis when the X-ray alone is used.

The distinguished Senator from West Virginia has already mentioned that we have had a turndown of almost 50 percent of the claims nationwide, with 160,000 claims being turned down. If you take 25 percent of that figure, you can see we are dealing with a not insubstantial number of claims which have been denied on the basis of the X-ray.

On the other hand the evidence is also clear that there is no medical test, other than an autopsy or biopsy that will determine the presence of pneumoconiosis with certainty. If we are to recognize that the X-ray alone will not reveal all cases of pneumoconiosis and if we are to go beyond X-ray evidence, then we must honestly admit that we cannot differentiate with precision between pneumoconiosis and other respiratory and pulmonary ailments.

The committee was faced with a seemingly difficult dilemma. On one hand we could continue to rely on the X-ray knowing that we would not be providing benefits for all miners who were disabled with pneumoconiosis. On the other hand we could utilize other tests of respiratory and pulmonary disability knowing that we would be thereby providing benefits for some miners who were suffering from disabilities other than pneumoconiosis.

I developed and secured Senator RANDOLPH'S agreement to a compromise approach which is largely embodied in this bill. This compromise in general terms is as follows. Under this bill benefits are to be paid to those who are suffering from pneumoconiosis and its sequelae. Second, benefits will be paid to all miners with a positive X-ray whether they have worked underground or in strip mines.

I might say I feel this to be particularly important in my own area of Ohio, where a great many strip mining operations have been carried on, and where, due to high coal dust concentrations and for other reasons, some of the jobs create conditions very similar to those created in underground mines. Third, if miners have a negative X-ray, if they have worked for a period of 15 years or more in an underground mine or above ground at a job with a high coal dust level and if they can establish other evidence that they are suffering from pulmonary and respiratory disability, there shall be a rebuttable presumption that they are disabled, because of pneumoconiosis. This presumption can be rebutted upon showing either that they do not have pneumoconiosis or that their disability is not occupationally related. Lay evidence alone will not be sufficient to raise the presumption of pneumoconiosis. As the committee report states on page 13, as to miners who have worked fewer than 15 years in a coal mine, "a mere showing of a respiratory or pulmonary impairment will not be sufficient to establish a claim for benefits." Miners with less than 15 years' service in the mines may receive benefits but only if they establish the burden of proof that they are totally disabled from pneumoconiosis. They shall not have the benefit of the rebuttable presumption that the miners with 15 years of service will enjoy. This compromise is based upon the testimony of the Surgeon General in 1969, who stated:

> For work periods less than 15 years underground, the occurrence of pneumoconiosis among miners appears to be spotty and showed no particular trend. For work periods greater than 15 years underground, there was a linear increase in the prevalence of the disease with years spent underground.

With respect to the definition of total disability, the committee has determined that a miner shall be considered totally disabled when he is unable to engage in gainful employment in the mines, because of pneumoconiosis. We recognize that some former miners may now be employed in other occupations and agree that this shall not preclude them from obtaining benefits under this act. They will, however, be subject to the earnings offset which will reduce their benefits to the point where a former miner, otherwise eligible, earning $6,000 a year, will obtain only $164 in benefits under this act.

The second major issue under this bill is the question of who should pay how much of the cost of the program. Under the present law beginning on January 1, 1973, all claims were to be the responsibility of the coal operators. This responsibility was to be undertaken through States' workmen's compensation laws if they meet the criteria established in title IV or under Federal law if such criteria are not met. As the distinguished Senator from New York (Mr. JAVITS) and I stated in our individual views:

> Under normally accepted principles of workmen's compensation, benefits for disability due to black lung should have been made the responsibility of the operators under workmen's compensation long ago; under the compromise agreed to in 1969, however, the law provided that the Federal government would bear the lifetime cost of claims filed prior to January 1, 1972. The Federal government also was to pay the cost during 1972 of claims filed in that year. What the compromise really amounted to was that the Federal government would pick up the lifetime cost of the huge backlog of claims that had accumulated over decades, while the industry would pick up the burden of paying the claims of those still working.

The bill introduced by the distinguished Senator from West Virginia (Mr. RANDOLPH), however, would have extended the Federal program for 2 years. The effect of this would be to bail out the large coal operating companies from what should be their financial responsibilities and throw the cost of the program on to the Federal taxpayers. I believe that such an extension would have been indefensible.

What American corporations would be the principal beneficiaries of such a bail out? The Department of Health, Education, and Welfare has furnished me with a list of the largest bituminous coal producers in the United States for the year 1970. I ask unanimous consent to have printed in the RECORD at this point a reproduction of that chart showing the eight largest bituminous coal companies, the names of the parent corporations, the annual sales of the parent corporations, and the number of employees.

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

Name of coal company	Parent corporation	Parent annual sales (millions)	Parent total employees
U.S. Steel Corp	(U.S. Steel Corp.)	Over $4,000	200,730 (5,290 miners in 1968).
Bethlehem Miners Corp	Bethlehem Steel Corp	$2,900	130,000 (4,090 miners in 1968).
General Dynamics Group	General Dynamics Corp	Over $2,000	85,000.
Pittsburgh & Midway Coal Mining Co.	Gulf Oil Corp	Over $3,000	54,200.
Republic Steel Corp	(Republic Steel Corp.)	Over $1,000	47,726 (1,505 miners in 1968).
Island Creek Coal Co	Occidental Petroleum Corp.	Over $2,000	33,000.
Peabody Coal Co	Kennecott Copper Co	$1,000 to $1,200	25,000.
Ayshire	American Metal Climax	$600 to $850	17,000.

Mr. TAFT. Preferably the cost of this program should have been carried by the industry all along, but the knowledge of the disease was not sufficient to bring it about. The 1969 law was a compromise that quite frankly recognized the financial burden that would be imposed upon the industry in picking up the backlog of claims that had arisen from decades of injury. Even if we pass no extension at all the Federal Government will still pay lifetime benefits to all those whose claims have been filed prior to January 1, 1972, and would pay during 1972 the cost of benefits to those whose claims had been filed during that year.

These amounts certainly are not insubstantial. I think it is important that the Senate have before it some estimate of the costs under this bill, the costs under the present law, and the costs under the House version of the bill as it came to the Senate from the other body.

I ask unanimous consent to have printed at this point in the RECORD three tables provided by the Deputy Chief Actuary of the Social Security Administration, Mr. Lawrence Alpern, which set out these figures in detail.

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

ESTIMATES OF BLACK LUNG BENEFIT PAYMENTS UNDER PRESENT LAW

Current estimates of benefit payments under present Title IV of P.L. 91–173 (black lung), by jurisdiction of source of payment, are shown below in millions:

Fiscal year	Black lung benefit payments [1] under title IV, by jurisdiction of source of payment: Pt. B	Pt. C [2]
1972	$401	
1973	470	$14
1974	457	75
1975	413	124
1976	393	166
1977	375	123
1978	358	
1979	342	
1980	327	
1981	312	
Total	3,848	502

[1] The estimates reflect the increase in black lung benefits that results from the 5.5-percent increase in the annual salary rate of Federal Government employees at step 1 of GS–2, effective in January 1972 and are based on the assumption that there will be no future increases in black lung benefit rates after January 1972. It is recognized that Federal salaries may increase in the future. It is not possible, however, to predict either the rate of increase or the timing when such increases would be reflected in salary scales and hence in benefit rates.

[2] Under sec. 422(e)(3) of present law, no payment of benefits shall be required for any period after 7 years after the date of enactment (Dec. 30, 1969). It is recognized that there may be Federal jurisdiction over some payments under pt. C. It is not possible, however to separate these expenditures from the total expenditures under pt. C.

BENEFIT PAYMENTS UNDER PUBLIC LAW 91–173, MODIFIED BY H.R. 9212 AS PASSED BY THE HOUSE OF REPRESENTATIVES

The table below shows estimates of total benefit payments that would result if Title IV of P.L. 91–173 were modified by the enactment of H.R. 9212 as passed by the House of Representatives. The estimates are presented by fiscal year of payment and by jurisdiction of source of payment (in millions):

Fiscal year	Total benefit payments [1] under title IV of Public Law 91–173, as modified by House-passed H.R. 9212: Pt. B	Pt. C [2]	Additiona benefit payments from the Federal disability insurance trust fund
1972	$411		
1973	921		$15
1974	734		6
1975	736	$15	6
1976	674	80	5
1977	640	132	5
1978	612	176	5
1979	584	128	4
1980	558		4
1981	532		4
Total	6,402	531	54

[1] The estimates reflect the increase in black lung benefits that results from the 5.5-percent increase in the annual salary rate of Federal Government employees at step 1 of GS–2, effective in January 1972 and are based on the assumption that there will be no future increases in black lung benefit rates after January 1972. It is recognized that Federal salaries may increase in the future. It is not possible, however, to predict either the rate of increase or the timing when such increases would be reflected in salary scales and hence in benefit rates.

[2] Under sec. 422(e)(3) of present law, as modified, no payment of benefits shall be required for any period after 9 years after the date of enactment (Dec. 30, 1969). It is recognized that there may be Federal jurisdiction over some payments under pt. C. It is not possible, however, to separate these expenditures from the total.

COST EFFECTS OF H.R. 9212 AS REPORTED BY THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

The table below shows estimates of additional benefit payments under title IV of P.L. 91–173, over and above expenditures under present law, that would result from enactment of H.R. 9212 as reported by the Senate Committee on Labor and Public Welfare, by jurisdiction of source of payments, fiscal years 1972–81 (in millions):

Fiscal year	Additional benefit payments [1] under Title IV of Public Law 91–173, resulting from H.R. 9212 as reported: Pt. B	Pt. C [2]	Additional benefit payments from the Federal disability insurance trust fund
1972	$10		
1973	989	−$14	$7
1974	441	−47	3
1975	389	30	3
1976	369	79	2
1977	354	206	2
1978	340	407	2
1979	326	479	2
1980	313	547	2
1981	300	609	2
Total, 1972–81	3,831	2,296	25

[1] The estimates reflect the increase in black lung benefits that results from the 5.5-percent increase in the annual salary rate of Federal Government employees at step 1 of GS–2, effective in January 1972 and are based on the assumption that there will be no future increases in black lung benefit rates after January 1972. It is recognized that Federal salaries may increase in the future. It is not possible, however, to predict either the rate of increase or the timing when such increases would be reflected in salary scales and hence in benefit rates.

[2] It is recognized that there may be Federal jurisdiction over some payments under pt. C. It is not possible, however, to separate these expenditures from the total expenditures under pt. C.

Mr. TAFT. I will outline these tables briefly for the Senate.

As for the present law, under part B of title 4, the total estimated cost is $3,848 million. Under part C, this would be an additional $502 million, of which it is estimated that one-third probably would be picked up by the Federal Government for companies that have gone out of business.

As to the House bill, the total cost we are talking about, as outlined in this estimated table would be as follows: Under part B, the total cost under the House bill would be $6,402 million. Under part C, it would be $531 million, of which it is estimated that approximately one-third would be picked up by the Federal Government.

As to the Senate bill—the one before us at this time, without changes—the table prepared by Mr. Alpern estimates that the additional benefit under title IV, part B, picked up by the Federal Government, would be $3,831 million. For part C, that amount would be $2,296 billion, of which it is estimated that approximately one-third would be picked up by the Federal Government.

Of the changes being made in this bill, by far the heaviest load is being picked up by the Federal Government, as compared to the private carriers or the workmen's compensation coverage, the ratio being approximately $3.8 to $2.2 billion.

The compromise reached in the committee, to which I subscribed, if anything goes too far in the direction of bailing out the coal industry from the responsibilities which it has under the present law and which it should have had all along. The agreement, reached on this issue, was part of an overall compromise on the bill, and consequently I support this 1-year extension as now contained in the committee bill. I would, however, vigorously oppose any effort to have the American taxpayers relieve this industry of any more of its obligations than is done under the present law.

Finally, let me outline very briefly the modifications agreed to by the distinguished Senator from West Virginia in working on the compromise under this bill. I commend him for his cooperation and his statesmanship in working out these details. I think he has done so with a great deal of diligence and knowledge that he obviously has accumulated over many years of service and many years of concern in this very difficult area.

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

Mr. TAFT. I yield.

Mr. RANDOLPH. Mr. President, I feel that within the committee there was an understanding by the members of the need for careful consideration of the proposed legislation. There also was an understanding of the need, where it was necessary, for accommodation of viewpoints. I think it has been done in a well-

reasoned way in this bill. I thank the Senator from Ohio for having made his contribution within the committee, and I thank him for his very gracious words directed toward me at this time.

Mr. TAFT. I thank the Senator from West Virginia.

I should like to review briefly what those modifications were.

First, we have limited the extent to which coverage will be applicable to surface miners. Unlike the bill as introduced, this compromise will be applicable to surface miners only if they have a positive X-ray, or if they have worked in an underground mine or surface occupation with a high concentration of coal dust for a period of 15 years and have other evidence of pulmonary and respiratory disability. Under this compromise such surface miners will be afforded the same presumption of pneumoconiosis as underground miners. The bill will not, however, apply to truck drivers, power shovel operators, and other strip mine employees who do not have a positive X-ray or who do not meet the requirements for the presumption. I believe that this limitation is very important. If we were to have a benefit program for all respiratory and pulmonary impairments of truck drivers working at strip mines, there is no reason why the same benefits should not apply to all truck drivers everywhere in America. What this compromise is attempting to do is to provide benefits for pneumoconiosis which is occupationally related to coal mine employment.

Second, the bill is on its face, limited to pneumoconiosis and its sequelae. Unlike the original Senate bill as drawn, this bill does not cover all pulmonary and respiratory disabilities. To have done so would have been grossly unfair to other industrial employees, such as foundry workers, textile workers, and beryllium workers who have respiratory ailments associated with their employment. By limiting this bill to pneumoconiosis we have made a conscious effort to protect the State workmen's compensation concept.

Third, we have limited the Federal program extension to 1 year instead of 2, as I have indicated. I am informed by HEW that this will involve a saving of approximately $620 million to the American taxpayers.

Fourth, we have succeeded in obtaining a 100-percent offset for social security disability benefits when, combined with benefits under this act, they would exceed average hourly earnings.

Fifth, we have stricken the provision that would have prohibited the denial of benefits solely on the basis of breathing tests.

Sixth, we have limited the use of lay evidence and prohibited the use of a wife's affidavit to create a presumption in the case of living miners.

These limitations which have been accepted as a part of the compromise, in my judgment, do not restrict the ability of coal miners to obtain benefits for pneumoconiosis and its sequelae. We have sought to reach to the fullest extent the particular medical problems of coal mine employees. But we have done so in a way that will not cover ailments which are not occupationally related.

I believe that this bill, with these modifications, should be accepted by the Senate.

The PRESIDING OFFICER. Who yields time?

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time be charged equally against both sides on the bill.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATORS ON WEDNESDAY, APRIL 19, 1972, FOR A DISCUSSION OF HOSTILITIES IN SOUTHEAST ASIA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, immediately after the recognition of the two assistant leaders on Wednesday next, or their designees, the following Senators be recognized in whatever order shall be convenient to their discussion of hostilities in Southeast Asia, and for the amount of time as indicated, as follows:

Senator CRANSTON, 15 minutes.
Senator ALLOTT, 15 minutes.
Senator FULBRIGHT, 15 minutes.
Senator DOLE, 15 minutes.
Senator SYMINGTON, 15 minutes.
Senator GRIFFIN, 15 minutes.
Senator CHURCH, 10 minutes.
Senator GRAVEL, 10 minutes.
Senator HART, 10 minutes.
Senator HARTKE, 10 minutes.
Senator HUGHES, 10 minutes.
Senator KENNEDY, 10 minutes.
Senator MONDALE, 10 minutes.
Senator TUNNEY, 10 minutes.
Senator TAFT, 10 minutes.
Senator HANSEN, 10 minutes.
Senator MCGEE, 10 minutes.
Senator BROCK, 10 minutes.
Senator BAKER, 10 minutes.
Senator PERCY, 10 minutes.
Senator GURNEY, 15 minutes.
Senator GOLDWATER, 10 minutes.

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

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 9395. An act to authorize the Commissioner of the District of Columbia to enter into agreements with teachers and other employees of the Board of Education of the District of Columbia for the purchase of annuity contracts; and

H.R. 9900. An act to amend section 112 of the Internal Reveue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

The enrolled bills were subsequently signed by the President pro tempore.

BLACK LUNG BENEFITS ACT OF 1972

The Senate continued with the consideration of the bill (H.R. 9212) to amend the provision of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

Mr. JAVITS. May I check on the time, Mr. President? Who has the time and how much is it?

The PRESIDING OFFICER (Mr. TUNNEY). The time is divided between the distinguished Senator from West Virginia (Mr. RANDOLPH), who has 37 minutes, and the distinguished Senator from New York (Mr. JAVITS), who has 30 minutes.

Who yields time?

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 10 minutes.

Mr. JAVITS. Mr. President, I support this bill as amended by the Committee on Labor and Public Welfare. It makes highly desirable changes in the provisions of title IV which will enable thousands of totally disabled miners who have heretofore been denied benefits, to receive benefits under the black lung program. At the same time, the bill is consistent with the compromise embodied in the 1969 law under which new claims for benefits after a certain date were made the responsibility of the coal mine operators.

As many of those who were here when the Coal Mine Health and Safety Act of 1969, was enacted may remember, the issue of who should bear the cost of the black lung program was one of the most difficult to resolve in the conference on the bill.

Under a compromise which I offered, and which was embodied in the conference bill which became law, the Federal Government was made responsible to pay lifetime benefits to those whose claims were filed before January 1, 1972, and the cost during 1972 of claims filed during that year. Commencing January 1, 1973, the responsibility for payment of benefits was placed on the operators under State workmen's compensation laws or, if State laws did not meet the criteria of title 4, under Federal law. If no solvent operator liable for benefits could be found, then the claims were to be paid by the Secretary of Labor.

Under a proposal offered by myself and Senator TAFT, which was accepted by the committee, the date for this assumption of liability on the part of the operators is extended for only 1 year, rather than 2 years proposed in the House bill.

At the same time, a rebuttable pre-

sumption of disability due to pneumoconiosis is created in favor of the miner who is totally disabled as a result of a respiratory or pulmonary impairment, and who has had 15 years experience in underground mining, or comparable experience in surface mining, notwithstanding the absence of a positive X-ray showing of pneumoconiosis.

Now, Mr. President, the industry has come in—and that is the heavy and important factor in this bill—and asked for a 2-year extension. I will discuss this 2-year extension in greater detail later. We have made it for 1 year.

I wish to make it crystal clear that on this 1-year proposition, we are, and I am sure the Senator will agree with me, absolutely firmly fixed. We will do our utmost, if this bill goes to conference, to sustain the 1-year proposition. We believe that otherwise there is grave danger of a most unconscionable overreaching of the U.S. Government and the taxpayers of the United States. We shall do our utmost to fight against it and prevent it.

Mr. RANDOLPH. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. RANDOLPH. The Senator from New York correctly states the situation within the committee as to the understanding and the compromise. When the bill would conceivably go to conference, as reported from the committee and passed by the Senate, I will stand with the Senator from New York and the Senator from Ohio, as I know others will stand with him who are conferees, to work diligently for the Senate version.

Mr. JAVITS. On the 1 year?

Mr. RANDOLPH. Yes.

Mr. JAVITS. That is very helpful and I am deeply obliged to the Senator from West Virginia for having said it so early in this debate.

Mr. President, I know that the Senator from West Virginia has resisted the pressure now being brought by the industry to gain another year's delay in assuming responsibility for paying their claims, and I commend him for the statement he issued yesterday in reply to the industry's telegram. I ask unanimous consent that Senator RANDOLPH'S release of April 16, 1972, be printed in the RECORD.

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

WASHINGTON, April 16.—"I am very, very deeply disappointed that the coal industry associations are opposing the black lung bill that will be brought to decision in the Senate on Monday," Senator Jennings Randolph (D-W. Va.) said here Sunday.

Four associations representing the bituminous coal producers, Randolph revealed, "have circulated a telegram to Senators decrying the costs of the black lung benefits program, and they have grossly overestimated those costs.

"This legislation is fair and equitable in its distribution of responsibilities," the Senator remarked, and added:

"Both the Federal government and the coal operators will pay for the benefits to be provided those persons and their dependents who have directly and indirectly mined the coal which has fueled and energized this country. In 1970 alone, 54 percent of all the thermal power generated was from coal.

"I believe that coal's opposition to an equitable payment of the costs of this program is unwarranted."

JENNINGS RANDOLPH.

Mr. JAVITS. Mr. President, though this is a very good bill, even the 1-year extension is not so hot for the U.S. Government.

The committee report on the House bill indicated that such was not the intent of the House bill.

According to the Social Security Administration's original estimates, the cost of the changes in existing law which would be made by the committee bill would have been shared approximately 50–50 between the Federal Government and the operators over the next 10 years. However, the Social Security Administration has recently submitted revised cost estimates which indicate that the incremental cost of the committee bill will amount to $3.831 billion for the Federal Government, and $2.296 billion for the operators over the next 10 years.

Mr. President, I emphasize that because the original cost as estimated to us by the Social Security Administration was $3,412,000,000 for the Federal Government and $3,479,000,000 for the operators. So already there has been an adverse development here of about $400 million so far as the Federal Government is concerned; but, nonetheless, we have made a compromise and we will stick with it.

Even this new, lower estimate of cost to the industry does not take into account that a substantial number of claims filed after January 1, 1974, are not really going to be paid by the industry at all, but rather by the Secretary of Labor, because there is not going to be any operator around who can be charged with liability.

That is due to conditions in the industry, so we will go through with our proposition even though it is more adverse than originally represented to us. But we will certainly fight tooth and nail against any further extension—to wit, the 2-year basis. This is costing a great deal of money. No one would deny that fact, least of all myself. The Senate should be thoroughly aware of what is involved here in terms of annual expenditures.

Estimating it on a 1-year basis, Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the expenditures year by year of the United States and of the operators under the 1-year extension proposition. The table shows the United States expending a high of $989 million in 1973 down to a low of $300 million in 1981. It goes down quickly after 1973, but the 1973 bulge, attributed to retroactivity, places a high price tag on this proposition.

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

MEMORANDUM

From: Lawrence Alpern.

Subject: Cost Effects of H.R. 9212 as Reported by the Senate Committee on Labor and Public Welfare.

The table below shows estimates of additional benefit payments under Title IV of P.L. 91–173, over and above expenditures under present law, that would result from enactment of H.R. 9212 as reported by the Senate Committee on Labor and Public Welfare, by jurisdiction of source of payments, fiscal years 1972–81 (in millions).

Fiscal year	Additional benefit payments [1] under title IV of Public Law 91–173, resulting from H.R. 9212 as reported		Additional benefit payments from the Federal disability insurance trust fund
	Part B	Part C [2]	
1972	$10	----------	----------
1973	989	−$14	$7
1974	441	−47	3
1975	389	30	3
1976	369	79	2
1977	354	206	2
1978	340	407	2
1979	326	479	2
1980	313	547	2
1981	300	609	2
Total, 1972–81	3,831	2,296	25

[1] The estimates reflect the increase in black lung benefits that results from the 5.5-percent increase in the annual salary rate of Federal Government employees at step 1 of GS–2, effective in January 1972, and are based on the assumption that there will be no future increases in black lung benefit rates after January 1972. It is recognized that Federal salaries may increase in the future. It is not possible, however, to predict either the rate of increase or the timing when such increases would be reflected in salary scales and hence in benefit rates.

[2] It is recognized that there may be Federal jurisdiction over some payments under part C. It is not possible, however, to separate these expenditures from the total expenditures under part C. Negative amounts represent reductions in costs that result from the 1-year extension of Federal jurisdiction over initial claims under part B.

Mr. RANDOLPH. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. RANDOLPH. I believe that the Senator would want to indicate that that figure included the retroactive figures for 1972.

Mr. JAVITS. I just have. The bulge figure is the attributed retroactivity for 1972. In fact, the figure in the table is only $10 million for 1972, so that for the 2 years, it averages out within the order of magnitude that it does for the succeeding 10. But the price tag is high. We so state that clearly.

At the same time, we feel that the workers who have suffered for no reason of their own, but because, somehow or other, this is a backward industry and serious questions are presented by it, should not be made to bear the burden. We simply have to proceed, as we have neglected them for many years in Congress, within the realm of possibility. So there are some desirable changes incorporated in the bill.

We believe, the Senator from Ohio (Mr. TAFT), I, and others on the committee, that the 1-year extension under the circumstances is warranted, but we see no ground for any more. I think it would be unconscionable to have more.

Here are the changes, the liberalizing changes, of which we highly approve, that have been made, naturally increasing the cost of the bill, and we think justifiably so. A rebuttable presumption of disability due to black lung is created in favor of the miner totally disabled as a result of pulmonary or respiratory impairment, who has had 15 years' experience in underground mining or comparable mining experience in surface mines, and this notwithstanding the absence of a positive X-ray showing the absence of black lung.

In addition, amendments were adopted by the committee which make it clear that the liberalizing changes made by the committee in favor of orphans and miners with negative X-rays are fully applicable when the operators assume liability for the program starting January 1, 1974. That is not the intent of the House bill.

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

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

The PRESIDING OFFICER. The Senator from New York is recognized for 5 additional minutes.

Mr. JAVITS. Finally, the committee adopted an amendment which made the operator's responsibility to pay benefits under this program under either State workmen's compensation laws or pursuant to the Longshoremen and Harbor Workers' Act, if State law is inadequate, permanent. Under existing law their responsibility to pay such benefits ended on December 30, 1976.

Mr. President, that is critically important because under the existing law the responsibility to pay benefits would be ended December 30, 1976. I count that as one of the most important things that this measure does.

Mr. President, by way of a short summary as to the provisions of the bill which are materially improved, I ask unanimous consent that a chart showing nine main provisions which constitute material improvements be printed at this point in the RECORD.

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

SUMMARY OF MAJOR PROVISIONS OF BLACK LUNG BILL

1. Eliminates X-ray as sole criterion and establishes presumption that total disability is due to pneumoconiosis of miner is totally disabled from respiratory or pulmonary impairment and has worked 15 years in underground mine or comparable surface work.

2. Covers orphans.

3. Covers surface miners whose employment was comparable to underground miners.

4. Relates criteria for determining "total disability" by keying it to ability to work as miner (rather than perform any work).

5. Delays assumption of responsibility by operators for one year.

6. Makes operator responsibility permanent. (Part C of present law expires December 30, 1976.)

7. Changes social security disability offset to 100% of earnings, rather than 80%.

8. Allows widows to claim benefits if miner was totally disabled due to pneumoconiosis when he died (present law covers only death due to pneumoconiosis).

9. Provides for establishment of clinical treatment facilities.

Mr. JAVITS. Mr. President, we must take a look now at this situation which we face so far as employers are concerned, because there is a provision in the House bill that would allow 2 years instead of a 1-year extension. I would like to give the cost figures with reference to that.

Mr. President, the Social Security Administration estimates that granting an additional 1-year reprieve to the industry would cost the Federal Government $600 million. That is the money difference to the Federal Government itself, the difference between a 1- and a 2-year extension.

We understand that the coal mining industry is opposed to the Senate amendments which would reduce the extension from 2 years to 1 year. They also oppose making the program permanent. They themselves would not like to see the liberalized changes made by the bill applicable to what they have to pay as well as to what the Federal Government has to pay. We make it applicable to both.

Mr. President, I wish to emphasize again that the bill in its present form represents the absolute outer limit to which we in good conscience can go in having the Federal Government pay for decades of utter neglect by the coal mining industry of the life and health of the coal miners.

As long ago as 1942 it was known that coal mining was a hazard to the health of the coal miners. In that year Great Britain began paying compensation to miners who had contracted what is known as black lung or pneumoconiosis. Along with recognition of black lung as a compensable disease in European countries came efforts to limit the amount of respirable coal dust to which miners were exposed during their working lives.

For over 25 years the hazardous nature of coal dust was simply ignored in this country. No efforts were made to control it in the mines, nor was compensation available for the thousands of miners who became respiratory cripples because of it. It was not until we wrote the Coal Mine Health and Safety Act of 1969 that industry was forced to come to grips with the problem, and even then, it is worth noting that the industry vigorously resisted efforts to establish a level of respirable coal dust which would guarantee that no miner would become disabled because of black lung. And while it is not directly relevant to the problem with which this bill seeks to deal, it is certainly interesting to note that notwithstanding the industry's contention that the reduction is dust levels mandated by the new law would not be feasible, according to the latest information released by the Bureau of Mines, 90 percent of U.S. coal mines are meeting the 3 milligrams standard established by the 1969 act, and 75 percent are meeting the 2 milligrams standard.

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

Mr. JAVITS. Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for an additional 5 minutes.

Mr. JAVITS. There is no justification whatsoever for us now to agree to the 2-year extension which would amount to a bail-out of the industry. On the contrary, the time is long past for this industry to start meeting its responsibilities to its employees.

Mr. President, the coal mining industry is not a weak industry. It is a very strong industry.

Mr. President, I ask unanimous consent that a list of coal mining companies, including some of the most powerful corporations in the United States, together with the total number of their employees and their annual sales, be printed at this point in the RECORD.

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

Name of coal company	Parent corporation	Parent annual sales	Parent total employees, 1972
U.S. Steel Corp	(U.S. Steel Corp.)	Over $4,000,000,000	200,730 (5,290 miners in 1968).
Bethlehem Miners Corp	Bethlehem Steel Corp	$2,900,000,000	130,000 (4,090 miners in 1968).
General Dynamics Group	General Dynamics Corp	Over $2,000,000,000	85,000.
Pittsburgh & Midway Coal Mining Co	Gulf Oil Corp	Over $3,000,000,000	54,200.
Republic Steel Corp	(Republic Steel Corp.)	Over $1,000,000,000	47,726 (1,505 miners in 1968).
Island Creek Coal Co	Occidental Petroleum Corp	Over $2,000,000,000	33,000.
Peabody Coal Co	Kennecott Copper Co	$1,000,000,000 to $1,200,000,000	25,000.
Ayshire	American Metal Climax	$600,000,000 to $850,000,000	17,000.
Pittston Co	(Pittston Co.)	$505,000,000	16,000 (3,650 miners in 1968).
Consolidation Group	Pittsburgh Consolidation	$13,000,000	12,100.
Eastern Assn., Coal Corp	(Eastern Assn. Coal Corp.)	$215,000,000	5,500.
Westmoreland Group	Westmoreland Coal Co	$150,000,000	3,750.
North American	North American Coal Corp	Over $56,000,000	3,400.
Old Ben Group	Old Ben Coal Corp	$60,000,000 to $70,000,000	2,000.
Utah Construction	Utah Construction & Mining Co	$90,000,000 to $100,000,000	1,900.
Valley Co	Valley Camp Coal Co	$80,000,000	1,600.
Rochester & Pittsburgh Coal Co	(Rochester & Pittsburgh Coal Co.)	$25,000,000 to $50,000,000	1,350 (790 miners in 1968).
Bell & Zoller Coal Co	Zeigler Coal Co	$15,000,000 to 25,000,000	993.
Carbon Fuel Sales Co., Inc	Carbon Fuel Co	$30,000,000	800.
Southwestern Illinois	(Southwestern Illinois Corp.)	$24,000,000	349.

Mr. JAVITS. Mr. President, it is sad to say, but the coal industry has up to now hardly exemplified the best aspects of our system in terms of conservation of the lands, the health and safety of the lives of thousands of coal miners, and competition and free collective bargaining like other American industries; on the contrary, its conduct throughout the years of its business and labor relations, as shown by a whole series of court decisions, and our own committee's present investigation, presents one of the worst examples of our system.

Certainly, the coal industry has serious problems, not all of its own making, nor do I deny that this bill and the new health and safety standards are going to cost the industry money. Some of these costs are going to have to be passed on to the consumer, but that is also true of other industries with serious problems. The point is that the coal industry ought to pay its way just like the others, including whatever it may cost to insure that disabled coal miners are adequately compensated for physical impairment suffered in getting out the coal.

Thus, I hope very much that no attempt will be made to strike out of the Senate bill the 1-year provisions I have mentioned. There is no justification I cannot see for more than a 1-year delay in the assumption of liability for new claims by the operators. Nor is there any reason not to make the part C program permanent; miners who are totally disabled by black lung are not going suddenly to regain their health in 1977, and will need benefits just as much during and after that year as they do now.

Finally, there is certainly no warrant for exonerating operators from the liberalizing changes made by this bill in connection with the coverage of orphans, the elimination of the X-ray and the establishment of a rebuttable presumption after 15 years of experience in underground mines or comparable employment in surface mines, upon a showing of total respiratory or pulmonary impairment. In connection with the presumption, it bears emphasis that under many workmen's compensation laws, including the Longshoremen and Harbor Workers' Compensation Act, the burden is on the employer to establish that a disability is not occupationally related. The worker is thus normally given the benefit of the doubt, and that is really all that this bill does for coal miners.

The differences in medical opinion which exist on the question of whether such a presumption is justified, and the incidence of disabling respiratory impairment among coal miners, as compared to the general population, are merely evidence of our almost total neglect, until very recently, of occupational health problems generally—and coal workers' health problems in particular. In the absence of definitive evidence one way or the other, the committee, properly, in my judgment, has resolved the issue in favor of the totally disabled miner.

Some of the costs of this bill are going to have to be passed on to the consumers. However, other industries with serious problems have had the same situation. The point is that the coal mining industry ought to pay its way just as other industries have to pay their way. If that means that it will cost more for coal to insure that the health of coal miners is adequately treated, then I would say that a sense of fairness and justice of the American people will indicate that the increased cost is justifiable.

As I said before, this is not necessarily a weak industry. Surely, there are a lot of small operators.

They have no more eloquent champion than the Senator from Kentucky (Mr. COOPER), the Senator from West Virginia (Mr. RANDOLPH), the junior Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Pennsylvania (Mr. SCHWEIKER), and other Senators similarly situated. But it is also a very big part of the industries that pride themselves on labor-employee relations. So I hope the Senate will pass the bill.

I know the Senator from Ohio (Mr. TAFT), I, and others on the committee will be "dug in" on this matter of the 1-year extension. I am very pleased that the manager of the bill, Senator JENNINGS RANDOLPH, who made this literally a life's work, affirmed his belief in the same formula. I hope very much the chairman of our committee, the Senator from New Jersey (Mr. WILLIAMS) who is here, and who will be heard from shortly, will be able to do the same thing. In that way we can serve the miners, the United States and its taxpayers, and the industry, and do justice to these thousands of men who have given the best part of their lives and health to producing for the Nation a natural resource which is absolutely indispensable to its operation and survival.

Again I would like to emphasize the great job that I think has been done by the Senator from West Virginia (Mr. RANDOLPH) in connection with this matter. He was able to get this bill out of the subcommittee almost by his personal prestige. He got it through the main committee through the dint of hard labor and application of an individual Senator, with the elucidation for which he is uniquely capable.

Now, he is bringing to the floor of the Senate this matter and I hope he will be successful. It should be a great day for him and I hope the bill is acted on favorably.

Mr. RANDOLPH. Mr. President, I am grateful for the generous remarks of the able Senator from New York on the general subject matter of the legislation that now is before the Senate.

Personally, of course, I am appreciative for the words he has spoken with respect to my application in the subcommittee and on the committee in bringing, together with him and others on the committee, legislation which meets the needs, distributes fairly the cost, and does what Congress must do in committing itself to the health and safety of the coal miner. I shall long cherish what he said in the Senate today in respect to my work.

Mr. President, I yield such time as he may desire to the distinguished chairman of the Committee on Labor and Public Welfare.

Mr. WILLIAMS. Mr. President, I thank my colleague and I commend him for the long history of his dedication to justice for coal miners and their families. This has been a work of long duration for the Senator from West Virginia. I can recall the history as vividly as if it were just yesterday, the beginning in 1969 when we started legislating to do justice for these particular workers in our economy who are so vital to our Nation.

Mr. President, I would like to include in the RECORD a statement from Andrew J. Biemiller, Department of Legislation, AFL–CIO, who states that the AFL–CIO supports H.R. 9212, the black lung bill. He states that "this legislation is badly needed to improve the plight of thousands of American workers whose health and well-being has been irreparably damaged on the job."

Our legislative response to the needs of both workers and their families, in the legislation that passed and was signed in the closing weeks of 1969—and I cannot recall any other legislation that has produced so much interest—show many expressions of gratitude as a result of the bill meeting the harshest kind of economic problems of families. The State of New Jersey that I am honored to represent is not a coal mining State, and yet we are neighbors to the State of Pennsylvania that is. I have thousands of constituents who have retired from the mines or who have been forced from employment because of disabilities contracted in the mines. Many of them, who live in New Jersey, have expressed to me what the original legislation has meant to them in being able to maintain the integrity of their families, because the black lung legislation has brought benefits to them which otherwise they would not have had and they would have been subjected in many other cases to being recipients of welfare payments. These payments are a matter of right for people who have labored long and hard in hazardous employment. This program we now extend is vital to people who certainly have earned it.

On November 20, 1968, an explosion in the Consolidation Coal Co. No. 9 mine in Farmington, W. Va., snuffed out the lives of 78 coal miners. Many of those miners are still buried in that mine. That disaster shook the Nation and reminded all of us of our major debt to the Nation's coal miners. Congress, the following year, took a major step in repaying that national debt by enacting legislation designed to provide safer working conditions for the Nation's miners, to guarantee a healthier work atmosphere to insure against the dread disease, black lung, and to bring a minimum standard of decent surviving years to the miners and the survivors of miners who had been disabled by black lung. This major piece of legislation, the Coal Mine Health and Safety Act of 1969, in this body, was the result of the work of many, many Members. As chief sponsor of that act, it was gratifying to have the tireless support of the members of the Labor Committee and the overwhelming approval of the Members of this body.

During the debate on the floor, the Senate added a new title 4 to the Federal Coal Mine Health and Safety Act,

which established the first Federal black lung benefits program. The chief sponsors of the amendment creating that program were my two distinguished colleagues from West Virginia, Senator RANDOLPH, the ranking majority member of the Labor and Public Welfare Committee and Senator BYRD, the assistant majority leader. They led the unanimous effort to provide financial security to victims of pneumoconiosis, black lung disease.

Coal workers pneumoconiosis is caused by the inhalation of fine particles of respirable coal dust. It is a chronic respiratory disease for which there is no known treatment. Once contracted, its progression is irreversible. And, it only affects men who work with coal.

During our deliberations on the 1969 act, it was estimated by the Surgeon General that approximately 20 percent of the Nation's inactive miners and 10 percent of the active miners suffered from this disease. He also testified that "data from postmortem examinations would indicate an even higher prevalence of this disease."

There were those who scoffed at these figures and accused the members of the Labor Committee of statistical gamesmanship. Unfortunately, the Surgeon General, if inaccurate, erred on the conservative side. To date, over 91,000 miners and 74,000 widows have obtained black lung benefits. And, despite these totals, tens of thousands of disabled miners, men who cannot walk up a flight of stairs because of breathlessness, have been denied benefits.

This legislation, which I was proud to cosponsor, will relieve these men and their survivors of the insurmountable technical burdens which unjustifiably bar them from benefits.

Before I proceed further with a discussion of the desperate need, in my judgment, for the pending legislation, I will say that we all recognize the Nation's special responsibility to the coal miner. Indeed, the jurisdiction of the Labor Committee, which of course is concerned with the welfare of all working men, specifies that the "welfare of miners" is a special responsibility of the Labor Committee. I think we all know why.

Death faces the coal miner every day of his life. It faces him in the mines as well as out of the mines. If he survives the Farmington type disasters, he must also survive the daily risk of death by roof-fall, death by small-scale explosion, death by electrocution. He must survive the pitfalls of the most hazardous occupation in this country. But even if he survives those disasters, and survives the safety hazards, he is indeed the fortunate exception if he can live out his life without, to put it bluntly, coughing up his own guts every day of the week.

Members of this body know well that very few of the miners are not touched, one way or the other by the devastating health and safety conditions in the mines. But those very few miners know that when their work day is over, they are not free from the hazards of coal mining. For even in the middle of the night, as they rest in their beds, or as they prepare for breakfast, they must fear the onslaught of the rampaging refuse piles. They must fear the Buffalo Creek type disaster—which has so far taken at least 120 lives, with dozens of persons still missing and unaccounted for.

Life is extremely hazardous for the coal miner 24 hours a day. So his lot in life is, and should be, of special concern to the Congress and to the Nation.

As of December 31, 1971, over 330,000 black lung cases have been processed under the Federal Coal Mine Health and Safety Act of 1969. Of those processed cases, more than 50 percent have been denied. Undoubtedly, some of them have been denied because the claimants were not the intended beneficiaries of that legislation. But, our committee has learned during the course of hearings chaired by Senator RANDOLPH, of the frustration of the intent of Congress by defects in the original law, as administered by the Social Security Administration. Tens of thousands of intended beneficiaries have been found ineligible. So, for example, although we knew in 1969 that the failure of a coal miner to be able to produce positive X-ray evidence of pneumoconiosis did not necessarily mean that he was not suffering from that disease, we find today that thousands of coal miners are being denied benefits solely on a basis of that negative X-ray. We find miners who, although they are theoretically capable of performing some lightweight task someplace are being denied benefits in spite of the fact that in real life they are not able to earn a livelihood for their families.

We found miners and widows who could not prove eligibility because the hospitals which had their medical records no longer exist. And we found that orphans were regrettably not included within the language of the original act.

Mr. President, the original black lung benefits program was passed in this body by a roll call vote of 91 to 0. Every State in this Nation was recorded in favor of the legislation. And this was appropriate. For this is not a West Virginia or Pennsylvania or Kentucky problem. It is not a burden which exists solely in the 19 coal producing States. It is a national problem and, therefore, the black lung benefits program is a national program. Residents of each of the 50 States receive benefits under this program. Indeed, in my State, where no coal is produced, almost 1,900 claims have been allowed. In my own county, Union County, in the northern part of the State, almost 300 families are obtaining black lung benefits. And if we cross the Hudson River, over 60 families in Manhattan alone are benefiting under this program.

As an aside, I would say to my colleague from New York, that he and I, apparently, are not the only Broadway coal miners.

Mr. President, the bill before the Senate is estimated to benefit immediately 149,000 miners or their survivors. But some would argue that neither the Nation nor the industry can afford to provide these benefits. And, it will be noted today that the black lung benefits program is an expensive program.

I suggest that neglect is always expensive.

If industry and government had recognized and fulfilled their responsibilities decades ago and had cleaned up the mines we all might have been paying slightly higher electricity bills but we would not be faced suddenly with the need for a costly benefit program.

But let us each look at this very same problem from the miner's perspective. If industry and government had fulfilled their responsibilities decades ago, he might be enjoying the retiring years of his life instead of suffering each day till his death.

Who can put a price tag on another human being's pain and suffering? To my colleagues in this body, I say, we owe an enormous debt to the coal miners. And we must pay that debt. More importantly, we must no longer expect the coal miner to subsidize our energy bill with his life.

Mr. President, I strongly urge that the Senate approve the extension and expansion of this program.

As chairman of the Labor and Public Welfare Committee, I cannot close my remarks without a special note of congratulations and appreciation to four members of the committee. Senator RANDOLPH gave of himself untiringly in moving the bill through the legislative process. At my request, he assumed the obligations of chairing the Labor Subcommittee hearings and guiding the bill through the committee. The fact that the committee amendments were reported to the Senate unanimously is a tribute to his efforts.

To Senators JAVITS, SCHWEIKER and TAFT, we also owe our appreciation. Their conscientious attention to the needs of the miners and their cooperative efforts enabled this legislation to move with both complete consideration yet with dispatch.

Mr. JAVITS. Mr. President, I would like to ask the Senator from New Jersey a question. Will the Senator yield for that purpose?

Mr. WILLIAMS. I yield.

Mr. JAVITS. I would like to ask the Senator about the feeling that the Senator from West Virginia (Mr. RANDOLPH) expressed, and which I and the Senator from Ohio have expressed, about the 1-year extension. Will the Senator feel a rather special obligation to stay with that? I will explain to the Senator our problem.

This bill is more expensive than the bill that came from the House, even though we have cut the cost by the 1-year extension. It is still more expensive to the Federal Government because of the presumption we introduced of black lung and other liberalizing provisions; and so it is much more fair and much more understanding with respect to the cumulative years of the worker.

But if this 1 year were allowed to go to 2 years it would really break the back of what we are trying to do and be too costly. So I would greatly appreciate any expression of the chairman of our committee, who will be the principal

conferee, and any statement he will be prepared to make respecting a 1-year extension in the Senate.

Mr. WILLIAMS. I support it for all the reasons expressed here in debate, although I have not been able to hear the full debate. This legislation has my strong support.

Mr. JAVITS. I thank the Senator.

Mr. WILLIAMS. I am familiar with all or most of the reasons that prompted it and I will join my colleagues, the Senator from West Virginia and the Senator from New York, in maintaining and fighting for the Senate position on this matter.

Mr. JAVITS. Good. I thank my colleague very much.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. What is the time remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 29 minutes remaining and the Senator from New York has 10 minutes remaining.

Mr. JAVITS. Mr. President, I yield 5 minutes to the Senator from Kentucky but first I make this parliamentary inquiry. Is not time also available to the Senator from New York on the first amendment?

Mr. RANDOLPH. I have not said anything. I will give him some of my time.

The PRESIDING OFFICER. It is not stipulated that the Senator would have time.

Mr. RANDOLPH. I will yield him time.

Mr. JAVITS. Mr. President, I yield 5 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, I have a number of questions to ask, and it may take more than 5 minutes. I do not know that I will offer an amendment, but if I am limited in time, I may offer an amendment to yield myself time.

Mr. RANDOLPH. Mr. President, I will yield to my colleague.

Mr. COOPER. If I do not have enough time, I will offer an amendment, not necessarily to be voted on, but to secure time to address some questions to the sponsors of the bill.

Let me say I appreciate very much the statements of the Senator from New York (Mr. JAVITS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Ohio (Mr. TAFT).

As I said, I do not expect at this time to offer any amendments, but this is a very expensive and a very important bill. I believe there should be an explanation of at least two sections.

I refer first to title IV which continues the present program for 1 year rather than 2 years provided by the House bill; and, second, the sections dealing with beneficiaries or dependents who would receive benefits under the bill.

Let me say at the outset I do not think I have to argue my interest in the plight of the miners of this country, who work in perhaps the most dangerous industry in the United States, and who for years, with few exceptions in some States, have not been receiving relief from the dread disease, pneumoconiosis. I have a difficult time pronouncing the word pneumoconiosis.

The original title—title IV providing benefits to miners was not a title developed in the Labor and Public Welfare Committee in 1969. It was adopted on the floor of the Senate as a result of an amendment to the coal mine safety and health bill offered by the two Senators from West Virginia (Mr. RANDOLPH and Mr. ROBERT C. BYRD), myself, and other cosponsors. I do not think there is any necessity for this debate to portray a great battle between the operators and the miners. Both have a common interest in the success of the industry—for its survival and for jobs for miners.

The overtone always seems to run in these debates. Perhaps I have used it in the past. During my service my interest has not been the big operators, although they are entitled to justice as much as any other person. My interests have always been with the thousands of small operators who are steadily being driven out of business.

In the 1950's I was the author of an amendment, the first substantive amendment to the original Mine Safety Act, for protection of mining. It was reported by the Committee on Labor and Public Welfare, but when it came to the Senate it suffered the fate of most of such amendments, because we could not get the support of the United Mineworkers and some operators. Be that as it may, I do want to indicate my interest in this bill.

I do raise the question of the provision for 1 year as against 2 years. When our original black lung amendment was adopted in 1969, that amendment provided that a period of 3 years should be given to industry and the States to assume a share or perhaps the total cost of the bill. We provided that for the first 3 years the cost was to be borne by the Federal Government. It has run 2½ years. There are 6 months left. The bill introduced by the Senators from West Virginia (Mr. RANDOLPH and Mr. ROBERT C. BYRD), myself, and other Senators, provided a 2-year extension of the original bill.

Let me say this to the Senator from New York, who is temporarily absent. Whether it is 1 year or 2 years, the result is the same——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RANDOLPH. Mr. President, I am glad to yield 10 minutes to my colleague, the Senator from Kentucky.

Mr. COOPER. An extension of 2 years would not increase the total cost of the program, but it does, of course, increase the cost to the Federal Government for the additional years. If it is extended 2 years, I want to make it plain that it has no effect on the benefits secured for the miners. It would provide to them the same benefits whether a federally subsidized program for 2 years, or if after 1 year the cost is divided between the Federal Government, and either the operators or through a workmen's compensation program.

The reason why I argue another year should be provided is upon the following grounds: The committee has made extensive changes, and in the main I support those changes. The first extensive change is in broadening the class of beneficiaries and their ability to secure benefits. A large part of this amendment is in the bill which the Senators from West Virginia (Mr. RANDOLPH and Mr. ROBERT C. BYRD) and I and other Senators introduced. It provides that the test of disability shall not be limited to X-ray, but to other methods, if those methods could reach reasonably the same conclusion where the miner has been subjected to certain conditions, and a presumption arises of total disability from pneumoconiosis.

Another extension provides that if conditions which might lead to a diagnosis of pneumoconiosis were found, if there are other pulmonary diseases, disability can be adjudged.

Mr. RANDOLPH. That would be after 15 years in the mines.

Mr. COOPER. After 15 years. That is correct.

Thus the bill would allow benefits for thousands of miners who thus far have been found ineligible for benefits. I do not join those who say it is the fault of the Social Security Administration. It is a consequence of the fact that the bill we passed 3 years ago did not provide the necessary criteria. I support these provisions, but the effect will be to enlarge immediately the classes which will be able to secure relief in the form of benefits because of the incidence of this awful disease.

The second section—section 402—would enlarge the class of "dependents." Under the present law, as I recall, the social security law—and I am recalling most of this, because this bill came up hurriedly by a unanimous-consent agreement—would provide benefits to the man, to his widow, and to his children for certain specified conditions.

This amendment, which I am sure was offered in the committee—it was not in any bill, as I remember—would extend benefits not only to children for whom the head of the family is responsible, and to the widow—both classes—for whom, of course, he has the chief obligation, but to parents, brothers and sisters, and as I read the explanation—if I am wrong I hope I will be corrected—to any other persons who, by reason of the devolution laws of the State, would be considered heirs. One could, of course, expand that to any degree.

My thought is that it should be limited to the widow, to the children, to the parents, to a sister, or to a brother if disabled. I am informed that the Senate Committee on Finance is about to report out social security amendments, which would have those provisions, I have no doubt it will be approved, and there are humanitarian reasons for it. If a widow is left without means—whether she is or not, she is a widow—parents, old and aged, sisters, certainly, but I do not see why a brother should be a beneficiary, unless he is unable to take care of himself—disabled and dependent.

I am simply arguing that we ought to follow the social security system, so we would have this question of beneficiaries, whether it is for veterans' benefits, social security recipients, or black lung victims, the same.

I shall not offer any amendment. I know it would be useless to offer it, for several reasons: first, because the

Chamber is nearly empty; second, because you cannot get anyone to listen to you on an amendment of this type; and, third, that when you mention health and safety, you cannot get anyone to listen to you, and there is no way to impress anyone with the impact of the amendment. I had that trouble several years ago, when we considered the mine health and safety bill.

I hope, though, that the RECORD will show that questions have been raised about these amendments, so that perhaps in conference the conferees will know that everyone in Senate does not agree wholly with every provision of this bill. We have a right to raise these questions.

So I should like again to make my position clear, first, that as far as dependents are concerned, I would like to see the same categories of dependents for this bill that, I understand, will be provided in the social security bill by the Finance Committee. I make this argument because I think it is just, and I think it is fair. I do not think that this measure is intended to take care of every working brother or aunt or uncle according to the laws of devolution of estates. It does not necessarily represent the will of the Senate; and so I believe that should be very strongly considered in conference.

The second point goes to the 1- to 2-year extension. It would not change the total cost. and, also, it does not deny any benefit to any miner or dependent if it is extended for 2 years. It would, of course, cause the Federal Government to bear the burden for an additional year.

I speak for no operator; I want the Senator to know that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COOPER. I ask for 1 more minute.

Mr. RANDOLPH. I yield the Senator 2 additional minutes.

Mr. COOPER. I say that, with this unknown cost, in a short period of time, thrown on an industry, which does not affect, in any way, the benefits of these miners, I believe that it would be better to make it 2 years instead of one.

Of course, as Senators know, my State is the largest coal producing State in the Union today, and naturally, I am interested in that industry, not alone for the operators, but for the miners who work in the industry and for the economy as a whole. There are great problems as to how we will be able to take care of the energy needs of this country. Additional burdens have been thrown upon the industry by the large amounts which go into the miners' welfare fund, by the costs of the health and safety program which was passed by Congress, and for the benefit of the industry—which comprehends the miner as well as the operator—I think this extension should be considered.

Let me tell the Senate what is happening in the mining industry. I do not take any great joy in it, although I predicted it when we had the safety bill before us 2 or 3 years ago. We are driving the deep mine operators out of business, who employ large numbers of miners, and they are all going into strip mining, with the consequent threat to the environment of this country. So I hope Senators will consider the relation of these problems to each other, and in conference extend the time to 2 years.

That is about all I have to say. At some time later, I should like to ask further questions on this question of dependents. But I shall not take the time of others to do so now.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, there is no reason for me to take more time. However, I shall not yield back my time at the moment.

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

Mr. RANDOLPH. Yes, I do.

Mr. COOPER. Is the Senator yielding back the time on the amendment?

Mr. RANDOLPH. I said I would not yield back my time now. I am simply holding my time, so that we may have a colloquy between the Senator from Kentucky and the Senator from Pennsylvania (Mr. SCHWEIKER), who is familiar with the subject matter. He offered the amendment which was adopted in the committee. He has now come to the Senate floor, and I am sure would accommodate himself to a colloquy on this subject.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. I yield to the Senator from Kentucky. Would it be agreeable to yield the Senator 7 minutes at this point?

Mr. COOPER. I thank the Senator. I should like to address questions concerning the meaning of section 402, on dependents. Just for the record, I notice it says "a wife who is a member of the same household." Does that include married wives and common law wives, as well?

Mr. SCHWEIKER. This would be covered in the current social security definition of wives. We did intend our amendment to conform to the social security law in this respect.

Mr. COOPER. I just wanted to know for interpretation. Does it include a common law as well as a wedded wife?

Well, I have raised the question. The Senator says it is in accordance with the definition under social security.

Second, section 402 does include a divorced wife if she receives at least one-half of her support from her former husband.

Now I should like to ask about children. I understand it follows social security. Am I correct that it means an orphan, an unmarried child under 18 years of age or under disability; and in some cases, a student?

Mr. SCHWEIKER. That is correct.

Mr. COOPER. I find no fault.

The amendment of the Senator from Pennsylvania also would include a mother and a father. Would that mean a mother and a father where there is no widow or no children living, or orphan?

Mr. SCHWEIKER. Yes. I should like to explain that.

Mr. COOPER. I am not against it.

Mr. SCHWEIKER. It would only go to these other beneficiaries if the miner dies leaving no wife or children. So that in 99 percent of the cases, my amendment would not even apply, because if a wife or a child is living, that would preclude any further beneficiary from receiving it. They only receive benefits if there is no wife or child. Only then, if there is no wife or child living, would these other members of the miner's immediate family get it if they have been dependent upon that person. So just having a mother, father, brother, or sister alive is not the criterion. The test is whether they have been dependent and whether they have been supported by that coal miner. So it just does not include all people who have surviving brothers and sisters. The brothers and sisters must be dependent; and if they are working, they obviously are not dependents. It would only include families with no wife or child living and in which an immediate member of the family has been a dependent, under the conditions as covered.

Mr. COOPER. I understand. If there is no widow, the mother and father would be eligible. If there is no mother and father, then the brothers and sisters would be eligible. Is that correct?

Mr. SCHWEIKER. Only if they were dependent.

Mr. COOPER. I know that. I am just getting the description of the beneficiaries.

Would it go beyond brothers and sisters?

Mr. SCHWEIKER. No, it would not. It would stop there.

Mr. COOPER. I believe that I read in the explanation that beneficiaries shall be determined by the law of devolution in the State, with respect to personal property? Does the amendment go only to the brothers and sisters, or does it go beyond brothers and sisters?

Mr. SCHWEIKER. In a legal dispute over whether a person is a brother or sister or parent, the State law would help determine that. That is what it means.

Mr. COOPER. The criterion uses the term "dependent"; but it is a fact, is it not, that under the present social security law, or the proposed social security amendments that we have heard will be presented by the Finance Committee, the benefits would be limited to a widow, children, parents, sisters, and disabled brothers? Am I correct?

Mr. SCHWEIKER. The present social security law?

Mr. COOPER. No; it does not go far in the social security law. I am speaking of amendments which I understand will be reported to the Senate.

Mr. SCHWEIKER. The Senator is correct in that that is the present law; but the bill coming from the Finance Committee, H.R. 1, does extend social security coverage to dependent sisters and dependent disabled brothers. Parents are already covered under social security survivors' benefits.

So I am applying the same principle to this black lung bill.

If we do not put it in this bill, we will once again have put the coal miners and their families behind the rest of the population. H.R. 1, as amended by the Senate Finance Committee, now covers sisters and brothers, and that is the prin-

ciple I am applying. We are corresponding to the new measure coming out of the Senate Finance Committee and making is similar to that provision of the bill H.R. 1.

Mr. COOPER. I hope that if the bill is reported by the Finance Committee, the conference will stick with whatever provision they use. My information is somewhat different from that of the Senator from Pennsylvania, but he may have more direct information.

Is it also correct that in a case in which there are more than two children, the amount available in benefits shall be enlarged?

Mr. SCHWEIKER. Will the Senator repeat that, please?

Mr. COOPER. Is it correct that in the case of a miner or his widow, the full 100 percent benefit would be made available; but if the dependents increase in number—that is, a larger class available for benefits—the benefit which the miner would have secured is enlarged? I read here that in one case it would be enlarged by 50 percent, in another case by 75 percent. Is that correct?

Mr. SCHWEIKER. That is correct. If there is one beneficiary alone, that person receives the base amount. If there are two beneficiaries, the base amount is incresed by 50 percent, and the two people split the amount. If there are three beneficiaries, the base amount increases 75 percent and this is split the three ways. For over three beneficiaries, the base amount is raised 100 percent and split as many ways as there are beneficiaries.

Mr. COOPER. My point in raising all these matters is to go back to the point I made earlier. I am not objecting to the class of dependents except that I believe that in conference it ought to be made compatible with the same standards which will be contained in H.R. 1.

Second, because of the increase in the class of beneficiaries, and because of the new definition of the tests by which we can secure benefits, and because the amount available to beneficiaries can be enlarged by 50 or 75 percent, I think all these things ought to be taken into consideration. I believe, because of this additional cost, which is inevitable, to be placed on an industry which is under large strain from various causes, that it would be fair and not at least a bit harmful to continue the Federal program as passed by the House, for an additional year, as the bill which Senator RANDOLPH, Senator BYRD, and I and others introduced provide.

We are suddenly becoming concerned about the cost to the Federal Government. But the bills that come out of the Senator's committee, a great committee, account for a large share, I would say, of the increasing cost of the Government of the United States. I do not know why the Committee is so suddenly concerned about the cost of an additional year. I think it is a question of fairness.

I have made my case, and I am finished.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. On whose time?

Mr. TAFT. The time to be divided equally.

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. Mr. President, how much time do we have?

The PRESIDING OFFICER. The proponents have 6 minutes, and the opponents have 5 minutes.

Under Senate precedents, there is not enough time for a quorum call, except by unanimous consent.

Mr. RANDOLPH. I yield myself such time as I may require.

Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

Mr. TAFT. Mr. President, I am constrained to object at this point.

The PRESIDING OFFICER. Objection is heard.

Mr. TAFT. Mr. President, I might explain to the Senator my reason for objecting. The Senator from New York (Mr. JAVITS) wished to be present at the time the committee amendments would be offered. I do not believe that he will come up with any objection and believe that I will be able to withdraw my objection by that time. As has been indicated at an earlier point, the purpose of the discussion we have had today relating to the 1-year or the 2-year extension is affected by the question of the committee amendments, and that is the question of whether a separate vote should be asked for on those committee amendments. I would simply say that I will hold the floor until the Senator from New York is ready to comment.

Mr. RANDOLPH. I appreciate the understanding of the Senator from Ohio during the absence of the Senator from New York. I renew my request and ask unanimous consent that the committee amendments be considered en bloc.

Mr. JAVITS. Mr. President, reserving the right to object, as I understand it, all that means is that when the vote comes on the committee amendments, they will be considered en bloc; is that correct?

The PRESIDING OFFICER. (Mr. ROTH). The Chair would like to state that is correct. However, amendments to the amendments must be considered while the committee amendments are pending.

Mr. JAVITS. In other words, as I understand the situation, one vote on all the committee amendments, but each committee amendment may be amended on a motion from the floor, and there would be a separate vote on that amendment to a committee amendment.

The PRESIDING OFFICER. That is correct.

Mr. COOPER. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield to the Senator from Kentucky.

Mr. COOPER. I understand that this would embrace all the amendments that refer to the one or two year extensions. I have already stated that it will prevail but, nevertheless, I want to express my views about the 1- and 2-year extensions. If they are being voted on separately, I would vote for the 2-year extension. I know there is no possibility of that.

The PRESIDING OFFICER (Mr. ROTH). Is there objection to the request of the Senator from West Virginia (Mr. RANDOLPH)? The Chair hears none, and it is so ordered.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the bill, as amended, be considered as original text.

Mr. JAVITS. Mr. President, reserving the right to object, does that in any way change the previous amendment—the previous unanimous consent?

The PRESIDING OFFICER. Yes, it does change it.

Mr. JAVITS. In what way?

The PRESIDING OFFICER. If this request is agreed to, the committee amendments will still be open to amendment.

Mr. JAVITS. Even if this unanimous-consent is agreed to, how does it change the previous unanimous consent?

The PRESIDING OFFICER. It does not change the previous unanimous consent.

Mr. JAVITS. The effect remains the same except that the amendments may now be offered in the first and second degrees to any committee amendment if this request is agreed to.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I thank the Chair. I have no objection.

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

Without objection, the committee amendments are agreed to and the bill as thus amended will be considered as original text.

The amendments agreed to en bloc are as follows:

On page 1, at the beginning of line 3, strike out "That (a) (1) section 412(a) of the Federal Coal Mine" and insert "That (a) this Act may be cited as the 'Black Lung Benefits Act of 1972' "; at the beginning of line 6, insert "(b) (1) Section 412(a) of the Federal Coal Mine"; on page 2, line 2, after the word "death,", strike out "and who leaves no widow," and insert "or who was totally disabled by pneumoconiosis at the time of his death,"; in line 17, after the word "section", strike out "402(g)." and insert "402(g): *And provided further*, That no entitlement to benefits as a child shall be established under this paragraph (3) for any month or which entitlement to benefits as a widow is established under paragraph (2)."; in line 23, after the word "new", strike out "paragraph" and insert "paragraphs"; after line 24, insert:

"(5) In the case of the dependent parent or parents of a miner whose death is due to pneumoconiosis, or of a miner who is receiving benefits under this part at the time of his death, or of a miner who was totally disabled by pneumoconiosis at the time of his death, and who is not survived by a widow or a child, or in the case of the dependent surviving brother(s) or sister(s) of such a miner who is not survived by a widow, child, or parent, benefits shall be paid under this part to such parent(s), or to such brother(s) or sister(s), at the rate specified in paragraph (3) (as if such parent(s) or such brother(s) or sister(s), were

the children of such miner): *Provided*, That no benefits shall be paid to any parent for any month for which a widow or child has established entitlement to such benefits and that no benefits shall be paid to any brother(s) or sister(s) for any month for which a widow, child, or parent has established such entitlement. In determining whether a claimant is a parent, brother, or sister of a miner for purposes of this paragraph, the Secretary shall apply such law as would be applied in determining the devolution of intestate personal property by the courts of the State in which such miner was domiciled at the time of his death, or, if such miner was not so domiciled in any State, by the courts of the District of Columbia. Claimants who according to such law would have the same status relative to taking intestate personal property as a parent, brother, or sister, shall be deemed such. Any benefit under this paragraph for a month prior to the month in which a claim for such benefit is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claimant, the Secretary has certified for payment for such prior months. As used in this paragraph 'dependent' means that such parent, brother, or sister was receiving at least one-half of his support from such manner, as determined in accordance with regulations prescribed by the Secretary, for at least one year immediately preceding the miner's death. Proof of such support shall be filed by such claimant within two years after the month in which this amendment is enacted, or within two years after the miner's death, whichever is the later. Any such proof which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof within such period. The determination of what constitutes good cause for purposes of this pargraph shall be made in accordance with regulations of the Secretary.

On page 4, at the beginning of line 22, strike out "(5)" and insert "(6"; in line 23, after the word "under", strike out "clause" and insert "paragraph"; on page 5, line 4, after the word "him", insert "accept an application therefor from such dependent, where necessary, and"; at the beginning of line 13, strike out "(b)" and insert "(c)"; in the same line, after "1)", strike out "Section" and insert "Sections"; in the same line, after (b)", insert "414(e), and 424"; in line 14, after the Word "Act", strike out "is" and insert "are"; in line 15, after the word "following", strike out "or child" and insert "child, parent, brother, or sister", and section 421(a) is amended by inserting after 'widows' the following: ", children, parents, brothers, or sisters, as the case may be.' "; after line 18, strike out:

(2) Section 402 of such Act is amended by adding at the end thereof the following new subsection:

"(g) The term 'child' means an individual who is unmarried and (1) under eighteen years of age, or (2) incapable of self support because of physical or mental disability which arose before he reached eighteen years of age or, in the case of a student, before he ceased to be a student, or (3) a student. Such term includes stepchildren, adopted children, and posthumous children. For the purpose of this subsection the term 'student' means an individual under twenty three years of age who has not completed four years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is—

"(1) a school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

"(2) a school or college or university which has been accredited by a State or by a State recognized or nationally recognized accrediting agency or body;

"(3) a school or college or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

"(4) an additional type of educational or training institution as defined by the Secretary of Health, Education, and Welfare.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than four months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration in which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A student whose twenty-third birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period."

And, in lieu thereof, insert:

(2) Section 402(a) of such Act is amended to read:

"(a) The term 'dependent' means—

"(1) a child as defined in subsection (g) without regard to subparagraph (2)(B)(ii) thereof; or

"(2) a wife who is a member of the same household as the miner, or is receiving regular contributions from the miner for her support, or whose husband is a miner who has been ordered by a court to contribute to her support, or who meets the requirements of section 216(b) (1) or (2) of the Social Security Act. The determination of an individual's status as the 'wife' of a miner shall be made in accordance with section 216(h) (1) of the Social Security Act as if such miner were the 'insured individual' referred to therein. The term 'wife' also includes a 'divorced wife' as defined in section 216(d) (1) of the Social Security Act who is receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or is receiving substantial contributions from the miner (pursuant to a written agreement), or there is in effect a court order for substantial contributions to her support from such miner.".

(3) Section 402(e) of such Act is amended to read:

"(e) The term 'widow' includes the wife living with or dependent for support on the miner at the time of his death, or living apart for reasonable cause or because of his desertion, or who meets the requirements of section 216(c) (1), (2), (3), (4), or (5), and section 216(k) of the Social Security Act, who is not married. The determination of an individual's status as the 'widow' of a miner shall be made in accordance with section 216(h)(1) of the Social Security Act as if such miner were the 'insured individual' referred to therein. Such term also includes a 'surviving divorced wife' as defined in section 216(d)(2) of the Social Security Act who for the month preceding the month in which the miner died, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or was receiving substantial contributions from the miner (pursuant to a written agreement) or there was in effect a court order for substantial contributions to her support from the miner at the time of his death."

(4) Section 402 of such Act is amended by adding at the end thereof the following new subsection:

"(g) The term 'child' means a child or a step-child who is—

"(1) unmarried; and

"(2)(A) under eighteen years of age, or

"(B)(i) under a disability as defined in section 223(d) of the Social Security Act,

"(ii) which began before the age specified in section 202(d)(1)(B)(ii) of the Social Security Act, or, in the case of a student, before he ceased to be a student; or

"(3) a student.

The term 'student' means a 'full-time student' as defined in section 202(d)(7) of the Social Security Act, or a 'student' as defined in section 8101(17) of title 5, United States Code. The determination of an individual's status as the 'child' of the miner or widow, as the case may be, shall be made in accordance with section 216(h) (2) or (3) of the Social Security Act as if such miner or widow were the 'insured individual' referred to therein."

On page 9, at the beginning of line 24, strike out "(3)" and insert "(5)(A)"; on page 10, line 1, after the word "sentence," strike out " "In carrying out his responsibilities under this part, the Secretary may prescribe regulations consistent with the provisions of sections 204, 205(j), 205(k), and 206 of the Social Security Act." " and insert " "The provisions of sections 204, 205(a), (b), (d), (e), (f), (g), (h), (j), (k), and (l), 206, 207, and 208 of the Social Security Act shall be applicable under this part with respect to a miner, widow, child, parent, brother, sister, or dependent, as if benefits under this part were benefits under title II of such Act." "; after line 10, insert:

(B) Only section 205 (b), (g), and (h) of those sections of the Social Security Act recited in subparagraph (A) of this paragraph shall be effective as of the date provided in subsection (d) of this section.

At the beginning of line 15, strike out "(4)" and insert "(6)"; at the beginning of line 17, strike out "paragraph" and insert "paragraphs"; in line 18, after the word "a", where it appears the second time, strike out "child," and insert "child"; on page 11, line 4, after the word "eligible", where it appears the second time, insert "at any period of time"; in line 17, after the word "eligible", insert "at any period of time"; after line 21, strike out:

"(C) Any benefit under subparagraph (A) or (B) for a month prior to the month in which a claim is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior month.

On page 12, at the beginning of line 3, strike out "(D)" and insert "(C)"; in line 4, after the word "child", strike out "of a miner or widow (as described in section 412(a)(3))"; in line 6, after the word "of", insert "his father or mother"; in line 7, after the amendment just above stated, strike out "such miner or widow"; in line 8, after "December 31", strike out "1972" and insert "1973"; after line 9, insert:

"(D) Any benefit under subparagraph (A) or (B) for a month prior to the month in

which a claim is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior month.

"(3) No claim for benefits under this part, in the case of a claimant who is a parent, brother, or sister shall be considered unless it is filed within six months after the death of the miner or by December 31, 1973, whichever is the later."

(d) Except as otherwise provided in this section, the amendments made by this section shall be effective as of December 30, 1969.

After line 22, strike out:

"(5) Subsections 422 (c) and (d) of such Act are amended by striking out 'section 412 (a)' wherever it appears and inserting in lieu thereof 'section 412(a) (1), (2), and (4)'."

On page 13, line 5, after the word "following", strike out "This part shall not be considered a workmen's compensation law or plan for purposes of section 224 of such Act." and insert "In applying the provisions of section 224(a) of the Social Security Act to benefits under this part, paragraph (5) thereof shall be deemed to read '100 per centum of his "average current earnings" ', or ."; after line 12, strike out:

SEC. 3. (a) Sections 401, 411(c)(1), 411(c)(2), and 422(h) of the Federal Coal Mine Health and Safety Act of 1969 are each amended by striking out "underground".

(b) Sections 402(b), 402(d), 422(a), and 423(a) of such Act are each amended by striking out "an underground" and inserting "a" in lieu thereof.

(c) The amendments made by this section shall be effective as of December 30, 1969.

And, in lieu thereof, insert:

SEC. 3. (a) Section 402(b) of the Federal Coal Mine Health and Safety Act of 1969 is amended by striking out all after the word "lung" and inserting the following new phrase:", including its sequelae, arising out of employment in a coal mine."

(b) Section 402(f) is amended to read as follows:

"(f) The term 'total disability' has the meaning given it by regulations of the Secretary of Health, Education, and Welfare, except that such regulations shall provide that a miner shall be considered totally disabled when pneumoconiosis prevents him from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he previously engaged with some regularity and over a substantial period of time. Such regulations shall not provide more restrictive criteria than those applicable under section 223(d) of the Social Security Act."

(c)(1) Section 411(a) of such Act is further amended by adding at the end thereof the following: "or who at the time of his death was totally disabled by pneumoconiosis."

(2) Section 401 is amended by inserting after the word "disease" each place it appears the following: "or who were totally disabled by this disease at the time of their deaths."

(3) Section 411(c)(3) is amended by inserting after "pneumoconiosis," the following: "or that at the time of his death he was totally disabled by pneumoconiosis."

(d) Section 411(c) of such Act is amended by striking the word "and" at the end of paragraph (2), by striking the period at the end of paragraph (3), inserting "; and", and by adding at the end thereof the following new paragraph:

"(4) if a miner was employed for fifteen years or more in one or more underground coal mines, and if there is a chest roentgenogram submitted in connection with such miner's, his widow's, his child's, his parent's, his brother's, his sister's, or his dependent's claim under this title and it is interpreted as negative with respect to the requirements of paragraph (3) of this subsection, and if other evidence demonstrates the existence of a totally disabling respiratory or pulmonary impairment, then there shall be a rebuttable presumption that such miner is totally disabled due to pneumoconiosis, that his death was due to pneumoconiosis, or that at the time of his death he was totally disabled by pneumoconiosis. In the case of a living miner, a wife's affidavit may not be used by itself to establish the presumption. The Secretary shall not apply all or a portion of the requirement of this paragraph that the miner work in an underground mine where he determines that conditions of a miner's employment in a coal mine other than an underground mine were substantially similar to conditions in an underground mine. The Secretary may rebut such presumption only by establishing that (A) such miner does not, or did not, have pneumoconiosis, or that (B) his respiratory or pulmonary impairment did not arise out of, or in connection with, employment in a coal mine."

(e) Section 411(b) is amended by inserting immediately after the penultimate sentence thereof the following new sentence: "Final regulations required for implementation of any amendments to this title shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the fourth month following the month in which such amendments are enacted."

(f) Section 421(b)(2)(C) of such Act is amended by striking the word "those" and inserting in lieu thereof "section 402(f) of this title and to those standards", and by substituting for the words "by section 411" the words "under part B of this title".

(g) The first sentence of section 413(b) of such Act is amended by inserting before the period at the end thereof the following: ", but no claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram. In determining the validity of claims under this part, all relevant evidence shall be considered, including, where relevant, medical tests such as blood gas studies, X-ray examination, electrocardiogram, pulmonary function studies, or physical performance tests, and any medical history, evidence submitted by the claimant's physician, or his wife's affidavits, and in the case of a deceased miner, other appropriate affidavits of persons with knowledge of the miner's physical condition, and other supportive materials."

(h) The amendments made by this section shall be effective as of December 30, 1969.

On page 17, line 10, after the word "thereof", strike out "1973" and insert "1972"; in line 13, after the word "thereof", strike out "1974" and insert "1973", other than in section 421 (b) (1),"; in line 16, after the word "thereof", strike out "1975" and insert "1974"; in the same line, after the amendment just above stated, strike out "and"; after line 16, strike out:

(4) by striking out "seven" where it appears in section 422(e) and inserting in lieu thereof "nine".

And, in lieu thereof, insert:

(4) by adding a new subsection (c) to section 421 thereof as follows:

"(c) Final regulations required for implementation of any amendments to this part shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the fourth month following the month in which such amendments are enacted.",

On page 18, after line 2, insert:

(5) by amending section 426(a) of such Act to read as follows:

"SEC. 426. (a) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to issue such regulations as are appropriate to carry out the provisions of this title. Such regulations shall be issued in conformity with subsections (b), (c), (d), and (e) of section 553 of title 5 of the United States Code.",

After line 10, insert:

(6) by inserting immediately after section 426 thereof, the following new section:

"SEC. 427. (a) The Secretary of Health, Education, and Welfare is authorized to enter into contracts with, and make grants to, public and private agencies and organizations and individuals for the construction, purchase, and operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners. The Secretary shall coordinate the making of such contracts and grants with the Appalachian Regional Commission.

(b) The Secretary of Health, Education, and Welfare shall initiate research within the National Institute for Occupational Safety and Health, and is authorized to make research grants to public and private agencies and organizations and individuals for the purpose of devising simple and effective tests to measure, detect, and treat respiratory and pulmonary impairments in active and inactive coal miners. Any grant made pursuant to this subsection shall be conditioned upon all information, uses, products, processes, patents, and other developments resulting from such research being available to the general public, except to the extent of such exceptions and limitations as the Secretary of Health, Education, and Welfare may deem necessary in the public interest.

"(c) There is hereby authorized to be appropriated for the purpose of subsection (a) of this section $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975. There are hereby authorized to be appropriated for the purposes of subsection (b) of this section such sums as are necessary.",

On page 19, after line 15, insert:

(7) by adding at the end thereof the following new section:

"SEC. 428. (a) No operator shall discharge or in any other way discriminate against any miner employed by him by reason of the fact that such miner is suffering from pneumoconiosis or other respiratory or pulmonary impairment. No person shall cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term 'miner' shall not include any person who has been found to be totally disabled.

"(b) Any miner who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such miner may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The

parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

"(c) Whenever an order is issued under this subsection granting relief to a miner at the request of such miner, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by such miner for, or in connection with, the institution and prosecuting of such procedings, shall be assessed against the person committing the violation.",

On page 21, after line 10, insert:

(8) by adding at the end thereof the following new section:

"SEC. 429. There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out his responsibilities under this title. Such sums shall remain available until expended.", and

After line 16, insert:

(9) by adding at the end thereof the following new section:

"SEC. 430. The amendments made by the Black Lung Benefits Act of 1972 to part B of this title shall, to the extent appropriate, also apply to part C of this title."

After line 21, strike out:

SEC. 5. The first sentence of section 413(b) of such Act is amended by inserting before the period at the end thereof the following: ", but no claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram".

And, in lieu thereof, insert:

SEC. 5. (a) Sections 401, 411(c)(1), 411(c)(2), and 422(h) of the Federal Coal Mine Health and Safety Act of 1969 are each amended by striking out "underground."

(b) Sections 402(b), 402(d), 422(a), and 423(a) of such Act are each amended by striking out "an underground" and inserting "a" in lieu thereof.

(c) The amendments made by this section shall be effective as of December 30, 1969.

On page 22, after line 10, insert a new section, as follows:

SEC. 6. Title IV of the Federal Coal Mine Health and Safety Act of 1969 is amended by adding "or" at the end of section 422(e)(1) thereof, by striking "; or" at the end of section 422(e)(2) thereof and inserting a period, and by striking section 422(e)(3) thereof.

After line 15, insert a new section, as follows:

SEC. 7. Title IV of the Federal Coal Mine Health and Safety Act of 1969 is amended by adding at the end thereof the following new section:

"SEC. 431. The Secretary of Health, Education, and Welfare shall, upon enactment of the Black Lung Benefits Act of 1972, generally disseminate to all persons who filed claims under this title prior to the date of enactment of such Act the changes in the law created by such Act, and forthwith advise all persons whose claims have been denied for any reason or whose claims are pending, that their claims will be reviewed with respect to the provisions of the Black Lung Benefits Act of 1972."

On page 23, after line 2, insert a new section, as follows:

SEC. 8. Title IV of the Federal Coal Mine Health and Safety Act of 1969 is amended by adding at the end of part B thereof the following new section:

"SEC. 415. (a) Notwithstanding any other provision in this title, for the purpose of assuring the uninterrupted receipt of benefits by claimants at such time as responsibility for administration of the benefits program is assumed by either a State workmen's compensation agency or the Secretary of Labor, any claim for benefits under this part filed during the period from January 1, 1973 to December 31, 1973, shall be considered and determined in accordance with the procedures of this section. With respect to any such claim—

"(1) Such claim shall be determined and, where appropriate under this part or section 424 of this title, benefits shall be paid with respect to such claim by the Secretary of Labor.

"(2) The manner and place of filing such claim shall be in accordance with regulations issued jointly by the Secretary of Health, Education, and Welfare and the Secretary of Labor, which regulations shall provide, among other things, that such claims may be filed in district offices of the Social Security Administration and thereafter transferred to the jurisdiction of the Department of Labor for further consideration.

"(3) The Secretary of Labor shall promptly notify any operator who he believes, on the basis of information contained in the claim, or any other information available to him, may be liable to pay benefits to the claimant under part C of this title for any month after December 31, 1973.

"(4) In determining such claims, the Secretary of Labor shall, to the extent appropriate, follow the procedures described in sections 19 (b), (c), and (d) of Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended.

"(5) Any operator who has been notified of the pendency of a claim under paragraph 4 of this subsection shall be bound by the determination of the Secretary of Labor on such claim as if the claim had been filed pursuant to part C of this title and section 422 thereof had been applicable to such operator. Nothing in this paragraph shall require any operator to pay any benefits for any month prior to January 1, 1974.

"(b) The Secretary of Labor, after consultation with the Secretary of Health, Education, and Welfare, may issue such regulations as are necessary or appropriate to carry out the purpose of this section."

And, at the top of page 25, insert a new section, as follows:

SEC. 9. Section 422(f) of title IV of the Federal Coal Mine Health and Safety Act of 1969 is amended by inserting "(1)" after "(f)" and by adding a new paragraph (2) as follows:

"(2) Any claim for benefits under this section in the case of a living miner filed on the basis of eligibility under section 411(c)(4) of this title, shall be filed within three years from the date of last exposed employment in a coal mine or, in the case of death from a respiratory or pulmonary impairment for which benefits would be payable under section 411(c)(4) of this title, incurred as the result of employment in a coal mine, shall be filed within fifteen years from the date of last exposed employment in a coal mine."

Mr. JAVITS. Mr. President, is the bill open to further amendment?

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

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 1 minute.

Mr. RANDOLPH. Mr. President, I know from the discussion with the chairman of the committee that he has an amendment, which we have discussed with the ranking minority member of the committee. I know that he will proceed in his own way in a moment but I want to say that we have discussed the matter and we have an understanding on it.

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read the amendment as follows:

On page 20, between lines 16 and 17 insert the following:

"Each hearing examiner presiding under this section and under the provisions of Titles I, II and III of this Act shall receive compensation at a rate not less than that prescribed for GS–16 under section 5332 of Title 5, United States Code."

Mr. WILLIAMS. Mr. President, the legislation now before the Senate represents a long-overdue governmental recognition of the suffering and the perils faced by the men who provide an indispensable part of this Nation's need for fuel and energy. This bill, together with the amendment I propose today, completes a circle of protection begun with the Coal Mine Health and Safety Act of 1969.

The Federal Coal Mine Health and Safety Act, like the Occupational Safety and Health Act of 1970, is plainly so complex and vital to our national welfare as to require the highest qualified hearing examiners for its enforcement. Such statutes, which require a determination of critical safety questions in complex and technical basic industries, clearly must be implemented by persons of mature judgment and great technical competence. It is for this reason that we in the Congress expressly provided that hearing examiners administering the Occupational Safety and Health Act be classified, at no less than grade GS–16.

Through an oversight, however, the Coal Mine Health and Safety Act failed to include a similar provision. The result has been a gross inequity that severely hampers the effective administration of the law designed for the protection of the very same coal miners whose fair treatment is our concern today.

The Interior Department, which enforces this vital legislation, is now faced with a pressing shortage of hearing examiners caused by a more than hundredfold increase in the penalty charges assigned for hearing in the past 12 months alone.

To recruit and retain examiners quali-

fied to determine complex questions of law and fact in the coal mining industry, and to resolve questions involving the amendment of the act itself in individual cases, that Department must compete with all other agencies administering Federal health and safety programs, but it must compete on an unequal footing.

Every safety program administered by the Federal Government offers a minimum grade of GS–16 to hearing examiners, with the sole exception of the coal mine safety and health program. These areas include safety and health standards, for public contracts and public works, railway, motor carrier, and air transportation, and pesticides, as well as the Occupational Safety and Health Act itself which covers virtually all American industry.

We in Congress who have investigated the complex and difficult circumstances surrounding the work of the miner know—as well as one can possibly know—that our Nation's miners need and deserve the best protection offered by the Federal administrative judicial system. There can be no question of the parity of importance, complexity, and responsibility that exists between safety and health issues in the mines and those in other Federal safety and health programs.

To complete the protection we have begun, this unintended pay differential must be eliminated.

Continuance of this inequity will prevent the Interior Department from competing with other agencies in attracting GS–16 examiners, who are vitally needed for coal mine cases. It will also severely weaken the ability of that Department to retain the eleven fully experienced examiners, six of whom now work exclusively on coal mine safety and health cases but are classified at grade GS–15.

Recognizing this dilemma, the Interior Department has repeatedly, but unsuccessfully, sought the upgrading of this position in applications to the Civil Service Commission. Corrective action by the Congress is thus critically needed, since the Civil Service Commission has failed to recognize the importance and complexity of coal mine safety and health cases. Indeed, in its November 1971 evaluation of this matter the Commission concluded that such cases "do not involve complicated questions of law and fact, and the cases do not appear to be of a precedent-setting nature."

If we in Congress now refuse to correct this manifest inequity, we will be saying, in effect, that safety in the mines is a less important or less complex matter than the safety of any other working place in the Nation. Such a result would be unacceptable, since it would reflect a major misconception of the coal mining industry and the complex safety and health dangers that threaten the Nation's miners. Nor could such a result stand in the face of the overwhelmingly contrary findings of Congress and the President in connection with the Coal Mine Health and Safety Act. As clearly recognized in its legislative history, this act is "not only one of the most important pieces of legislation" ever written, "it is one of the most complex." Surely the coal miners and their families are entitled to no less than the same level of qualifications of hearing examiners as that of hearing examiners in all other fields of Federal safety and health enforcement.

Putting aside the success of an important part of our system for protecting the miner, I also ask my colleagues to note that the hearing examiners of the Department of the Interior are depending on us to correct a clear violation of the principle of equal pay for equal work. To correct this inequity, and to quarantee this right of the miner, the amendment I propose prescribes that such hearing examiners will be classified at no less than grade GS–16.

Mr. President, as I have just stated, the explanation of the amendment is simple. It puts the examiners under this legislation on the same footing as examiners under the Occupational Health and Safety Program. It is a matter, I think, of basic fairness and equity to those who are engaged in comparable employment.

Mr. COOPER. Mr. President, may I ask the Senator from New Jersey one or two questions?

Mr. WILLIAMS. I yield.

Mr. COOPER. How many examiners are now employed?

Mr. WILLIAMS. The last available number I have, at this point, would be six, here in Washington.

Mr. COOPER. How many?

Mr. WILLIAMS. Six.

Mr. COOPER. What would be the effect of the amendment. Does it relate only to compensation?

Mr. WILLIAMS. That is all. Yes. This designates the grade so that the only change would be as to their compensation. All other aspects of their employment would remain the same.

Mr. COOPER. It has no effect except to increase the compensation, is that correct?

Mr. WILLIAMS. That is the only effect.

Mr. COOPER. But there are six examiners?

Mr. WILLIAMS. That is right—six.

Mr. COOPER. I am not in a bad humor today, I know, but I would like to say, I wish the Senate could increase the number of examiners, and also tell the examiners to do their duty. I assume these are the same people who are supposed to pass upon violations of the Health and Safety Act and to impose fines and, if there are appeals, to hear them; is that not correct?

Mr. WILLIAMS. I agree with the Senator. This is a necessary step. I recognize that there are inadequacies, too. We try, in our oversight activities in the committee, where there may be lapses of judgment, perhaps, that the Bureau of Mines should pay greater attention to the——

Mr. COOPER. Are these the men who hear the cases arising from alleged violations of the Health and Safety Act, and then to hear the appeals—is that correct?

Mr. WILLIAMS. That is correct. There has been a problem of recruiting. I understand that one of the ways to help the whole recruiting process is to upgrade the examiners.

Mr. COOPER. The Senator says there are only six examiners. I know the program is not going well but I am astounded to be told that there are only six examiners to hear the cases involving penalties proposed for violations of the act, and appeals.

Mr. JAVITS. Mr. President, I ask unanimous consent that it may be in order to ask for the yeas and nays on final passage.

The PRESIDING OFFICER (Mr. ROTH). Unanimous consent is not required.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. COOPER. Mr. President, this is one of the problems which has arisen. The fines have been imposed arbitrarily on people without having any appearance or due process. That is the reason that very few appeals are taken. They cannot take a true appeal because they are under a veiled threat of harsher fines. I must say that there should be due process, in all fairness, but arbitrary rulings are now the rule.

I will vote for the amendment. I hope that it will encourage due process, and give to both the operators and the miners.

Mr. RANDOLPH. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

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

Mr. JAVITS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 21, line 16 strike "and".

On page 21 between lines 16 and 17, insert the following new paragraph:

"(9) by striking "7" in Section 422(a), and". Renumber the succeeding paragraph.

Mr. JAVITS. Mr. President, I ask unanimous consent that the two amendments be considered en bloc.

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

Mr. JAVITS. Mr. President, the purpose of this amendment is to make it clear that the provisions in section 7, Longshoremen's and Harbor Workers' Compensation Act, which require employers to provide medical benefits to injured or disabled employees are applicable to operators under part C. Under the present law, the Secretary of Labor has authority to prescribe regulations under part C "not inconsistent" with section 7 of the Longshoremen's Act, and I am informed that regulations which would apply section 7 to operators under part C are under active consideration by the Department of Labor at the present time. All this amendment would do would be to establish, as a matter of law, that the provisions of section 7 are applicable under part C.

Mr. President, I point out that there

may be resort to the Longshoremen's Act in the bill. I believe that this is a very intelligent model to follow in this regard.

I hope that the Senate will act favorably on the amendment.

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

Mr. JAVITS. Mr. President, I yield to the Senator from New York.

Mr. COOPER. Mr. President, under the bill reported to the Senate by the committee, would the parties involved—whether the Government, the operator or whomsoever it may be, or whether it comes under the workmen's compensation law—be required to pay such benefits as the Senator has been discussing?

Mr. JAVITS. Mr. President, assuming that the regulations are issued according to the contemplation of the Secretary of Labor, the answer would be "yes". And by adoption of the amendments, we would assure that.

Mr. COOPER. Was this taken up in the committee?

Mr. JAVITS. My recollection is that it was not. However, I will explain to the Senator that we proposed to deal with it in the conference in 1969. The reason that we did not do so is because we were unable to do it because it was not dealt with in either the House or the Senate bill.

The committee staff on both the majority and minority side have gone into the matter very thoroughly and believe that it is necessary.

Mr. COOPER. Mr. President, is there any other applicable statute, other than the Longshoremen's Act, that could be used?

Mr. JAVITS. State laws are a good precedent for this matter as well. Incidentally, the Federal Department has called to our attention the desirability of including this section. Although the administration does not agree with the bill, they call to our attention the fact that this is a desirable change.

Mr. COOPER. Mr. President, is that a matter which would be compatible with the Workmen's Compensation Act?

Mr. JAVITS. The Senator is correct.

Mr. COOPER. Mr. President, is this an amendment to federalize the Workmen's Compensation Act with respect to this particular provision?

Mr. JAVITS. No. It is just an effort to apply in this case the lessons we have learned from the Workmen's Compensation Act.

Mr. COOPER. This is merely another illustration of the problems that we face. We have a tremendously important bill, which I will vote for, and one which, as I said before, was first introduced and became law 3 years ago. All kinds of amendments added in committee are before us which, for the most part, are very good amendments. However, we propose to keep on adding amendments. I must say that I do not know anything about this amendment and I doubt if one-tenth of the Senators know a thing about it.

I do not know what its consequences would be. I just wish that we would not continue to add on amendments when they have not been considered in committee, and force them on those of us who have an interest in the coal industry, and, I repeat, not alone in the operators, but in the miners as well.

I must register my opposition to blindly accepting amendments that we do not know anything about and that may impose great liability on the industry. The amendments may be good. I do not know. I really do not know what will happen.

Mr. JAVITS. Mr. President, I say in explanation to the Senator that this is rather a traditional workmen's compensation model. It does not federalize workmen's compensation. It merely does something which the Department of Labor was going to do by regulation anyhow. It is in the Senate bill. If the Senate approves the amendment, it will be subject to conference and the Department will have adequate opportunity to look into the matter. So will the Senator from Kentucky.

I can assure the Senator from Kentucky that this does not reach any major aspect with respect to the bill. Many such bills have so many specialized details connected with them.

I am sure that the Senator will vote for the bill, even though it is a matter with which the Senator is not uniquely equipped by expertise to judge—and, for that matter, neither am I.

Mr. COOPER. I am probably more familiar with coal problems and operations than is the Senator from New York.

Mr. JAVITS. I am sure the Senator is.

Mr. COOPER. I have been concerned with them ever since I came to the Senate. I served as a member on the Committee on Labor and Public Welfare that dealt with mining problems and am familiar with them as a practical matter.

Mr. JAVITS. Mr. President, I am sure that the Senator from Kentucky knows a great deal more about the totality of all of the provisions in this measure and the expertise involved very much more than I do. My only function has been as the ranking minority member of the committee. Precisely because I do not have a sectional interest, I have been able to serve a very useful purpose and to actually pound out the legislation.

I assure the Senator that this is exactly the same tradition involved in workmen's compensation. Indeed, it is a deficiency which the department itself picked up. If anything, I think it will promote and assist the worker who, I know, is the dearest consideration of the Senator from Kentucky and other Senators as well.

Mr. President, I am ready to yield back the remainder of my time if the Senator from West Virginia is. Is the Senator from West Virginia willing to accept the amendment.

Mr. RANDOLPH. Mr. President, I have discussed the amendment not only with the Senator from New York but also with members of the majority on the committee. We do believe that it is a program that possibly would have been brought into the bill by the Labor Department without legislation.

I do agree that it is appropriate to do at this time what the amendment seeks to do. I therefore am willing to accept the amendment and point out that I have consulted with other Members.

I do want fully to state by way of reinforcement what the Senator from New York has said. We have the very highest respect for the knowledgeability of the Senator from Kentucky in all aspects of legislation that attempt to cope with the strengthening of the fabric of coal mine health and safety in this country.

In conference we shall continue possibly to probe the situation. We feel it is a matter of the utmost importance in connection with the overriding issues involved in this measure. I, therefore, support it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JAVITS. I yield back my time.

Mr. RANDOLPH. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

The bill (H.R. 9212) was read a third time.

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

The PRESIDING OFFICER. The Senator from West Virginia has 2 minutes remaining and the Senator from New York 1 minute remaining.

Mr. RANDOLPH. Mr. President, I yield my 2 minutes to my distinguished colleague from Kentucky (Mr. COOK).

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, it was my intention to introduce an amendment to extend this act for 2 years rather than for 1 year. Under the circumstances and the tenor of the debate it would not be possible to get such an amendment agreed to. However, we have worked on it, and we did draw it up.

Briefly, I would like to acknowledge the work of my esteemed colleagues of the Committee on Labor and Public Welfare and congratulate them for their expeditious handling of H.R. 9212, "The Black Lung Benefits Act of 1972." Basically, the act would provide for an extension of black lung benefits to orphans whose fathers have died of pneumoconiosis. It would also redefine the term, "total disability" so to surely negate the previously insurmountable burden of proving disability. Such corrective measures as contained in H.R. 9212 are essential in returning justice to a system which, unintentional though it may be, has been languishing since the passage of the original act in 1969. I urge all of my colleagues to lend their unanimous approval to these measures.

For years the millstone has hung around the miner's neck. The conditions under which a miner was expected to work were extremely hazardous. He in-

haled, choking coal dust, endured extreme physical hardships, and risked the rate of cave-ins.

While the 1969 act has attempted to improve these conditions, the misfortunes of our coal miners have not abated. It seems that for all of their toil and hardship, they have been rewarded with a crippling disease known in laymen's terms as "black lung." It is a painful disease causing deterioration of the lung tissue. No cure is available, and no pills lessen the pain. President Nixon, in his March 1969 address which called for a new Coal Mine Health and Safety Act, said:

> Death in the mines can be as sudden as an explosion or a collapse of a roof and ribs, or it comes insidiously from pneumoconiosis . . .

Recognizing its responsibility to compensate those coal workers who became incapacitated with the dreaded black lung, Congress enacted the Federal Coal Mine Health and Safety Act of 1969. Again Congress is considering, and hopefully will pass, legislation which will satisfy the intensions of 1969. As of March of this year, 355,000 claims had been filed. Of this number, 50 percent have been denied. However, in my State of Kentucky, the denial rate has been devastating—75 percent. I am hopeful that the measure before us today will correct this problem.

However, there are two provisions which I believe need to be examined more thoroughly.

Title IV of the Federal Coal Mine Health and Safety Act of 1969 provides for benefits to coal miners totally disabled due to pneumoconiosis, and to widows and dependent children. The cost of claims filed prior to December 31, 1971, is to be borne by the Federal Government under part B of title IV, and claims filed thereafter to be borne by the coal industry under part C of title IV, either under a State workmen's compensation law or under procedures established by the Secretary of Labor.

In 1969, the total cost of coverage for black lung benefits as reflected in the legislative history was variously estimated from $40 to $170 million. HEW has projected the 10-year cost of this original program at $4.792 billion from Federal revenue funds, and $2.225 billion to coal operators, a total of $7.017 billion, or more than 40 times the original highest estimate.

The Department of Health, Education, and Welfare reports that as of March 3, 1972, approximately 356,857 claims have been filed and that claims have been approved covering 91,000 miners and 74,000 widows, plus dependent children, reflecting a total of 240,000 beneficiaries. To put this in perspective, employment in the coal industry currently approximates 120,000 miners. This program has incurred costs of more than $500 million in benefits paid, with monthly payments currently in excess of $28 million. Approximately 2,500 new claims are being approved each month.

In 1971, the House passed H.R. 9212 by the overwhelming vote of 312 to 78. This measure provided for benefits to orphans, inadvertently omitted from the original act, and further provided that no claim shall be rejected solely on the basis of a negative X-ray. It also extended the obligation of the Federal Government to claims filed prior to December 31, 1974, with the coal industry assuming the cost of claims filed after that date.

Last October, S. 2675 was introduced in the Senate incorporating many of the provisions of the House-passed bill, but also containing many sections which vastly enlarged the number of potential beneficiaries as well as tremendously increasing the cost of the program by redefining "total disability," and including coverage for all respiratory and pulmonary impairments, such as chronic bronchitis and emphysema.

The Senate Labor and Public Welfare Committee during its consideration of this measure reduced the period of future Government liability from 2 years to 1 and further liberalized the criteria under which claimants qualify for benefits, and included parents, brothers and sisters as potential beneficiaries. The committee also approved provisions to make permanent the obligations of the industry, thus converting a temporary benefit program to the equivalent of a federalized workmen's compensation plan.

The full economic impact of title IV of the 1969 act and the expanded provisions of the House-passed bill, coupled with those of the Senate-reported version, have been projected by HEW to cost over $10 billion in a 10-year period.

The Senate Labor Committee report lists the sum of $571 million covering retroactive payments for 1972 and 1973 under the Senate amendments. It then lists the projected cost of new claims for 5 years as follows:

1973	$428,000,000
1974	441,000,000
1975	389,000,000
1976	369,000,000
1977	354,000,000

These projected costs to the Government for the 5-year period 1973–77 total $1.981 billion. Adding to this the $571 million covering retroactive payments, reflects a 6-year total of $2.552 billion to be paid from General Revenue Funds. But the report does not refer to HEW's projected 6-year cost to the Federal Government of claims under title IV of the original act of $3.151 billion. Thus, the 6-year projected total of Federal liability, as amended by the Senate Labor Committee, is $5.413 billion.

There is no estimate in the committee report of additional operator costs liability under the Senate Committee amendments. However, HEW, as of this morning, estimated operator costs under title IV of the 1969 act to be $502 million. An additional $2.296 billion will be added by the Senate committee version of H.R. 9212.

The consideration of a measure with so great a financial liability to the coal industry has resulted in the introduction of a resolution in the Kentucky General Assembly urging Congress to assume the entire responsibility for financing black lung benefits. I ask uanimous consent that Senate Resolution No. 94 be printed at this point in my remarks.

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

SENATE RESOLUTION No. 94

A resolution urging the Congress of the United States to assume the entire responsibility for financing black lung benefits.

Whereas, Payments into the workmen's compensation Special Fund for Black Lung Benefits in Kentucky constitute a significant drain on all other industries in the Commonwealth; and

Whereas, Sudden imposition of the entire burden of Black Lung Payments on the underground coal industry of Kentucky could lead to extinction of that industry; and

Whereas, Any balancing of the burden between the coal industry in Kentucky and other industries must take into account conditions in competitive states; and

Whereas, Too great a burden on general industry could lead to a loss of industry to other states, while too great a burden on the underground coal industry could lead to increased strip mining in Kentucky, and loss of mining to other States; and

Whereas, The miners in Kentucky and other coal mining states who have black lung contracted the disease while mining coal that was used almost entirely by the residents of the other 49 states to produce their electricity, steel, necessities and luxuries of life, and by the nation to provide energy and materials for three major wars; and

Whereas, The price of coal over the past four decades, the period when miners became infected with black lung, never included an amount to rightly compensate coal miners for the disease; and

Whereas, The federal government through the 1969 Federal Mine Safety and Health Act has required the coal producing States to assume the financial obligation for financing black lung benefits although most of the coal-producing states, including Kentucky, have neither the funds nor the resources for assuming this obligation, such a request being a threat to the financial stability of state government; and

Whereas, The continued prosperity of the coal industry and other industry is needed to help finance State government in Kentucky, the welfare of its people, and to help maintain the security of the United States; Now, therefore,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, That Governor Wendell Ford be, and he hereby is, requested to urge the Congress of the United States to take whatever action is necessary to relieve the Commonwealth of Kentucky and the other coal-producing states and industry of all responsibility for financing black lung benefits for any and all persons employed in the coal mines of the nation on or before December 31, 1969, said obligation for financing black lung benefits being a deferred social obligation of the entire nation rather than of the individual states.

Mr. COOK. Mr. President, many feel the contention lies that a sudden imposition of the entire burden of black lung payments on the underground coal industry in Kentucky could lead to the extinction of that industry, especially the small operators. Thousands of people in Appalachia who depend for their livelihood on coal would lose their jobs. Strip mining would sharply increase resulting in the further destruction of our environment. It would also affect the shortage of

an energy producing commodity which currently is the source of 70 percent of all fuel.

The underground production of coal has, in the past, far exceeded the surface production. Only recently has surfaced mined coal drawn close to coal produced from underground mines. In 1970, for the first time, the tonnage of surfaced mined coal actually surpassed the production of underground mined coal. The statistics for the year 1971, show an ever-widening gap between underground and surface produced coal. In that year, 66.5 million tons of coal were produced from surface mines while 52.6 million tons were extracted from underground mines.

This disheartening conclusion is that underground mines are closing their doors because operating costs are forcing them out of business under the 1969 act. If the assertion is correct, under the Senate version the operator liability will eventually result in the extinction of underground mines, especially the smaller ones. An assessment of future energy needs appearing in yesterday's Washington Post states that by 1990 our needs for energy will quadruple. At a time when oil and gas supplies are being depleted. A measure which could affect the production of coal so as to eliminate one-half of the entire supply is a serious matter.

I do not intend to imply that the payment of benefits to coal miners afflicted with an occupational disease is a social obligation that belongs to all 50 States instead of just the coal industry. Rather, I believe there is much to be said of the statement by Mr. Stephen Kurzman who, testifying on behalf of the Department of Health, Education, and Welfare before the Committee on Labor and Public Welfare, said:

> In short, except for the residual federal responsibility provided under the present Act, the cost of payments of benefits to coal miners and their dependents should be placed where it belongs—on the industry as part of its production cost. To do otherwise would weaken the incentive of the coal mining industry to improve conditions in the mines in order to remove pneumonoconiosis as an occupational disease.

Yet, to place this burden upon the industry within too short a period without sufficient study may not be desirable. Therefore, I planned to introduce two amendments to the Black Lung Benefits Act of 1972. The first would have extended the Federal responsibility of picking up black lung claims for an additional 2 years. I still feel this is worthy of consideration. I also considered sending to the desk an amendment which would have created an interdepartmental commission composed of representatives from the Department of Health, Education, and Welfare; the Department of Labor, and the Department of the Interior. This commission would have been charged with the responsibility of assessing the cost, and the effects thereof, of the Coal Mine Health and Safety Act as amended which would be imposed upon the various States, the coal industry, and specifically, the small coal operators upon the expiration of part B of the act.

The reasons for considering introducing these amendments are, I think, clear. When Congress enacted the Coal Mine Health and Safety Act in 1969, the intention was for the sharing of responsibility between the Federal Government and the coal industry. The Government would pick up the backlog of claims filed under part B of the act, and thereafter the state and industry through acceptable Workmen's Compensation laws would assume the responsibility for claims filed thereafter. Those cases which form the backlog of claims—both those which have been denied previously and those which are newly covered under these amendments will be the responsibility of the Federal Government. All future claims will be the responsibility of the coal industry.

However, because 2,500 new claims are being approved each month, I am convinced that the backlog may not have been adequately picked up. Furthermore, the liberalized criteria for determining disability as contained in the Senate bill will immediately result in an additional increase of 149,000 new claimants who would qualify for benefits. Therefore, it would appear that the consideration should be given to extending the Federal responsibility for claims from 1 year to 2 years. This, I feel, would not only provide sufficient time for all backlogged claims to be processed, but it would also give the State workmen's compensation systems an opportunity to meet the dire needs of the disabled miners and their survivors.

Many in the coal industry are fearful of the consequences that this legislation will have not only upon themselves, but also upon the economy as well. It is important that we acknowledge these apprehensions and explore this potential problem so that it cannot be said that Congress acted blindly.

With a cost projection in the neighborhood of nearly $3 billion, it is clear that the costs to the coal industry will be staggering. But at this time, it is impossible to ascertain its total liability under this new legislation. All of the figures, estimates, and projections are just what they imply—only estimates. We can only make offhand guesses. At this time, no one knows for certain what the actual costs will be. However, there is considerable room for doubt in the present $3 billion estimate, particularly when one recognizes that the original HEW cost estimate of the black lung program turned out to be 40 times below what was actually incurred. If this situation applies to HEW's new estimates, can it be true that the $3 billion cost projection is, in reality, 40 times below what the actual cost will be?

Mr. President, the point is that the full financial impact on the coal industry, particularly with respect to the survival of smaller producing units, the impact on the national economy, and the effect on the consumer, as reflected in the costs of the goods and services, has never been thoroughly considered. The 20 largest coal companies employing half the work force produce 55 percent of the annual tonnage from 350 mines. Forty-five percent of the annual tonnage is produced by the other half of the work force in the smaller 5,200 mines. Thus, a major portion of the cost of this legislation will fall on the small independent coal producers who may not be able to afford insurance to cover his expected costs under this program. Moreover, the ability of all coal producers, large and small, to meet the present and future energy demands of the Nation may be seriously impaired. Also, the much-needed coal export market may be threatened. No one has assessed its impact on the balance of payments.

In conclusion, let me say once again, that I am totally in favor of liberalizing the requirements of proving disability and extending benefits to orphans. But at the same time, I urge that fairness apply in this situation and that Congress initiate a study to ascertain the full ramifications of this act.

Mr. President, I did discuss my amendment with the distinguished Senator from New York. In perusing the membership it became very obvious that the amendment would not pass and merely would take up a great deal of time.

Mr. ROBERT C. BYRD. Mr. President, I wish to urge the speedy passage of H.R. 9212, the black lung benefits bill which was reported by the Senate Committee on Labor and Public Welfare on April 10, 1972. I am a cosponsor of S. 2675, which is incorporated in this measure, and I have appeared before the committee to testify in support of the legislation here in Washington, D.C., and at a field hearing which was held in Beckley, W. Va. The full text of my statement at this hearing in Beckley, which is my hometown, can be found on page 221 of the CONGRESSIONAL RECORD of January 19, 1972. In that testimony, and previously, I urged the Congress to correct the serious defects and omissions of the Federal Coal Mine Health and Safety Act of 1969. Specifically, I urged approval by the committee of S. 2675, which would amend the 1969 act to correct these deficiencies in the existing law. Some of the major provisions of S. 2675 were:

Extension of the life of the program, since many States have not yet established adequate programs.

Extension of benefits to eligible children or orphans of miners disabled by black lung.

Establishment that black lung benefits are not a form of workmen's compensation for purposes of social security, in order to prevent unfair offsets from social security benefits of black lung payments.

An absolute prohibition against denying black lung benefits solely on basis of X-ray evidence.

I will not detail every provision of this legislation, but I am pleased to note that H.R. 9212, as reported by the Senate Committee on Labor and Public Welfare, includes most of the provisions of S. 2675. I believe H.R. 9212 will correct many of the inequities and oversights of title IV of the Federal Coal Mine Health and Safety Act of 1969, as it is being presently administered.

The legislation extends until January 1, 1975, the timetable for the Federal Government to transfer to the States the responsibility for processing benefit

claims for miners who have contracted pneumoconiosis—black lung—and for their surviving widows and dependent children. It was felt that present circumstances indicated the need for an additional year for the States to enact legislation and develop programs to handle black lung claims. In addition, this bill makes the Federal and non-Federal aspects of the Federal black lung program permanent, so that all black lung claimants and beneficiaries, now and in the future, will be eligible for, and entitled to, lifetime benefits.

Another serious omission of title IV of the Federal Coal Mine Health and Safety Act of 1969 relates to the rights of orphans. In instances where both a miner and his spouse are deceased there is no basis under existing legislation for claiming benefits on the part of the children, and in cases where the miner and his widow were receiving benefits—which may have been increased by dependent children—the benefits have ceased when both the miner and his widow died. This was a tragic oversight which should not have occurred and I am pleased that this bill includes provisions to correct this inequity.

H.R. 9212 will also limit and eliminate the existing policy of the Social Security Administration of treating black lung benefits as workmen's compensation. I do not believe that the Congress ever intended the black lung benefits program to be considered a workmen's compensation plan and I am pleased that H.R. 9212 clarifies the language in the present act to prevent these unfair offsets.

Now, Mr. President, I come to what I consider one of the most important aspects of this bill and that is the provision which will eliminate the heavy dependence on X-ray evidence by the Social Security Administration for approving black lung benefits. It has been demonstrated, time and time again, that a negative X-ray is not proof positive of the absence of pneumoconiosis. I hope that this bill will put an end to the unjust treatment of those unfortunate miners who have been denied benefits based on inconclusive X-ray evidence.

This bill also writes into law a rebuttable presumption that disabled miners who have worked in underground mines for 15 years, or on surface mines, when employed under environmental conditions similar to those experienced by underground mines, are presumed totally disabled by pneumoconiosis if they have a totally disabling respiratory or pulmonary impairment. When I testified before the Committee on Labor and Public Welfare in support of this legislation, I stated:

> Let us stop quibbling with dying men as to whether their lungs are riddled with black lung or whether they are affected with miners asthma, or silicosis, or chronic bronchitis.

That is still my position, and I sincerely hope that H.R. 9212 will insure that all of these disabled and needy miners and their dependents will not be deprived of their much deserved benefits because their respiratory disability does not fit into a particular scientific category.

This bill contains many other corrections, clarifications, and improvements to the 1969 act, all of which are designed to assist the eligible miner and the eligible dependent in obtaining his or her black lung benefits.

Two years ago, the Congress, with both wisdom and compassion, enacted the Federal Coal Mine Health and Safety Act to help eliminate hazardous working conditions in the mining industry and to attempt to compensate those miners who had the misfortune to fall victim to pneumoconiosis. This was a good law which brought many new and needed safety and health regulations to the mining industry. However, like any new program, there have been opportunities, since its enactment, to assess the need for improvements—due to both oversight in the original act and to misinterpretation by those administering the program. I believe that H.R. 9212, if enacted into law, will correct many of these shortcomings, and provide the Government agencies administering the black lung benefits program with a clear indication of congressional intent regarding the interpretation of this program.

I have always believed that the American people owe a tremendous debt to the miners of this country, who have labored in the mines during war and peace to provide fuel and energy with which to run this Nation. The passage of H.R. 9212 will be another step toward payment of this just debt, and I urge its passage.

BLACK LUNG AMENDMENTS

Mr. HARTKE. Mr. President, this is an historic day for the coal miners of America—2 years ago, Congress established a compensation program for miners afflicted with black lung disease—pneumoconiosis. Today, H.R. 9212, as amended, makes it possible for us to take action to assure that most of the inequities and omissions of the basic law are corrected.

On July 15, 1971, I introduced S. 2289. This legislation sought to broaden the disability definition for purposes of title IV of the Coal Mine Health and Safety Act to assure that any miner could receive disability payments if it can be shown by medical or nonmedical evidence that he is no longer capable of using his skills as a miner.

I am pleased to note that, in the report of the Committee on Labor and Public Welfare on H.R. 9212, it is recognized that the current disability definition being applied for black lung purposes is inadequate. That definition, "inability to engage in any substantial gainful activity," is the same one applied in the case of social security disability applications. It is an inappropriate definition for coal miners, and I am happy that the committee so termed it.

It is unrealistic to expect that a person who has spent all of his adult life working in the mines and who is now medically unfit to return to that work, to seek employment elsewhere when there are no reasonable employment opportunities available to him.

To meet this problem, both S. 2289 and H.R. 9212, as amended, use the test of inability to engage "in gainful employment in a mine or mines in which he previously engaged with some regularity and over a substantial period of time." Thus, any miner who cannot return to mines for the medical reasons authorized by title IV, as amended by H.R. 9212, will be eligible for disability benefits.

Mr. President, I fully support H.R. 9212, as amended, and I also wish to congratulate the distinguished senator from West Virginia (Mr. RANDOLPH) for his leadership and dedication to the cause of justice for this Nation's coal miners.

Mr. ALLEN. Mr. President, I support H.R. 9212 as amended by the Committee on Labor and Public Welfare. This is good legislation, and it is urgently needed legislation.

The State of Alabama produces a substantial amount of coal. In 1969, a total of 15,486,000 tons of this vital energy source were extracted from Alabama soil.

Where coal is extracted from the earth, there, too, are those who spend their lives mining that mineral. And where there are coal miners, there is also that terrible occupational disease known to the miner, his family, and all too often to his widow as "black lung."

Since the enactment of the Federal Coal Mine Health and Safety Act in 1969, there have been more than 17,589 claims for black lung benefits processed in my State. It is a matter of deep concern to me that only 6,702, or 38.1 percent, of those claims have been granted, while 10,887 have been denied—a denial rate of 61.9 percent.

As it has been so eloquently expressed by the distinguished senior Senator from West Virginia (Mr. RANDOLPH), the black lung benefits title of the Federal Coal Mine Health and Safety Act of 1969 clearly is not meeting the need that Congress intended for it to meet.

The Committee on Labor and Public Welfare, with the expert guidance of its ranking majority member, Senator JENNINGS RANDOLPH, has fashioned a bill which will improve the existing law and more accurately reflect Congress' intent in providing for those miners who gave their health and their lives for the Nation's energy needs, along with the widows, children and orphans of those coal miners.

At the same time, the measure would fairly divide the responsibility for payment of such benefits between the Federal Government and the employers of the miner, the coal industry.

I endorse H.R. 9212 and fully support its enactment.

Mr. MUSKIE. Mr. President, today the Senate has acted to force the administration to give coal miners suffering from black lung disease and their families the care and treatment they deserve. Since 1969 the administration has callously been denying benefits under the 1969 Coal Mine Safety Act with the use of narrow regulations and procedures. Now we have acted, over the opposition of the coal industry and the administration, to do what is just.

This Nation owes much to the men of coal. The creative comforts that most of use enjoy today rest largely upon the energy which coal supplies to America. But our Nation has used and abused the men who mine the coal, and their families.

Today we have taken a step which will in some small measure provide equitable treatment to this neglected group of American workers.

The dread black lung disease has afflicted men who work in the coal mines of our Nation since coal mining began. For several decades the connection between the inhalation of coal dust by the miners and the high incidence of severe respiratory disease in these men has been well known. But not until the Federal Coal Mine Health and Safety Act of 1969 did the Government of the United States take a significant step toward appropriate recognition of and compensation for this deadly serious work-related disease. In 1969, the Congress of the United States saw fit to deal with the problem and did so by passing legislation designed by Congress to alleviate the suffering of those coal miners, and their families and survivors, who fall victim to black lung disease.

But, in what has been an all-too-familiar pattern for the last 3½ years, the Nixon administration deliberately and callously chose to interpret and enforce the black lung disease provisions of the Federal Coal Mine Health and Safety Act of 1969 as narrowly and conservatively as possible. The Social Security Administration was directed by the Nixon administration to hide behind an X-ray machine and to deny benefits in all cases except those in which positive proof of black lung disease could be ascertained through X-ray. As a result, more than 50 percent of the claims for compensation for black lung disease which have been filed under the 1969 act have been rejected by officials constrained by the callous Nixon administration regulations and interpretations.

Furthermore, the 1969 legislation itself left too many gaps. For example, orphaned children and dependent parents, brothers and sisters, of coal miners who succumb to work-related respiratory ailments were not eligible for benefits under the 1969 legislation. In addition, only underground miners were covered in any way by the 1969 legislation, although there is no medical dispute about the fact that surface coal mining also subjects the miner to the risk of black lung disease.

All of these problems and more will be alleviated by the tough legislation which the Senate has passed today. Notwithstanding efforts of the Nixon administration and the coal industry to deny to the coal miners of America the simple justice of compensation for black lung disease, the Senate has today done what is right.

Mr. BEALL. Mr. President, as a member of the Labor and Public Welfare Committee, I strongly urge the enactment of H.R. 9212, the Black Lung Benefits Act of 1972.

Before commenting on the bill, I want to congratulate our respected colleague and friend, the distinguished Senator from West Virginia (Mr. RANDOLPH) for his diligence and devotion to the miner and his family. The Congress and the country are indeed fortunate to have as the floor manager of this important legislation one who is so intimately acquainted with mining and the miners My home is in the western part of Maryland which at one time was a major coal producing center, and I also know the miners and their work.

Mining is a difficult and often dangerous occupation. The occupational health and safety legislation which is now on the books is designed to make major improvements in the working conditions of miners and hopefully prevent some of the health and safety problems that have resulted from working in this demanding environment.

The Nation owes a great debt to the miners. For these men who have worked in this difficult but proud occupation have helped to supply a critical source of energy essential for the growth of our economy and the prosperity of the country. Although the benefits to the Nation have been great, the cost to the miner in many cases has been his good health.

In recognition of this problem in 1969 the Congress passed Public Law 91–173, the Federal Coal Mine Health and Safety Act of 1969. This measure recognized for the first time the inadequacies of compensation to miners disabled by coal workers' pneumoconiosis, or as it is commonly called black lung. This bill would:

Eliminate oversight in present law by extending benefits to orphans and also to dependent parents, brothers, and sisters where no widow or children survive the miner;

Relax the burden of proving eligibility by prohibiting a denial of claims based solely on a negative X-ray and by presuming that miners with 15 years experience who are disabled by respiratory or pulmonary impairment are disabled by pneumoconiosis or black lung;

Changes the definition of total disability to an occupational definition based upon an inability to work in a mine. Present requirement of being able to engage in any gainful employment was found to be unrealistic in many areas of Appalachia;

Extends benefits to surface miners who work under conditions equally as dusty as those endured in underground work;

Allow a widow to claim benefits if her husband was totally disabled by pneumoconiosis when he died;

Make available to widows other means of establishing claims such as providing of affidavits of the husband's disability and allow the use of relevant additional tests, medical and lay evidence to establish eligibility for benefits;

Authorize the construction of clinical treatment facilities for miners with lung impairments;

Accelerate research to develop tests to be used in the analysis of pulmonary and respiratory diseases and impairments;

Prohibit discrimination against a miner solely because he has pneumoconiosis or other respiratory ailments, and;

Require notification of prior claimants that their claims are being considered in view of new amendment.

As of March 3, 1972, 356,857 claims have been filed since the effective date of that act. Of these filed, 166,593 claims have been approved. I am certain these payments have been welcomed by the eligible miners and dependents. But, more than half, or 169,999 claims have been turned down. In some States the rejection rate has been as high as 72 percent. For my State of Maryland, the latest figures I have available show that 51 percent of the 3,715 black lung claims that have been processed have been allowed for a rejection rate of 49 percent.

My office has worked on many of these claims, and, therefore, I am aware of the difficulties that miners and their families are having in securing benefits under the 1969 act. An overly restrictive interpretation of the act has resulted in rejection of too many meritorious claims. This has occurred because of the heavy dependence on the X-ray. Under present social security procedures, if an X-ray does not show totally disabling pneumoconiosis, no further processing of the claim takes place and the claimant is not allowed to present further evidence of disability.

Sixty-two percent of claims denied have been based on the inability to demonstrate black lung by X-ray. Although the X-ray is and will remain an important tool in diagnosing black lung, it is not infallable. For example, research at the Appalachia Hospital at Beckley, W. Va., indicated that X-rays may fail to detect black lung in at least 25 percent of the cases. Also evidence presented to the committee indicated that an X-ray may be clouded by the presence of emphysema so that black lung does not appear on the X-ray. The committee thus felt medical doubt did exist and that more of these doubts should be resolved in favor of the miner and his dependents. The bill thus prohibits the denial of benefits solely on the basis of an X-ray.

Another problem that my office has encountered in helping to process these claims is the plight of the widow as she attempts to prove her claim. The committee amendment providing that claims for benefits may be established through one or more of a number of tests should help in this regard. By making available to the widow other means of establishing her claim such as providing affidavits of her husband's disability, I believe that more widows' claims will be approved and I certainly hope so. Thus, the legislation would make certain that claims based on affidavits filed by a miner's widow would be considered.

The amendment requiring notification of prior claimants is very important. Under this amendment the Social Security Administration will be required to notify black lung claimants who have been denied benefits or whose claims are still pending through both the communication media and by mail of the new benefits of the Black Lung Benefits Act of 1972. It is contemplated that the Social Security Administration will advise the above claimants that their claims are being automatically considered and reviewed. As a result there will be no need for these claimants to file an application for review.

In summary, Mr. President, the 1969 act has not accomplished its purpose because of too narrow interpretation. This legislation is designed to remedy these

situations and to help deserving miners get the benefits for work related pneumoconiosis and respiratory or pulmonary impairments.

Mr. SPONG. Mr. President, I am pleased that this bill has been called up for consideration so soon after being reported favorably by the Senate Committee on Labor and Public Welfare. The measure is of great importance to thousands of Virginia coal miners and their families. I hope it will be enacted.

My interest in the legislation stems from a substantial number of complaints that black lung claims have been unfairly denied, because of the heavy reliance of the Social Security Administration on X-ray evidence alone. I have personally talked with miners and their widows in the coal-producing areas of Virginia. It is disheartening to hear their accounts of disabilities and hardships, to see their living conditions, and to know that under existing law and procedures they have been unable to obtain full consideration of their efforts to become eligible for black lung benefits.

Mr. President, the committee report on the bill points out that 62 percent of the claims denied by the Social Security Administration are based upon the claimant's failure to demonstrate by X-ray evidence the presence of black lung. On the other hand, there is undisputed testimoney from the Surgeon General that data from postmortem examinations indicate a higher prevalence of black lung than can be diagnosed from X-ray examinations.

In addition, Paul Kaufman, of the Appalachian Research and Defense Fund, has testified that research done by ARDF in cooperation with the Appalachian Regional Hospital at Beckley, W. Va., indicates an error of 25 percent in X-ray diagnoses. Mr. Kaufman said:

> It was found that approximately 25 per cent of a random sample of some 200 coal miners whose medical records based on X-ray findings showed no coalworker's pneumoconiosis were found on post mortem examination to have the disease.

I discussed this problem at some length in testimony submitted for the record of a hearing earlier this year at Beckley, W. Va., and I am pleased that the bill under consideration would:

Prohibit the use of chest X-rays as the sole basis for denying claims for black lung benefits;

Require the Social Security Administration to use tests other than the X-ray to establish the basis for a judgment that a miner is or is not totally disabled due to pneumoconiosis; and

Establish a presumption that miners with 15 years of experience who are disabled by a respiratory or pulmonary impairment are disabled by pneumoconiosis.

Mr. President, the committee also is to be commended for including provisions in the bill which will make it simpler for widows to establish claims. The hearing record contains many examples of the difficulties encountered by widows in their efforts to obtain medical records and other evidence of the disability of their husbands. The amendment requiring the Social Security Administration to consider affidavits from persons who knew the miner, evidence submitted by a miner's physician and other supporting evidence, should be helpful to widows.

These and other provisions in the bill would enable miners and their families to have at their disposal every available tool to assist them in pursuing their claims for black lung benefits. That is as it should be. That is what Congress intended when it originally enacted the Federal Coal Mine Health and Safety Act of 1969.

I wish to thank the committee members for their efforts to correct several unintentional oversights in the 1969 statute, particularly with respect to benefits for orphans, and to express my support for the bill they have developed.

Mr. RANDOLPH. Mr. President, at this point I want to take time to express appreciation to my colleagues on the Labor and Public Welfare Committee who have toiled so diligently to make this an outstanding legislative effort. The distinguished ranking minority member of the Committee on Labor and Public Welfare, Senator JAVITS, has my deep thanks. My appreciation also goes to Senator SCHWEIKER and to Senator TAFT, who so ably assisted in the development of the legislation.

The able chairman of the committee, Senator WILLIAMS, provided valued guidance and assistance on this measure.

Outside the committee, I extend special thanks to my distinguished colleagues, the assistant majority leader, Senator ROBERT C. BYRD, and to Senator JOHN COOPER.

Additionally, Mr. President, as Senators know, capable and conscientious staff work is essential in the formulation of any legislation which is brought to the Senate floor. That staff work must be the combined efforts and cooperation of majority and minority staff of the concerned committee and the staffs in Senators' offices.

I particularly call attention to the work of the staff members of the Committee on Labor and Public Welfare: Gerald Feder, Eugene Mittleman, and Robert Humphreys; and the following staff personnel of Senators: William Wickens, office of Senator TAFT; Richard Siegel, office of Senator SCHWEIKER; W. R. Haley, office of Senator COOPER; and my staff members, James Harris and Philip McGance.

I extend to them my sincere appreciation and commendation for their assistance on this vital measure.

Finally, I want to express my deep appreciation to certain personnel of the Social Security Administration and the Department of Health, Education, and Welfare who provided unstintingly of their time in giving the committee the benefit of their valuable assistance in technical matters.

These persons whom I single out for special commendation are: Bernard Popick, Director, Bureau of Disability Insurance, Social Security Administration; Samuel E. Crouch, Deputy Director, Bureau of Disability Insurance; Lawrence Alpern, Deputy Chief Actuary, Social Security Administration; Gerald G. Altman, Jr., Cash Benefits Branch Chief, Social Security Division, Office of General Counsel; and Dr. Marcus M. Kay, Director, National Institute of Occupational Safety and Health.

I would also like to express my thanks to Edward L. Binder, technical adviser to the Director, Bureau of Disability Insurance; Harry C. Ballantyne, Assistant to the Deputy Chief Actuary, Social Security Administration; Geraldine Walter, secretary to the Deputy Chief Actuary; Edward Steinhouse, attorney, Office of General Counsel; Dr. J. William Floyd, Occupational Studies Unit Chief, National Institute of Occupational Safety and Health; Hugh L. Johnson, Assistant to the Commissioner, Social Security Administration; Henry Lynn and William Levine, Division of Coverage and Disability Benefits, Office of Program Evaluation and Planning.

Mr. RANDOLPH. Mr. President, do I have 30 seconds remaining?

The PRESIDING OFFICER. Yes.

Mr. RANDOLPH. I wish to state in an earnest manner as we close this debate that the passage of this bill, which is in the form of amendments to the House bill, will bring to conference a fair and equitable measure, fair to the Government that has the responsibility, fair to the coal industry, which has a responsibility, and fair also to the people who need this assistance.

I believe on all counts not only is a Senator justified in voting for this measure, but I believe he should eagerly cast his vote in favor of this important legislation, humanitarian in nature, but based on facts. I would hope that the Senate will repeat its fullest support for this measure as it did in 1969.

I thank my colleagues for their attention to the subject and for their support of the measure.

The PRESIDING OFFICER. All time has been yielded back. The question is on final passage of the bill as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) and the Senator from Montana (Mr. MANSFIELD) are absent on official business.

I also announce that the Senator from Connecticut (Mr. RIBICOFF) is absent because of a death in the family.

I further announce that, if present and voting, the Sentor from Louisiana (Mr.

ELLENDER), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. SAXBE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from Connecticut (Mr. WEICKER) is absent on official business.

If present and voting, the Senator from Vermont (Mr. STAFFORD) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 73, nays 0, as follows:

[No. 151 Leg.]

YEAS—73

Aiken	Curtis	Mathias
Allen	Dole	Miller
Allott	Dominick	Mondale
Anderson	Eagleton	Montoya
Baker	Ervin	Moss
Bayh	Fannin	Muskie
Beall	Fong	Pearson
Bennett	Fulbright	Percy
Bible	Gambrell	Proxmire
Boggs	Goldwater	Randolph
Brock	Gravel	Roth
Brooke	Griffin	Schweiker
Buckley	Gurney	Smith
Burdick	Hansen	Spong
Byrd, Harry F., Jr.	Hart	Stennis
Byrd, Robert C.	Hartke	Stevens
Cannon	Hatfield	Stevenson
Case	Hollings	Symington
Chiles	Hruska	Taft
Church	Hughes	Talmadge
Cook	Inouye	Thurmond
Cooper	Javits	Tunney
Cotton	Jordan, Idaho	Williams
Cranston	Kennedy	Young
	Magnuson	

NAYS—0

NOT VOTING—27

Bellmon	Mansfield	Pastore
Bentsen	McClellan	Pell
Eastland	McGee	Ribicoff
Ellender	McGovern	Saxbe
Harris	McIntyre	Scott
Humphrey	Metcalf	Sparkman
Jackson	Mundt	Stafford
Jordan, N.C.	Nelson	Tower
Long	Packwood	Weicker

So the bill (H.R. 9212) was passed.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the engrossed bill.

The PRESIDING OFFICER. Without objection, the Secretary of the Senate will be so authorized.

Mr. RANDOLPH. I ask unanimous consent that the bill (H.R. 9212) be printed as passed.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there will be no more rollcall votes today. The Senate will not be in session tomorrow. The Senate will convene at 9 o'clock on Wednesday morning, when there will be a series of 15-minute speeches. Following routine morning business on Wednesday the Senate will proceed to the consideration of the rural development bill.

NATIONAL SICKLE CELL ANEMIA CONTROL

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2676.

The PRESIDING OFFICER (Mr. ROTH) laid before the Senate the amendment of the House of Representatives to the bill (S. 2676) to provide for the control of sickle cell anemia, which were to strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Sickle Cell Anemia Prevention Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that sickle cell anemia is a debilitating, inheritable disease that afflicts approximately two million American citizens and has been largely neglected;

(2) that the disease is a deadly and tragic burden which is likely to strike one-fourth of the children born to parents who both bear the sickle cell trait;

(3) that efforts to prevent sickle cell anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the sickle cell trait;

(4) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait;

(5) that programs to prevent sickle cell anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

(6) that the attainment of better methods of prevention, diagnosis, and treatment of sickle cell anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, prevention, and treatment of, and research in, sickle cell anemia.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

(c) The Public Health Service Act is further amended by adding after title X the following new title:

"TITLE XI—SICKLE CELL ANEMIA PROGRAM

"SICKLE CELL ANEMIA SCREENING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1101. (a) (1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation of voluntary sickle cell anemia screening and counseling programs as part of other existing public health care programs.

"(2) The Secretary shall carry out a program to develop information and educational materials relating to sickle cell anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975.

"PROJECT GRANTS AND CONTRACTS FOR RESEARCH AND PROGRAMS FOR DIAGNOSIS, PREVENTION, AND TREATMENT

"SEC. 1102. (a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) research in the diagnosis, treatment, and prevention of sickle cell anemia, and (2) the development of programs for diagnosis, prevention, and treatment of sickle cell anemia.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, $10,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1104. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) describe with particularity the programs and activities for which assistance is sought;

"(3) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(4) provide for appropriate community representation in the development and operation of any program funded by a grant until this title;

"(5) in the case of a application for a grant under section 1101(a)(1), provide assurances satisfactory to the Secretary that (A) the screening and counseling services to be provided under the program for which the application is made will be directed first to those persons which are entering their child-bearing years and secondly to children under the age of 7, and (B) appropriate arrangements have been made to provide counseling to persons found to have sickle cell anemia or the sickle cell trait;

"(6) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(7) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Public Health Service to provide for voluntary sickle cell anemia screening, counseling, and treatment. Such Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

And amend the title so as to read: "An Act to amend the Public Health Service Act to provide for the prevention of sickle cell anemia."

Mr. KENNEDY. Mr. President, I move that the Senate concur in the House amendment with an amendment in the nature of a substitute which I now send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

SHORT TITLE

SECTION 1. This Act shall be cited as the "National Sickle Cell Anemia Control Act."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that sickle cell anemia is a debilitating, inheritable disease that afflicts approximately two million American citizens and has been largely neglected;

(2) that the disease is a deadly and tragic burden which is likely to strike one-fourth of the children born to parents who both bear the sickle cell trait;

(3) that efforts to prevent sickle cell anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the sickle cell trait;

(4) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait;

(5) that programs to control sickle cell anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

(6) that the attainment of better methods of control, diagnosis, and treatment of sickle cell anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, control, and treatment of, and research in, sickle cell anemia.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "Titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

(c) The Public Health Service Act is further amended by adding after title IX the following new title:

"TITLE XI—SICKLE CELL ANEMIA PROGRAM

"SICKLE CELL ANEMIA SCREENING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1101. (a)(1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation of voluntary sickle cell anemia screening and counseling programs, primarily through other existing health programs.

"(2) The Secretary shall carry out a program to develop information and educational materials relating to sickle cell anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(3) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $30,000,000 for the fiscal year ending June 30, 1974, and $35,000,000 for the fiscal year ending June 30, 1975.

"PROJECT GRANTS AND CONTRACTS

"SEC. 1102. (a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) research and research training in the diagnosis, treatment, and control of sickle cell anemia, (2) the development of programs to educate the public regarding the nature and inheritance of the sickle cell trait and sickle cell anemia, and (3) the development of sickle cell anemia counseling and testing programs and other programs for diagnosis, control, and treatment of sickle cell anemia.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, $10,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1104. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this title;

"(4) in the case of an application for a grant under section 1101(a)(1), provide assurances satisfactory to the Secretary that (A) the screening and counseling services to be provided under the program for which the application is made will be directed first to those persons who are entering their child-producing years, and secondly to children under the age of 7, and (B) appropriate arrangements have been made to provide counseling to persons found to have sickle cell anemia or the sickle cell trait;

"(5) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(6) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Public Health Service to provide for voluntary sickle cell anemia screening, counseling, and treatment. Such program shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

Mr. KENNEDY. Mr. President, I am pleased to report for approval by the

Senate, S. 2676, as amended. This bill, the National Sickle Cell Anemia Control Act, was unanimously approved by the Senate December 8, 1971, by a vote of 81 to 0. On March 22, 1972, the House of Representatives unanimously approved amendments to the bill by a vote of 391 to 0. Thus, the amended bill that we are adopting authorizes $115 million for a 3-year program to begin attacking the problems of sickle cell anemia. Enactment of this measure will launch federally supported programs for treating, screening, and counseling those Americans who are afflicted with sickle cell anemia. In addition, the legislation assures that funds will be available for institutions to develop programs for research in the prevention, treatment, and control of sickle cell anemia, supplemented with well developed public education and awareness projects.

Although the amended bill does not include authorizations for research programs to be conducted by the Veteran's Administration or for screening and counseling of active duty military personnel by the Department of Defense officials, such measures are expected to be contained in legislation to be reported by appropriate committees.

I am especially pleased that the Senate has taken the initiative to provide Federal assistance in the battle against this tragic affliction. Last November during 2 days of hearings before the Subcommittee on Health, medical officials testified that the crippling effects of sickle cell disease strike as many as 50,000 black Americans. And at least 2.5 million Americans are estimated to bear the sickle-cell trait.

Like many conditions that only affect black people, sickle cell anemia has been largely ignored and neglected. Probably no other disease has affected as many people in this country as sickle cell anemia and has been as unattended as this disease.

Dr. Roland B. Scott, the noted Howard University medical specialist, told the committee he has struggled to relieve the sufferers of sickle cell anemia for more than 20 years. In that time, Howard University has received no more than $70,000 from Federal funds to combat the toll wrought by this disease.

But, thanks to the wisdom and dedication of people like Dr. Scott, parents, and volunteers like the Black Athlete's Foundation have organized campaigns and information services to help increase efforts to control the ravaging effects of sickle cell anemia.

Information about sickle cell anemia has not been widely available. Lack of knowledge about this disease has prevented proper diagnosis. As a result, too often, victims receive the wrong treatment. Members of the Health Subcommittee were deeply moved by testimony from a mother whose infant daughter was treated with quinine. By one doctor who believed her child had malaria. Other doctors prescribed medication for respiratory infections, tuberculosis, and other illnesses because none of them had been taught the diagnosis for sickle cell anemia. For the first 6 years of that young child's life not one doctor properly diagnosed her symptoms. But by that time, the parents had four children. Two of those children suffer the painfully agonizing crises of sickle cell anemia. One child carries the sickle cell trait and can therefore transmit it to his own children. And the fourth child is not affected. But the parents' struggle and eventual good fortune in obtaining proper guidance and medical help has paid off.

They have been able to help their children develop useful lives. The mother who described for the subcommittee her family's campaign against this disease was accompanied by her 26-year-old daughter who is now a hospital laboratory technician and herself the mother of a 5-year-old daughter.

The National Sickle Cell Anemia Control Act will provide valuable assistance in the battle against this disease. The bill authorizes $85 million over a period of 3 years. It authorizes the Department of Health, Education, and Welfare to conduct screening and counseling programs to seek out those who may suffer from the effects of sickle cell anemia. In addition, this bill provides that $30 million will be authorized for research programs to seek effective relief for sufferers of sickle cell anemia.

I believe this is the most direct way to catalyze the enormous potential of our health resources to help solve the problems of those who are affected. The mysteries of sickle cell anemia must be examined with all the power and might that our national medical resources will allow.

Since this is an inherited disease, those who bear the trait deserve to know that the disease may be controlled with proper counseling and with expert guidance.

For the 50,000 Americans who are believed to suffer from the pain and other debilitating effects caused by sickling, we must extend our research efforts to obtain the best help we can. Medical authorities know that some children under age 6 require hospitalization up to 10 times a year. Sickle cell anemia crises are so painful that its victims are rendered helpless and totally dependent upon professional medical care. And the burden of pain and agony for the victim's family is compounded by the costs of hospitalization, treatment, and medication.

Mr. President, I urge the Senate to accept this bill as amended by the House. This package of $115 million authorizes more money in the battle against sickle cell anemia than has been spent by the Federal Government throughout the 60-year history of the disease in this country. Until it is effectively controlled, this is clearly a health need that deserves the fullest investment of our national medical resources.

Mr. JAVITS. Mr. President, I am pleased to support the chairman of the Health Subcommittee of the Committee on Labor and Public Welfare in his motion that the Senate concur with the House amendment with an amendment in the nature of a substitute in regard to sickle cell anemia legislation, S. 2676, the National Sickle Cell Anemia Control Act.

As we conclude our consideration of this most important legislation—of which I am pleased to be a cosponsor—I think it is important to note that it was President Nixon, in his 1971 health message, who first focused national attention on this tragic disease. He said:

> A second targeted disease for concentrated research should be sickle-cell anemia—a most serious childhood disease which almost always occurs in the black population. It is estimated that one out of every 500 black babies actually develops sickle-cell disease.
>
> It is a sad and shameful fact that the causes of this disease have been largely neglected throughout our history. We cannot rewrite this record of neglect, but we can reverse it. To this end, this administration is increasing its budget for research and treatment of sickle-cell disease fivefold, to a new total of $6 million.

This measure will achieve two great purposes: First, it will authorize the appropriation of $115 million to combat sickle cell anemia—more in 3 years than has been spent throughout the known 60-year history of the disease—which was recognized in 1910 when J. B. Herrick first noted the peculiar "sickle" shape of the red blood cells. Second, it will serve to catalyze the enormous potential of all our health and public education resources to help solve the problems of those who are afflicted by this dread disease.

For too many years sickle cell anemia has been ignored; it has been the forgotten disease. Most Americans do not know the tragic statistics on the prevalence of sickle cell disease, the nature of the affliction, and its toll upon its victims.

It is estimated that about 2 million black Americans are carriers of the trait. About 1 in 500 black infants is born with sickle cell anemia. This means that approximately 1,000 black infants are born each year with sickle cell anemia and it is estimated that between 25,000 and 50,000 individuals are currently afflicted with it. Sickle cell anemia kills many of its victims before the age of 20, few survive beyond the age of 40, and most are disabled before death. Because sickle cell disease is caused by a genetic abnormality, there is no way known at present to cure the disease in these individuals; current methods of treatment are aimed primarily at alleviating the pain.

Sickle cell anemia is a debilitating disease that deserves all available support from our national medical resources and I believe that S. 2676—the National Sickle Cell Anemia Control Act—is the appropriate legislative response. We will now be able to institute the needed programs—screening, counseling, research, diagnosis, and treatment—to combat and control this disease, programs that should have been instituted many years ago.

Mr. President, I want to commend the chairman of the Senate Health Subcommittee, the distinguished Senator from Massachusetts (Mr. KENNEDY) and the chairman of the House Public Health and Environment Subcommittee, the distinguished Representative from Florida (Mr. ROGERS) for their leadership in reconciling the differences between the Senate- and House-passed sickle cell anemia legislative measures and bringing this legislation to the Senate today. This bill represents a combination of the best

features of the House- and Senate-passed bills. Also, I would like to commend the staff of the Senate Health Subcommittee—Mr. Leroy Goldman, professional staff member, and Jay B. Cutler, minority counsel—and the staff of the House Interstate and Foreign Commerce Committee—professional staff member, James M. Menger and Stephan E. Lawton, counsel—for their effort and skill in preparing the legislation and reconciling the differences.

Mr. TUNNEY. Mr. President, on October 8, 1971, I introduced S. 2676, the National Sickle Cell Anemia Act. Joining me as sponsors of that bill were the distinguished chairman of the Senate Health Subcommittee, Mr. KENNEDY, his colleague from Massachusetts, Mr. BROOKE, and the chairman of the Senate Labor and Public Welfare Committee, Mr. WILLIAMS, and 33 other Senators.

Just 3 months later, showing a most impressive awareness of the importance and the need for this legislation, the Senate passed S. 2676 by a vote of 81 to 0. The massive support which this bill has commanded in the Senate I think indicates in a most graphic way that the tragic disease of sickle cell anemia will no longer stand near the bottom of our priorities.

Mr. President, this disease kills half of its victims before the age of 20. Few survive beyond the age of 40 and most are crippled long before death.

It was found to be a deadly killer more than 60 years ago. It strikes approximately one of every 500 black persons in this country. Medical researchers estimate that over 2 million Americans carry the so-called sickle cell trait. And yet the vast majority of Americans have no idea what sickle cell anemia is; they have never heard of it.

The people who suffer most from this disease do not live in the suburbs; they do not belong to country clubs; they do not go to private schools; many of them do not have family doctors; many of them never receive any adequate health care. They are black and they are being ignored.

If this country can vaccinate millions of schoolchildren against the threat of polio, if we have the facilities to perform the major medical miracles that we have all witnessed within the last 15 years, then I say that there is absolutely no excuse why the talent and research facilities of the Federal Government and the commitment and the dollars of the U.S. Government should not be expended toward eliminating the threat of sickle cell anemia from every black home in America. To do any less is unacceptable.

I think it is time that we as a nation make a commitment to end this tragedy. On December 8, 1971, we took the first step by passing this bill unanimously. The House of Representatives has now responded in like manner and has passed a similar measure by unanimous vote. The House amendments are less extensive than the Senate bill, but I believe that the remaining features of the Senate bill can and will be acted upon by the appropriate House committees in the near future. Those provisions call for new and expanded programs in the Department of Defense and the Veterans' Administration to provide voluntary screening, counseling, and treatment.

I am confident that the need for such programs can be met even in advance of legislative action as a result of the increase awarness brought about by this bill. Thus, while I would obviously prefer to retain the original version as introduced by me and passed by the Senate last December, I support acceptance of the House amendments. The need for immediate action to provide the funds for increased research, screening, counseling, and public education can be met now by acting favorably today. Delay resulting from the necessity for a Senate-House conference can be avoided and we can move promptly for the appropriation needed to make this bill work.

Regrettably, there is no known cure for this disease, and there is none as yet on the horizon. But we can begin to offer the opportunity to learn the nature and risks of this disease. And we can persist in and increase research to combat it. This legislation offers those opportunities and the sooner we take them up, the sooner we may be able to offer new hope to the thousands of victims of this tragic disease.

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

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massaschusetts that the Senate concur in the amendment of the House with an amendment.

The motion was agreed to.

Mr. KENNEDY. I move that the Senate concur in the House amendment to the title, with an amendment as follows: Strike out the word "prevention" and insert in lieu thereof the word "control" to conform the title to the legislation.

The motion was agreed to.

QUORUM CALL

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

RURAL DEVELOPMENT ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, for the purpose of making it the pending business for consideration on Wednesday next, that the Senate proceed to the consideration of Calendar No. 703, S. 3462.

The PRESIDING OFFICER (Mr. ROTH). The bill will be stated by title.

The legislative clerk read as follows:

S. 3462, to provide for the development of rural areas.

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

There being no objection, the Senate proceeded to consider the bill.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR S. 3462 TO BE LAID BEFORE THE SENATE ON WEDNESDAY, APRIL 19, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, following the various unanimous consent orders for the recognition of Senators, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with the statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

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

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS DURING THE ADJOURNMENT OF THE SENATE TO WEDNESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees be authorized to file reports during the adjournment of the Senate over until Wednesday next.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will reconvene on Wednesday next at 9 a.m. After the two assistant leaders, or their designees, have been recognized under the standing order, the following Senators will be recognized, each for the amount of time indicated, but not necessarily in the order listed, for the purpose of discussing the hostilities in Southeast Asia: Senators CRANSTON, ALLOTT, GURNEY, FULBRIGHT, DOLE, SYMINGTON, and GRIFFIN, each for not to exceed 15 minutes, and Senators CHURCH, GRAVEL, HART, HARTKE, HUGHES, KENNEDY, MONDALE, TUNNEY, MCGEE, TAFT, HANSEN, GOLDWATER, BROCK, BAKER, and PERCY, each for not to exceed 10 minutes.

Following the recognition of the aforementioned Senators, there will be a period for the transaction of routine morning business for not to exceed 15 minutes with the statements made therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 3462, a bill to provide the development of rural areas.

Rollcall votes may occur.

ADJOURNMENT TO 9 A.M. WEDNESDAY, APRIL 19, 1972

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 9 a.m. Wednesday next.

The motion was agreed to; and at 3:11

p.m., the Senate adjourned until Wednesday, April 19, 1972, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 17, 1972:

DEPARTMENT OF JUSTICE

Douglas M. Gonzales, of Louisiana, to be U.S. attorney for the Middle District of Louisiana for the term of 4 years, vice the new position created by Pubic Law 92–208, approved December 18, 1971.

U.S. AIR FORCE

The following officer to be assigned to a position of importance and responsibility requiring the rank of general, under the provisions of section 8066, title 10, United States Code:

Lt. Gen. Russell E. Dougherty, xxx-xx-xxxx [redacted]R (major general, Regular Air Force) U.S. Air Force.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Abbott, Lael J., xxx-xx-xxxx
Ackerson, Robert L., xxx-xx-xxxx
Adair, Thomas W., xxx-xx-xxxx
Adams, Floyd C., Jr., xxx-xx-xxxx
Adams, William A., xxx-xx-xxxx
Ahearn, David C., xxx-xx-xxxx
Albrecht, Jack R., xxx-xx-xxxx
Albright, William L., xxx-xx-xxxx
Alderman, Craig, Jr., xxx-xx-xxxx
Aleong, Fletcher A., xxx-xx-xxxx
Allee, Robert J., xxx-xx-xxxx
Allen, Harry E., xxx-xx-xxxx
Allen Loma O., Jr., xxx-xx-xxxx
Allen, William M., xxx-xx-xxxx
Ames, William F., xxx-xx-xxxx
Anderson, Thomas E., xxx-xx-xxxx
Anderson, David J., xxx-xx-xxxx
Anderson, George B., xxx-xx-xxxx
Anderson, James L., xxx-xx-xxxx
Anderson, Robert N., xxx-xx-xxxx
Anderson, Thomas E., xxx-xx-xxxx
Anhalt, Walter C., xxx-xx-xxxx
Anson, Richard W., xxx-xx-xxxx
Anthony, Richard D., xxx-xx-xxxx
Aoyagi, Toshio, xxx-xx-xxxx
Arena, Darrell R., xxx-xx-xxxx
Armstrong, James E., xxx-xx-xxxx
Arnold, Harvey L., Jr., xxx-xx-xxxx
Asensio, Manuel J., xxx-xx-xxxx
Ashhurst, James H., xxx-xx-xxxx
Atkinson, Frank W., Jr., xxx-xx-xxxx
Attaway, Hubert H., Jr., xxx-xx-xxxx
Austin, Maynard A., xxx-xx-xxxx
Ayers, Thomas D., xxx-xx-xxxx
Bacci, John J., xxx-xx-xxxx
Bailey, Broadus, Jr., xxx-xx-xxxx
Bailey, Harry R., xxx-xx-xxxx
Bakarich, Michael N., xxx-xx-xxxx
Baker, Fred I., Jr., xxx-xx-xxxx
Ballard, Lowell L., Jr., xxx-xx-xxxx
Baltzell, Lowell F., xxx-xx-xxxx
Barkley, George F., xxx-xx-xxxx
Barnard, Talbott, xxx-xx-xxxx
Barnett, John H., xxx-xx-xxxx
Barrens, Clarence G., xxx-xx-xxxx
Barrett, Otrie B., Sr., xxx-xx-xxxx
Bartel, George B., xxx-xx-xxxx
Barth, Richard L., xxx-xx-xxxx
Bartholomew, Theodore, xxx-xx-xxxx
Bass, Sampson H., Jr., xxx-xx-xxxx
Bates, William R., xxx-xx-xxxx
Battenfield, Kenneth, xxx-xx-xxxx
Bauer, Charles J., xxx-xx-xxxx
Bauer, Frank L., xxx-xx-xxxx
Beardsley, Stephen, xxx-xx-xxxx
Beasley, Horace B., xxx-xx-xxxx
Bechamp, Edward J., xxx-xx-xxxx
Beckwith, William J., xxx-xx-xxxx
Beekman, Gerald R., xxx-xx-xxxx
Campbell, James E., xxx-xx-xxxx
Beelman, Dale C., xxx-xx-xxxx
Behneman, John F., xxx-xx-xxxx
Beil, James N., xxx-xx-xxxx
Bellochi, Joseph F., xxx-xx-xxxx
Belt, Charles M., xxx-xx-xxxx
Belteau, Robert J., xxx-xx-xxxx
Bennett, Hal C., Jr., xxx-xx-xxxx
Benson, Carl G., xxx-xx-xxxx
Bergeron, Noel L., xxx-xx-xxxx
Bergeson, Raymond D., xxx-xx-xxxx
Berke, Henry H., Jr., xxx-xx-xxxx
Bernard, George L., xxx-xx-xxxx
Berrier, Jerry A., xxx-xx-xxxx
Berry, James A., xxx-xx-xxxx
Berry, Ray W., xxx-xx-xxxx
Berry, William E., xxx-xx-xxxx
Bethea, John D., xxx-xx-xxxx
Bickerstaff, Hugh J., xxx-xx-xxxx
Bieber, Werner F., xxx-xx-xxxx
Billman, Erwin L., xxx-xx-xxxx
Bing, Tom L., xxx-xx-xxxx
Black, Charles S., Jr., xxx-xx-xxxx
Black, Vernon R., xxx-xx-xxxx
Blair, John M., xxx-xx-xxxx
Blair, John S., xxx-xx-xxxx
Blakely, William R., xxx-xx-xxxx
Blankenship, James, xxx-xx-xxxx
Blaser, Charles O., xxx-xx-xxxx
Block, Theodore S., xxx-xx-xxxx
Blumenthal, Donald, xxx-xx-xxxx
Bobinski, Chester J., xxx-xx-xxxx
Bomar, Lesil S., Jr., xxx-xx-xxxx
Bond, Robert G., xxx-xx-xxxx
Bonifacio, Robert A., xxx-xx-xxxx
Boos, Michael A., xxx-xx-xxxx
Booth, James W., xxx-xx-xxxx
Bouffard, Robert L., xxx-xx-xxxx
Bovard, John O., xxx-xx-xxxx
Bowers, Richard K., xxx-xx-xxxx
Boyd, Donald E., xxx-xx-xxxx
Boyles, William B., xxx-xx-xxxx
Brackett, Charles R., xxx-xx-xxxx
Bracy, Alfred M., xxx-xx-xxxx
Bradford, Edward M., xxx-xx-xxxx
Bradley, Joseph S., xxx-xx-xxxx
Brakenridge, Edward, xxx-xx-xxxx
Brantley, Edward G., xxx-xx-xxxx
Bray, Gaither C., xxx-xx-xxxx
Brazil, Hal B., xxx-xx-xxxx
Bremer, James H., xxx-xx-xxxx
Bretz, Robert D., xxx-xx-xxxx
Breunig, Joseph T., xxx-xx-xxxx
Brewer, John F., Jr., xxx-xx-xxxx
Bridges, Bennie R., xxx-xx-xxxx
Brillhart, Allen T., xxx-xx-xxxx
Broadhurst, Hugh H., xxx-xx-xxxx
Broady, William, xxx-xx-xxxx
Brocato, Cyrus V., xxx-xx-xxxx
Brockington, John S., xxx-xx-xxxx
Brockman, Harry J., xxx-xx-xxxx
Brodin, Thomas T., xxx-xx-xxxx
Brooks, Standish O., xxx-xx-xxxx
Brooks, Thomas V., Jr., xxx-xx-xxxx
Browder, John M., xxx-xx-xxxx
Brown, Brisbane H., Jr., xxx-xx-xxxx
Brown, John P., xxx-xx-xxxx
Brown, Paul J., xxx-xx-xxxx
Brown, Richard W., xxx-xx-xxxx
Browne, Edward M., xxx-xx-xxxx
Brownfield, John F., xxx-xx-xxxx
Brownlee, Robert W., xxx-xx-xxxx
Bryan, Lawrence E., xxx-xx-xxxx
Bryan, Louis C., Jr., xxx-xx-xxxx
Bullock, Richard S., xxx-xx-xxxx
Burckert, James F., xxx-xx-xxxx
Burdick, Leonard R., xxx-xx-xxxx
Burgess, Robert L., xxx-xx-xxxx
Burke, Robert L., xxx-xx-xxxx
Burkhalter, Thomas, xxx-xx-xxxx
Burkhard, Alfred E., xxx-xx-xxxx
Burkheimer, Jack W., xxx-xx-xxxx
Burns, Gilbert L., xxx-xx-xxxx
Burns. Peter J., Jr., xxx-xx-xxxx
Burress, James H., Jr., xxx-xx-xxxx
Burt, Donald L., xxx-xx-xxxx
Butler, Elbert L., Jr., xxx-xx-xxxx
Cade, Alfred J., xxx-xx-xxxx
Calcatera, Kenneth, xxx-xx-xxxx
Callahan, Joseph J., xxx-xx-xxxx
Campbell, Bruce B., xxx-xx-xxxx
Campbell, Joseph L., xxx-xx-xxxx
Cannon, John L., xxx-xx-xxxx
Cardinalli, Guy F., xxx-xx-xxxx
Carey, Milton G., xxx-xx-xxxx
Carlson, William E., xxx-xx-xxxx
Carmichael, Robert, xxx-xx-xxxx
Carnie, Sidney K., xxx-xx-xxxx
Carr, John M., xxx-xx-xxxx
Carroll, Anthony, xxx-xx-xxxx
Carson, Ray M., xxx-xx-xxxx
Carter, Frank A., xxx-xx-xxxx
Carter, Robert H., xxx-xx-xxxx
Carter, William D., xxx-xx-xxxx
Cartland, Harry E., xxx-xx-xxxx
Casey, John H., xxx-xx-xxxx
Cash, William G., xxx-xx-xxxx
Cassels, Kenneth G., xxx-xx-xxxx
Cate, William F., Jr., xxx-xx-xxxx
Cavaleri, Edwin F., Jr., xxx-xx-xxxx
Cesar, Edison M., Jr., xxx-xx-xxxx
Chase, Marvin K., Jr., xxx-xx-xxxx
Chavez, Joseph D., xxx-xx-xxxx
Cheaney, Frank H., Jr., xxx-xx-xxxx
Chriss, James V., xxx-xx-xxxx
Christensen, Douglass, xxx-xx-xxxx
Christy, Deryck G., xxx-xx-xxxx
Chung, Donald Y. B., xxx-xx-xxxx
Ciccolo, William N., xxx-xx-xxxx
Clark, Donald E., xxx-xx-xxxx
Clark, John R., Jr., xxx-xx-xxxx
Clark, Roy C., Jr., xxx-xx-xxxx
Clark, Walter B., xxx-xx-xxxx
Claybrook, John H., xxx-xx-xxxx
Cleary, Alexander B., xxx-xx-xxxx
Click, Charles E., xxx-xx-xxxx
Clinton, Frederick, xxx-xx-xxxx
Close, Malcolm R., xxx-xx-xxxx
Cluck, Charlie E., xxx-xx-xxxx
Clyne, Norman G., Jr., xxx-xx-xxxx
Coad, William F., xxx-xx-xxxx
Cochran, James F., III, xxx-xx-xxxx
Cochran, William J., xxx-xx-xxxx
Coffman, King J., xxx-xx-xxxx
Cole, Thomas F., xxx-xx-xxxx
Coleman, Richard C., xxx-xx-xxxx
Collier, Thomas W., xxx-xx-xxxx
Collins, John G., xxx-xx-xxxx
Colombo, James L., xxx-xx-xxxx
Comish, Leo S., Jr., xxx-xx-xxxx
Comstock, Keith L., xxx-xx-xxxx
Condina, Ernest F., xxx-xx-xxxx
Connelly, Donald W., xxx-xx-xxxx
Conner, Donald H., xxx-xx-xxxx
Constance, Harbin A., xxx-xx-xxxx
Cook, James R., xxx-xx-xxxx
Cook, Peter H., xxx-xx-xxxx
Cook, Robert S., xxx-xx-xxxx
Cooke, John W., Jr., xxx-xx-xxxx
Corbridge, Leith J., xxx-xx-xxxx
Corley, Robert J., xxx-xx-xxxx
Cosper, Manley H., Jr., xxx-xx-xxxx
Cottey, Robert J., xxx-xx-xxxx
Courant, Thomas E., xxx-xx-xxxx
Covington, Albert A., xxx-xx-xxxx
Covington, Edward B., xxx-xx-xxxx
Cowan, Kenneth D., xxx-xx-xxxx
Cox, Alden L., xxx-xx-xxxx
Cox, Rodney E., xxx-xx-xxxx
Cravens, James O., xxx-xx-xxxx
Creed, William H., xxx-xx-xxxx
Cress, William, xxx-xx-xxxx
Crittenden, Forest, xxx-xx-xxxx
Crosby, John W., Jr., xxx-xx-xxxx
Crow, James E., xxx-xx-xxxx
Crowell, Chester D., xxx-xx-xxxx
Crutchley, Donald O., xxx-xx-xxxx
Culbertson, Roger A., xxx-xx-xxxx
Cullen, Victor A., xxx-xx-xxxx
Cully, Frederick R., xxx-xx-xxxx
Culpepper, Grady A., xxx-xx-xxxx
Culton, William H., xxx-xx-xxxx
Cummings, Eldon L., xxx-xx-xxxx
Curtis, Robert L., xxx-xx-xxxx
Cuta, Weston W., xxx-xx-xxxx
Cutter, Williams S., xxx-xx-xxxx
Daly, James J., xxx-xx-xxxx
Danford, Howard H., xxx-xx-xxxx
Daniel, Samuel E., xxx-xx-xxxx
Danzeisen, William, xxx-xx-xxxx
Daugherty, Lucius L., xxx-xx-xxxx
Davaz, Carl G., xxx-xx-xxxx
Davey, Robert A., xxx-xx-xxxx

Davidson, Jay A., xxx-xx-xxxx
Davis, Addison D., III, xxx-xx-xxxx
Davis, Alvah B., Jr., xxx-xx-xxxx
Davis, Dale T., xxx-xx-xxxx
Davis, George R., xxx-xx-xxxx
Davis, Ken A., xxx-xx-xxxx
Davis, Raymond T., xxx-xx-xxxx
Davis, Richard K., xxx-xx-xxxx
Dawdy, Charles A., Jr., xxx-xx-xxxx
Day, James D., xxx-xx-xxxx
Day Robert L., xxx-xx-xxxx
De Shazo Thomas E., xxx-xx-xxxx
De Ville David A., xxx-xx-xxxx
De Wald, Arthur B., xxx-xx-xxxx
Deadwyler, Earnest, xxx-xx-xxxx
Dean, James C., xxx-xx-xxxx
Dean, Reginald L., Jr., xxx-xx-xxxx
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To be lieutenant colonel

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Fosmire, William L., xxx-xx-xxxx.
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Lively, Carlos J., Jr., xxx-xx-xxxx.
Ostrovsky, Jack, xxx-xx-xxxx.
Saylor, Daniel T., xxx-xx-xxxx.
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To be lieutenant colonel

Busse, Norma V., xxx-xx-xxxx.
Chaffin, Frances V., xxx-xx-xxxx.
Fea, Jennie W., xxx-xx-xxxx.
Fraser, Betty R., xxx-xx-xxxx.
Grimes, Mary J., xxx-xx-xxxx.
Heinze, Shirley R., xxx-xx-xxxx.
Hinton, Edith M., xxx-xx-xxxx.
Hopfenspirger, Nancy, xxx-xx-xxxx.
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Reynolds, Cora D., xxx-xx-xxxx.
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To be major

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MEDICAL SERVICE CORPS

To be major

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ARMY NURSE CORPS

To be major

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To be major

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Gallinaro, Alfred S., xxx-xx-xxxx.
Garner, Douglas V., xxx-xx-xxxx.
Graham, James E., xxx-xx-xxxx.
Hadden, Majo A. III., xxx-xx-xxxx.
Heck, Larry D., xxx-xx-xxxx.
Hewlett, Palmer A., xxx-xx-xxxx.
Holliday, Jay D., xxx-xx-xxxx.
Hollis, Joseph E., Jr., xxx-xx-xxxx.
Hughes, William D., xxx-xx-xxxx.
Jones, Frank T., Jr., xxx-xx-xxxx.
Kenny, Michael R., xxx-xx-xxxx.
Knapp, Robert D., xxx-xx-xxxx.
Konieczny, Jerome J., xxx-xx-xxxx.
Leach, Edward D., xxx-xx-xxxx.
Lenhart, Michael E., xxx-xx-xxxx.
Letzer, Larry L., Sr., xxx-xx-xxxx.
Lind, Herbert E., xxx-xx-xxxx.
Mielke, Charles L., xxx-xx-xxxx.
Moore, William G., xxx-xx-xxxx.
Mullek, Paul J., xxx-xx-xxxx.
Oszczakiewicz, Walter, xxx-xx-xxxx.
Piper, Paul A., xxx-xx-xxxx.
Powell, James R., xxx-xx-xxxx.
Reh, Donald C., xxx-xx-xxxx.
Robinson, James R., xxx-xx-xxxx.
Rosenberg, Ralph G., xxx-xx-xxxx.
Scialdo, Claudio J., xxx-xx-xxxx.
Siemon, Patrick G., xxx-xx-xxxx.
Sirace, Joseph A., Jr., xxx-xx-xxxx.
Smith, David R., xxx-xx-xxxx.
Solomon, Mendel S., xxx-xx-xxxx.
Stammer, Nelsen F., xxx-xx-xxxx.
Stewart, Thomas L., xxx-xx-xxxx.
Turner, George H., xxx-xx-xxxx.
Voelker, Edward M., xxx-xx-xxxx.

CHAPLAIN CORPS

To be captain

Bolton, Paul J., xxx-xx-xxxx.
Zimmerman, Matthew, xxx-xx-xxxx.

MEDICAL CORPS

To be captain

Becker, Larry E., xxx-xx-xxxx.

DENTAL CORPS

To be captain

Oleskevich, James M., xxx-xx-xxxx.
Tesch, Thomas N., xxx-xx-xxxx.

VETERINARY CORPS

To be captain

Chapple, Frank E., xxx-xx-xxxx.
McLaughlin, Ronald, xxx-xx-xxxx.
Staley, Leo G., xxx-xx-xxxx.
Vescovi, Ronald E., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be captain

Boggs, John A., xxx-xx-xxxx.
Bratt, Robert A., xxx-xx-xxxx.
Clark, Jerald, xxx-xx-xxxx.
Hutcherson, James D., xxx-xx-xxxx.
Meek, Thomas, xxx-xx-xxxx.
Seefeld, Herman W., xxx-xx-xxxx.
Ward, Larry G., xxx-xx-xxxx.

ARMY NURSE CORPS

To be captain

Hanna, Jerry N., xxx-xx-xxxx.
Hill, Maurine L., xxx-xx-xxxx.
Hooper, William R., xxx-xx-xxxx.
McCamley, John J., xxx-xx-xxxx.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 17, 1972:

DEPARTMENT OF TRANSPORTATION

John L. Hazard, of Michigan, to be an Assistant Secretary of Transportation.

IN THE COAST GUARD

The nominations beginning John D. O'Malley, to be captain, and ending Arthur A. Whiting III, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on April 4, 1972.

HOUSE OF REPRESENTATIVES — *Monday, April 17, 1972*

The House met at 12 o'clock noon.

Rev. Jack P. Lowndes, president, Home Mission Board of the Southern Baptist Convention, and, pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

O God, Thou art my God, early will I seek Thee.—Psalms 65: 1.

We pray together.

As we come to Thee today, we pray, our Father, that the men and women who meet here and have responsibility in decisionmaking for our Nation will be given:

The energy needed to face their work;

The diligence needed to do it well;

The strength to conquer temptations that will come.

In these days of momentous events give to them and all our leaders:

Wisdom to know when to speak and when to keep silent;

When to act and when to refrain from action.

Help all of us to live today in such a way that our world will be a better place. In Thy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 9395. An act to authorize the Commissioner of the District of Columbia to enter into agreements with teachers and other employees of the Board of Education of the District of Columbia for the purchase of annuity contracts;

H.R. 9900. An act to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict; and

H.R. 10344. An act to authorize the District of Columbia to enter into the Interstate Compact on Mental Health.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested: