ures, "A coyote in the attack stage is a whole different bag from a dog urinating on a rosebush."

If anything, Mr. Balph speculates, a perfumy smell might be more effective. Meat treated with a powerful emetic, or vomit-inducing agent, could be staked out for the coyotes near the sheep. It is hoped, he says, that the coyote will eat the meat, fall ill and associate it with his sickness. Carrying this plan one step forward, Mr. Balph suggests dousing the meat—and the surrounding area—with cheap perfume. The coyote might associate the sheep's entire territory with vomiting and be "conditioned to avoid the area."

Even better and simpler might be to turn the coyote's own scent against him, he says. Coyotes, he explains, size up the scope of their competition by the number of "scent posts" in a given area. (The scent, left on bushes and the like, is a combination of urine and a secretion from glands along the base of the tail.) By re-creating this scent and applying it liberally around the sheep, "we might trick the coyote into thinking the (coyote) population is greater than it is," persuading the predators to take off for greener pastures.

Another tactic worth exploring, he adds, is to record coyote howls and play them when new mothers are feeding their young. The howls might again indicate overpopulation and upset the mothers during a critical period so she doesn't take proper care of her young.

The balding, 40-year-old Mr. Balph was raised in India, where he watched rats and other pests ravage food supplies. As far as the U.S. is concerned, he considers rats and starlings as "our two most important problems."

A SCENT—THEN AN ABORTION

Rats, he ponders, might be controlled by another peculiar biological response. "It's wild," he says, but at a critical time early in their pregnancies, female rats will abort spontaneously when confronted with the scent of a strange male. Biologists suspect that the reason is to copulate with the new male. Anyway, Mr. Balph thinks a synthesized scent of a "strange male" might be used to "disrupt the normal breeding cycle" and lower the birth rate.

Under a small grant, Mr. Balph and his staff are experimenting on a starling-control technique that, he says, may also be applicable to rats. The prolific birds are a costly nuisance to feedlot operators. His approach is to drug some food pellets, once again with an emetic, and spread them around the feedlot. A key factor, he says, is that it takes about 90 seconds for the bird to vomit after eating the food. During the interim, the bird will have moved to other activities, meaning it possibly won't associate his sickness with the food pellet, which is just fine for Mr. Balph's purposes.

"He won't figure out why he's vomiting," Mr. Balph says. "We want to trick him into associating it with the whole feedlot. He'll think, 'My God, I'll have to stay away from this feedlot. Every time I get around it, I throw up my cookies.' "

If the technique is successful, he says, the number of starlings may dwindle; because "life is so easy around a feedlot, that may be why the population builds up." He adds that there is "some evidence" that such information may also be passed along to the young in their training.

Mr. Balph is scrambling for research funds—federal, state and private—to test his theories. He acknowledges that they are "way out in left field," compared with traditional control methods. By spending $200,000 a year for 10 years, he vows, "we could come up with some halfway decent control programs" for a broad spectrum of predators and pests. "We may be wrong, but we're just saying, 'Give us a chance, and we might be able to do some real good.' "

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 14, 1972

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

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

How long?

SENATE—*Thursday, June 15, 1972*

The Senate met at 11:30 a.m. and was called to order by Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois.

PRAYER

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

Eternal Father, in the round of daily duties we lift up to Thee our hymn of grateful praise:

"For the beauty of the earth;
For the glory of the skies;
For the love which from our birth
Over and around us lies:
Lord of all, to Thee we raise
This our hymn of grateful praise

"For the joy of human love,
Brother, sister, parent, child,
Friends on earth, and friends above;
For all gentle thoughts and mild:
Lord of all to Thee we raise
This our hymn of grateful praise."

—FOLLIOTT S. PIERPOINT, 1864.

We thank Thee, O Lord, that Thou art not only above and beyond and around us but in us and with us. Guide us all by Thy higher wisdom that in service to the Nation we may serve Thee. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 15, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

EXECUTIVE REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of June 14, 1972, the following favorable report of a nomination was submitted on June 14, 1972:

By Mr. FONG, from the Committee on Post Office and Civil Service:

John Y. Ing, of Hawaii, to be a Governor of the U.S. Postal Service.

REPORTS OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of June 14, 1972, the following reports of a committee were submitted on June 14, 1972:

By Mr. HOLLINGS, from the Committee on Post Office and Civil Service, without amendment:

S. 916. A bill to include firefighters within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of Government employees engaged in certain hazardous occupations (Rept. No. 92-862).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with an amendment:

H.R. 12202. An act to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes (Rept. No. 92-861).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

H.R. 3808. An act to amend title 39, United States Code, as enacted by the Postal Reorganization Act, to provide additional free letter mail and air transportation mailing privileges for certain members of the U.S. Armed Forces, and for other purposes (Rept. No. 92-860).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Wednesday, June 14, 1972, be dispensed with.

The ACTING 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 Acting President pro tempore (Mr. STEVENSON)

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 agreed to the amendments of the Senate to the bill (H.R. 13034) to authorize appropriations to carry out the Fire Research and Safety Act of 1968 and the Standard Reference Data Act, and to amend the act of March 3, 1901 (31 Stat. 1449), to make improvements in fiscal and administrative practices for more effective conduct of certain functions of the National Bureau of Standards.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 3166. An act to amend the Small Business Act;

H.R. 5404. An act to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Arkansas Game and Fish Commission, and for other purposes; and

H.R. 13034. An act to authorize appropriations to carry out the Fire Research and Safety Act of 1968 and the Standard Reference Data Act, and to amend the act of March 3, 1901 (31 Stat. 1449), to make improvements in fiscal and administrative practices for more effective conduct of certain functions of the National Bureau of Standards.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. STEVENSON).

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on page 2 of the Executive Calendar.

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

The ACTING PRESIDENT pro tempore. The clerk will state the first nomination.

CORPORATION FOR PUBLIC BROADCASTING

The second assistant legislative clerk proceeded to read sundry nominations for the Corporation for Public Broadcasting.

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

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

U.S. POSTAL SERVICE

The second assistant legislative clerk read the nomination of John Y. Ing, of Hawaii, to be a Governor of the U.S. Postal Service.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The SECOND ASSISTANT LEGISLATIVE CLERK. Routine nominations placed on the Secretary's desk in the Coast Guard.

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

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 816, 817, 818, and 819.

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

VERMEJO RANCH ACQUISITION

The Senate proceeded to consider the bill (S. 2699) to authorize the acquisition of lands within the Vermejo Ranch, New Mexico and Colorado, for addition to the National Forest System, and for other purposes which had been reported from the Committee on Agriculture and Forestry with an amendment, on page 2, line 20, after the word "Act", insert "of 1965"; so as to make the bill read:

S. 2699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to assure that the outstanding natural resources of the area known as the Vermejo Ranch, within the Maxwell and Sangre de Cristo land grants, New Mexico and Colorado, will be managed and protected for public use and enjoyment, under the principles of multiple use and sustained yield, the Secretary of Agriculture is hereby authorized to acquire under this Act or under other authorities available to him such lands, waters, and interests therein as he deems desirable for national forest purposes within the area generally depicted on a map entitled "Proposed Vermejo Ranch Purchase Area", which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture. Any such acquisition may be made by purchase with donated or appropriated funds, by gift, by exchange, by transfer under provisions of the Act of July 9, 1962 (43 U.S.C. 315g–1), as though the lands were within the exterior boundaries of the national forest, by transfer under the provisions of the Federal Property and Administrative Services Act (63 Stat. 377, as amended, 40 U.S.C. 471 et seq.), or otherwise.

SEC. 2. Moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands, waters, and interests therein for the purposes of this Act: *Provided,* That the acreage of such acquisitions shall be excluded from computation of acreage added to the National Forest System west of the one hundredth meridian for the purposes of the acreage limitation set forth in subsection 6(a)(1) of the Land and Water Conservation Fund Act of 1965.

SEC. 3. Lands, waters, and interests therein acquired pursuant to this Act shall, immediately upon acquisition or transfer thereof, be included in the Carson National Forest and shall be subject to the laws and regulations applicable to the national forest.

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary for the acquisition of lands, waters, and interests therein for the purposes of this Act.

Mr. EASTLAND. Mr. President, S. 2699 would authorize the Secretary of Agriculture to acquire such lands, waters, and interests as he deems desirable for national forest purposes within the proposed Vermejo Ranch purchase area. Moneys appropriated from the land and water conservation fund would be available for such acquisition and the acquisition would become part of the Carson National Forest.

The Vermejo Ranch consists of about 480,000 acres of land adjacent to the Carson National Forest. It includes some of the highest water yielding areas in the State of New Mexico. Its water resources are very impressive, consisting of more than 60 high country fishing lakes with about 2,000 total surface acres, and over 100 miles of trout streams. Artesian water is present in the vicinity of Adams and Bartlett Lakes and supplies about 60 surface acres each. About 2,500 acres of the ranch are cultivated and irrigated, and there is a water right to 1,000 acre-feet per annum in Eagle Nest Lake for irrigation of part of this acreage.

It is one of the outstanding hunting and fishing areas in the Southwest. There are large populations of elk estimated at about 7,000, about 40,000 deer, several thousand turkeys, 200 to 300 antelope and undetermined numbers of bear and mountain lion. Small game includes grouse, quail, dove, ducks, rabbits, and squirrels.

About two-thirds of the ranch is commercial timberland, of which about two-thirds is ponderosa pine and the balance spruce and mixed conifer. While the Pacific Lumber Co. has the timber rights on about 362,000 acres there are very strong restrictions placed on logging practices and once an area has been logged it cannot again be relogged.

According to witnesses a large number of range improvements have been made. There are about 400 miles of fence, about 300 wells equipped with windmills, more than 100 stock tanks, more than 50 corrals, approximately 15 cow camps and over 5,000 linear feet of wind and snow breaks. At the present time there are ap-

proximately 10,000 head of cattle on the ranch.

If this land is purchased by the Government and added to the national forests and managed under the multiple use laws it would provide outdoor recreation of many varieties to thousands of people from many States annually. It could also provide grazing for approximately 10,000 head of cattle belonging to local ranchers.

This remarkable Vermejo Park area has virtually unlimited resources for all activities. There is fabulous scenery all the way from 6,000-foot lowlands to the 13,000-foot timberline peaks. Wild flowers occur in great variety since the area embraces five of the six life zones found in New Mexico and five of the seven to be found in North America.

Today land is in great demand. It is one of the most valuable resources that we have. There is little doubt that land of the quality of Vermejo Park is as sound an investment as can possibly be made. It is a once in a lifetime occurrence to have the opportunity to acquire for public use and benefit a tract of land of this size packed with multiple high quality resources. It seems to many individuals and organizations that it would be a major tragedy for the Forest Service not to be authorized to acquire Vermejo Park.

The Department of Agriculture opposes the bill because other priorities have been established for use of moneys from the land and water conservation fund. However, I am sure these priorities were established before the opportunity for the acquisition of the Vermejo Ranch presented itself. And unless we act now the opportunity may forever be lost. Therefore, I feel the priorities should be changed.

Another reason advanced by the Department for opposing the acquisition is that the area is remote from population centers. However, during the course of hearings testimony was received in support of the bill by a representative of the New Hampshire Wildlife Federation and the New York State Conservation Council which include some 300,000 members. The bill was also supported by the National Wildlife Federation and the National Audubon Society. This indicates widespread interest in its acquisition for the use of all the people of the Nation. Mr. President, I hope that the Senate will approve this purchase.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–854), explaining the purposes of the measure.

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

SHORT EXPLANATION

S. 2699 would authorize the Secretary of Agriculture to acquire such lands, waters, and interests as he deems desirable for national forest purposes within the proposed Vermejo Ranch purchase area as shown on a map on file in the Office of the Chief of the Forest Service. Acquisitions would become a part of the Carson National Forest. Moneys appropriated from the land and water conservation fund would be available for such acquisitions; and such acquisitions would not be counted for the purpose of the provision of section 6(a)(1) of the Land and Water Conservation Fund Act of 1965, which provides that not more than 15 percent of the acreage added to the national forest system pursuant to that section shall be west of the 100th meridian.

COMMITTEE AMENDMENT

The only committee amendment was a technical one on page 2, line 21, which inserted "of 1965" after "Act" in order to complete the full title of the act referred to.

NEED FOR THE LEGISLATION

Unless the Federal Government acts now to purchase this 480,000-acre tract of land which adjoins the Carson National Forest the opportunity may be forever lost.

Evidence presented during the course of the hearings on this measure, taken from an article which appeared in the December 25 National Observer, indicated that:

There is much concern from all interested parties that a consortium might buy the ranch and immediately start on a helter-skelter land-resort development that would neatly subdivide the ranch into a thousand parcels.

Reportedly, there are two consortiums close to making the buy. "I'm not at liberty to discuss who offers what or whether they even made an offer," Simon says. But whenever there is so much money and land hanging fire, secrets are hard to keep. It is known the Japanese Mitsubishi Corp. is interested, and that another group of private individuals bid the $26,500,000 if the $100,000-plus worth of cattle were thrown in.

Now a consortium headed by Charlie Crowder of Albuquerque is supposedly close to a bid. Crowder, a respected land dealer, has a group of movie stars, land developers, and financiers ready to go, according to the current story. "Charlie's sort of a mysterious character," says the Forest Service's Ted Koskella. "You never know what he's up to until he comes in with, in our case, a land exchange all neatly tied together. He has pulled off more than his share of deals. * * *"

and

"The first man to meet our terms will buy the ranch," says Richard U. Simon, the Fort Worth lawyer handling the sale. "We've told the Forest Service and members of Congress all along that we will not wait to see if they finally decide to buy it. Right now we have half-a-dozen private groups seriously negotiating for its purchase. * * *"

Senator Clinton P. Anderson in his testimony described the land and the opportunity in this way:

The Vermejo Ranch is the heart of the old Maxwell Land Grant originally granted by the Governor of Mexico on January 11, 1841, and finally confirmed by the United States Supreme Court in 1887. The grant originally contained approximately 1,714,765 acres. During the next 50 years after the confirmation of the grant, there were numerous subdivisions of the grant. These tracts passed from one owner to another until 1945 when Mr. W. J. Gourley, a prominent businessman from Ft. Worth, Texas, began acquiring property in the area. Between 1945 and 1948, Mr. Gourley purchased several tracts and consolidated them into what is now known as the W–S or Vermejo Ranch.

This tract of land adjoins the Carson National Forest and could be easily managed by the Forest Service as a part of the Carson. The Vermejo Ranch is one of the finest areas of forest land in the Southwest and would be a public asset that would continue to grow in value.

The ranch includes some of the highest water-yielding areas in the State of New Mexico. The water resources are very impressive, consisting of more than 60 high country fishing lakes with about 2,000 total surface acres and over 100 miles of trout streams. Artesian water is present in the vicinity of Adams and Bartlett Lakes and supplies about 60 surface acres each. About 2,500 acres of the ranch are cultivated and irrigated, and there is a water right to 1,000 acre-feet per annum in Eagle Nest Lake for irrigation of part of this acreage.

The Vermejo Ranch is one of the most outstanding hunting and fishing areas in the Southwest. The owners have conducted extensive stocking programs and have maintained quality fishing with trout running in the 3- to 7-pound range. There are large populations of elk, estimated at about 7,000, 40,000 deer, several thousand turkey, 200 to 300 antelope, and undetermined numbers of bear and mountain lion. The small game includes grouse, quail, dove, ducks, rabbits and squirrels.

About two-thirds of the ranch is commercial timber land, of which about two-thirds is ponderosa pine, and the balance, spruce and mixed conifer. There is a timber sale agreement whereby the Pacific Lumber Company purchased the timber rights on 362,000 acres. The contract runs until December 31, 1990, and the company has the right to harvest all timber of a diameter of 8 inches or larger. There are very strong restrictions placed on logging practices, and once an area has been logged, it cannot be relogged. Except in the Mt. Baldy area, there has been no attempt to cut the 8-inch to 12-inch diameter class allowed in the sale agreement. I have been advised by the Forest Service in New Mexico that this cutting has been extremely well-managed and that proper disposal of brush and slash has been made, as well as restoration of the surface where needed.

During the past 25 years, the owners of the ranch have constructed an unbelievable number of range improvements. I am told that there are more than 400 miles of fence, 300 wells equipped with windmills, more than 100 stock tanks, more than 50 corrals, approximately 15 cow camps, and over 5,000 linear feet of wind and snow breaks. The stocking of the land has been conservative and, therefore, the range land is in excellent condition. There are approximately 10,000 head of cattle on the ranch, now; and it is estimated that at times, Mr. Gourley grazed as many as 19,000 head when he leased some adjoining land.

There are three outstanding oil and gas leases on about 62,000 acres. The leases are to continue for 10 years and as long thereafter as oil or gas is produced. Exploratory drilling was conducted nearly 10 years ago, but all wells were dry holes and no production ever occurred. Drilling ceased several years ago. Kaiser Steel Company holds a coal lease on about 252,000 acres. The lease permits the company to use sufficient of the surface to operate the mines but does not permit town sites. All exploration reports indicate that all present and future mining be deep underground mining of coal with very little surface disturbance.

I view this tract of land as one of the most valuable of its kind in the Southwest and believe it is an asset that should be acquired and preserved by the Government for the people of this country. If purchased by the Government and added to the National Forest and managed under the multiple use laws, it would provide outdoor recreation of many varieties to thousands of people from many states annually. It would provide grazing for approximately 10,000 head of cattle belonging to local ranchers. The ranchers in this area are mostly individuals with a very few head of livestock and are, for the most part, at or below the poverty level income. Grazing permits would enable these people to increase their herds and flocks and be a tremendous economic boost to a chronically depressed area. In the past, the income from this ranch has mostly gone to Texas banks; and except for some employment of local people, it has

not been a great economic asset to the State of New Mexico. In recent years to come, there will, of course, be a new timber crop to be harvested; and the value of this timber we expect to be much greater than it would be at this time.

The Gourley Estate has offered this ranch to the Government for approximately 26 million which, according to appraisals made and provided me by the Forest Service, is not out of line with other sales in New Mexico. If the ranch is not acquired by the Government, there is a possibility that this important watershed will be broken up and sold to speculators, or to a Japanese company that has been trying to acquire the ranch for exploitation. I hope that we can put this valuable land into public ownership.

Witnesses described the wildlife habitat and resources as truly exceptional, by far the best of any area of like size in the State. There is a fine herd of no less than 4,000 elk, and mule deer number about 12,000. Black bear are more numerous than anywhere else in the State. There are 200 antelope in the low-lying prairie area. Merriam wild turkeys are in good supply and with the existing optimum habitat there is room for an increase in numbers. There are also blue grouse in the areas above 8,500 feet, and a considerable number of ducks nest around the lakes and beaver ponds.

There is a normal population of mountain lions. There are gray foxes, bobcats, too many coyotes, badgers, abert and chicaree squirrels, prairie dogs, cottontail, snowshoe, and jack rabbits. Beavers are abundant and provide many ponds to augment trout waters. The endangered black-footed ferret may still exist there.

Nowhere else that I know of can one find the variety and abundance of wildlife species that is resident on Vermejo Park. The outstanding feature of the big game situation is that the area embraces both summer and winter range. There is suitable habitat for restoration of bighorn sheep and ptarmigan, which were indigenous to the area.

The trout fishing resources are extensive, diversified, and exciting. There are about 100 miles of trout streams and 60 lakes, large and small. Some lakes can be enlarged and new ones developed by transferring water rights from agriculture to fisheries. The fisheries resources are of special interest because lakes and streams are located in the most beautiful scenic areas.

The area is adaptable for camping, picnicking, scenic sightseeing—by car or otherwise—bird and animal watching, picture taking, rock collecting, exploring, mountain climbing, hiking, backpacking, horseback riding, horse pack-in trips, wilderness experiences, et cetera.

This remarkable Vermejo Park area has virtually unlimited resources for all of these activities. There is spectacular scenery all the way from 6,000-foot lowlands to the 13,000-foot timberline peaks. Wild flowers occur in great variety, since the area embraces five of the six life zones found in New Mexico and five of the seven to be found in North America.

Land today is in great demand. Land is the most valuable resource that we have. Land of the quality of Vermejo Park is as sound an investment as can possibly be made. It is a once-in-a-lifetime occurrence to have the opportunity to acquire for public use and benefit a tract of land of this size and packed with multiple, high quality resources. It seems to many individuals and organizations that it would be a major tragedy for the Forest Service not to be authorized to acquire Vermejo Park, or ranch.

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970 the committee agrees with the original acquisition cost estimate of the U.S. Department of Agriculture of about $26.5 million.

Administrative cost estimates by the Department of Agriculture would approximate $288,000 per year.

The committee agrees with the Department on its estimates.

The committee amendment was agreed to.

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

[Later in the day the following proceedings occurred:]

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote earlier today by which S. 2699 was passed, together with the third reading of the bill, be reconsidered.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2699) to authorize the acquisition of lands within the Vermejo Ranch, New Mexico and Colorado, for addition to the National Forest System, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, on behalf of the Senator from New Mexico (Mr. ANDERSON), I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill add the following new section:

SEC. 5. Notwithstanding any other provision of this Act, all transfers and acquisitions authorized herein shall be taxable under the provisions of the Internal Revenue Code of 1954 in the same manner and to the same extent as if the lands, waters and other interests were transferred to a taxpaying individual or corporation.

Mr. ANDERSON. Mr. President, my bill, S. 2699, would authorize the Government to acquire the Vermejo Ranch in New Mexico and Colorado and add this 480,000-acre tract to the Carson National Forest.

The Vermejo Ranch is the heart of the old Maxwell land grant, originally granted by the Governor of Mexico on January 11, 1841, and finally confirmed by the U.S. Supreme Court in 1887. The grant originally contained approximately 1,714,765 acres. During the next 50 years after the confirmation of the grant, there were numerous subdivisions of the grant. These tracts passed from one owner to another until 1945 when Mr. W. J. Gourley, a prominent businessman from Fort Worth, Tex., began acquiring property in the area. Between 1945 and 1948, Mr. Gourley purchased several tracts and consolidated them into what is now known as the W–S or Vermejo Ranch.

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The ranch includes some of the highest water-yielding areas in the State of New Mexico. The water resources are very impressive, consisting of more than 60 high country fishing lakes with about 2,000 total surface acres and over 100 miles of trout streams. Artesian water is present in the vicinity of Adams and Bartlett Lakes and supplies about 60 surface acres each. About 2,500 acres of the ranch are cultivated and irrigated, and there is a water right to 1,000 acre-feet per annum in Eagle Nest Lake for irrigation of part of this acreage.

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There are three outstanding oil and gas leases on about 62,000 acres. The leases are to continue for 10 years and as long thereafter as oil or gas is produced. Exploratory drilling was conducted nearly 10 years ago, but all wells were dry holes and no production ever occurred. Drilling ceased several years ago. Kaiser Steel Co. holds a coal lease on about 252,000 acres. The lease permits the company to use sufficient of the surface to operate the mines but does not permit town sites. All exploration reports indicate that all present and future mining would be deep underground mining of coal with very little surface disturbance.

I view this tract of land as one of the most valuable of its kind in the Southwest and believe it is an asset that should

be acquired and preserved by the Government for the people of this country. If purchased by the Government and added to the national forest and managed under the multiple use laws, it would provide outdoor recreation of many varieties to thousands of people from many States annually. It would provide grazing for approximately 10,000 head of cattle belonging to local ranchers. The ranchers in this area are mostly individuals with a very few head of livestock and are, for the most part, at or below the poverty level income. Grazing permits would enable these people to increase their herds and flocks and be a tremendous economic boost to a chronically depressed area. In the past, the income from this ranch has mostly gone to Texas banks; and except for some employment of local people, it has not been a great economic asset to the State of New Mexico. In the years to come, there will, of course, be a new timber crop to be harvested; and the value of this timber we expect to be much greater than it would be at this time.

The Gourley Estate has offered this ranch to the Government for approximately $26 million which, according to appraisals made and provided me by the Forest Service, is not out of line with other sales in New Mexico. If the ranch is not acquired by the Government, there is a possibility that this important watershed will be broken up and sold to speculators, or to a Japanese company that has been trying to acquire the ranch for exploitation. I hope that we can put this valuable land into public ownership.

During private discussions of the bill which I introduced, a representative of the Bureau of Internal Revenue indicated that in the settlement of the Gourley Estate, there will likely be considerable tax due the Government. I would not want any transfer to the Government to, in any way, relieve the Gourley Estate from payment of any just tax or other debt to the Government. Therefore, I recommend that the following language be inserted at the appropriate place in the bill:

Notwithstanding any other provision of this Act, all transfers and acquisitions authorized herein shall be taxable under the provisions of the Internal Revenue Code of 1954 in the same manner and to the same extent as if the lands, waters and other interests were transferred to a tax-paying individual or corporation.

With this amendment to the bill, I strongly urge your committee to give a favorable report on S. 2699 at an early date so that we might have an opportunity to pass this legislation during this session of Congress. The companion House bill has already been favorably reported by the House Subcommittee on Forests to the full House Agriculture Committee. I believe that time is of the essence, and that if the Government is to acquire this land, we must pass authorizing legislation during this session or forget the whole proposal. I am reasonably sure next session will be too late.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

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 and third reading of the bill.

The bill (S. 2699) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2699

An act to authorize the acquisition of lands within the Vermejo Ranch, New Mexico and Colorado, for addition to the national forest system, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to assure that the outstanding natural resources of the area known as the Vermejo Ranch, within the Maxwell and Sangre de Cristo land grants, New Mexico and Colorado, will be managed and protected for public use and enjoyment, under the principles of multiple use and sustained yield, the Secretary of Agriculture is hereby authorized to acquire under this Act or under other authorities available to him such lands, waters, and interests therein as he deems desirable for national forest purposes within the area generally depicted on a map entitled "Proposed Vermejo Ranch Purchase Area", which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture. Any such acquisition may be made by purchase with donated or appropriated funds, by gift, by exchange, by transfer under provisions of the Act of July 9, 1962 (43 U.S.C. 315g–1), as though the lands were within the exterior boundaries of the national forest, by transfer under the provisions of the Federal Property and Administrative Services Act (63 Stat. 377, as amended, 40 U.S.C. 471 et seq.), or otherwise.

SEC. 2. Moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands, waters, and interests therein for the purposes of this Act: *Provided,* That the acreage of such acquisitions shall be excluded from computation of acreage added to the National Forest System west of the one hundredth meridian for the purposes of the acreage limitation set forth in subsection 6(a)(1) of the Land and Water Conservation Fund Act of 1965.

SEC. 3. Lands, waters, and interests therein acquired pursuant to this Act shall, immediately upon acquisition or transfer thereof, be included in the Carson National Forest and shall be subject to the laws and regulations applicable to the national forest.

SEC. 4. There are hereby authorized to be appropriated such sums as are necessary for the acquisition of lands, waters, and interests therein for the purposes of this Act.

SEC. 5. Notwithstanding any other provision of this Act, all transfers and acquisitions authorized herein shall be taxable under the provisions of the Internal Revenue Code of 1954 in the same manner and to the same extent as if the lands, waters and other interests were transferred to a tax-paying individual or corporation.

ALEXANDRIA NICHOLSON

The Senate proceeded to consider the bill (S. 3414) for the relief of Alexandria Nicholson which had been reported from the Committee on the Judiciary with an amendment in line 6, after "1957," insert a comma and "and notwithstanding the provisions of section 334(b)(1) of said act shall be held and considered to be eligible to file a valid petition for naturalization"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of the Immigration and Nationality Act, Alexandria Nicholson shall be held and considered to have been lawfully admitted to the United States for permanent residence as of July 17, 1957, and notwithstanding the provisions of section 334(b)(1) of said Act shall be held and considered to be eligible to file a valid petition for naturalization.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–855), explaining the purpose of the measure.

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

PURPOSE

The purpose of the bill, as amended, is to enable the beneficiary to file a petition for naturalization.

FORESTRY INCENTIVES ACT OF 1972

The Senate proceeded to consider the bill (S. 3105) to authorize the Secretary of Agriculture to develop and carry out a forestry incentives program to encourage a higher level of forest resource protection, development, and management by small, nonindustrial private and non-Federal public forest landowners, and for other purposes, which had been reported from the Committee on Agriculture and Forestry with amendments on page 4, line 8, after "(2)", strike out "Cost sharing with the owners of small nonindustrial private forest lands for the purposes of providing manpower, equipment, planting stock, and other materials to carry out the practices to be encouraged by the forestry incentives program. No cost sharing under this paragraph shall provide for a Federal contribution in excess of 80 per centum of the total cost of materials, equipment, and services" and insert "Cost sharing with nonprofit groups, individuals, and public bodies for the purpose of providing equipment to carry out the practices to be encouraged by the forestry incentives program. No cost sharing under this paragraph shall provide for a Federal contribution in excess of 80 per centum of the total cost of the equipment"; on page 6, line 8, after the word "guarantee", insert "or make"; and, in line 13, after the word "portion", strike out "of the principal and interest of" and insert "or all of the interest on"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Forestry Incentives Act of 1972".

SEC. 2. (a) Congress hereby declares that the Nation's growing demands on forests and related land resources cannot be met by intensive management of Federal lands and industrial forests alone; that the three hundred and nine million acres of nonindustrial private land and twenty-nine million acres of non-Federal public forest land contain 65 per centum of the Nation's total forest resource base available to provide timber, water, fish and wildlife habitat, and outdoor recreation opportunities; that the level of protection and management of such forest

lands has historically been low; that such lands can provide substantially increased levels of resources and opportunities if judiciously managed and developed; that improved management and development of such lands will enhance and protect environmental values consistent with the National Environmental Policy Act of 1969 (83 Stat. 852); and that a forestry incentives program is necessary to supplement existing forestry assistance programs to further motivate, encourage, and involve the owners of small nonindustrial private forest lands and the owners of non-Federal public forest lands in actions needed to protect, develop, and manage their forest lands at a level adequate to meet emerging national demands.

(b) For the purposes of this Act the term "small nonindustrial private forest lands" means commercial forest lands owned by any person whose total ownership of such lands does not exceed five thousand acres. Such term also includes groups or associations owning a total of five thousand acres or less of commercial forest lands, but does not include private corporations manufacturing products or providing public utility services of any type or the subsidiaries of such corporations.

SEC. 3. The Secretary of Agriculture (hereinafter referred to as the "Secretary") is hereby authorized and directed to develop and carry out a forestry incentives program to encourage the protection, development, and management of small nonindustrial private lands and non-Federal public forest lands. The purposes of such a program shall be to encourage landowners to apply practices which will provide for the afforestation of nonforest lands and reforestation of cutover and other nonstocked and understocked forest lands, and for intensive multiple-purpose management and protection of forest resources to provide for production of timber and other benefits, for protection and enhancement of recreation opportunities and of scenic and other environmental values, and for protection and improvement of watersheds, forage values, and fish and wildlife habitat.

SEC. 4. (a) To effectuate the purposes of the forestry incentives program authorized by this Act, the Secretary shall provide a range of forestry incentives which shall include the following:

(1) Cost sharing with the owners of small nonindustrial private forest lands and the owners of non-Federal public forest lands in providing practices on such lands which carry out the purposes of the forestry incentives program. No cost sharing under this paragraph shall provide for a Federal contribution in excess of 50 per centum of the total cost of practices on non-Federal public forest lands or in excess of 80 per centum of the total cost of practices on small nonindustrial private forest lands, and no one small nonindustrial private forest landowner shall receive cost sharing under this Act on more than five hundred acres in any one fiscal year.

(2) Cost sharing with nonprofit groups, individuals; and public bodies for the purpose of providing equipment to carry out the practices to be encouraged by the forestry incentives program. No cost sharing under this paragraph shall provide for a Federal contribution in excess of 80 per centum of the total cost of the equipment.

(b) The Secretary may, for the purpose of this section, utilize the services of State and local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended (49 Stat. 1150; 16 U.S.C. 590h(b)) and distribute funds available for cost sharing under this Act by giving consideration to pertinent factors in each State and county including, but not limited to, the total areas of small nonindustrial private forest lands and non-Federal public forest land and to the areas in need of planting or additional stocking, the potential productivity of such areas, and the need for timber stand improvement on such lands. The Secretary may also designate advisers to serve as ex officio members of such committees for purposes of this Act. Such ex officio members shall be selected from (1) owners of small nonindustrial private forest lands, (2) private forest managers or consulting foresters, and (3) wildlife and other private or public resource interests.

(c) Federal funds available to a county for small nonindustrial private forest lands each year may be allocated for cost sharing among the owners of such lands on a bid basis, with such owners contracting to carry out the approved forestry practices for the smallest Federal cost share having first priority for available Federal funds, subject to the Federal cost sharing limitations prescribed in subsection (a) of this section.

(d) Buildings, dams, roads, and other structures shall not be eligible for recreation development cost sharing under this Act.

SEC. 5. The Secretary shall investigate and evaluate the effectiveness of loans, loan guarantees, and annual payments for the establishment or maintenance of practices on small nonindustrial private forest lands which meet the purposes and objectives of the forestry incentives program provided for under this Act. In carrying out any such investigation, the Secretary is authorized to conduct a pilot program and make annual or periodic payments under agreements with owners of small nonindustrial private forest lands for periods not to exceed ten years or guarantee or make loans to such owners under such terms and conditions as he shall determine to be fair and reasonable. Such loans may include, but not be limited to, low interest rates; deferred payment plans; nonrecourse provisions; long term repayment provisions; and a provision under which a portion or all of the interest on such loans may be waived at maturity under circumstances determined by the Secretary. Not to exceed $5,000,000 may be appropriated for the purposes of this section in any fiscal year.

SEC. 6. The Secretary shall consult with the State forester or other appropriate official of each State in the conduct of the forestry incentives program provided for in this Act. Federal assistance under this Act shall be extended in accordance with such terms and conditions as the Secretary deems appropriate to accomplish the purposes of this Act. Funds made available under this Act may be utilized for providing technical assistance to and encouraging non-Federal public landowners, and the owners of small nonindustrial private forest lands in initiating practices which further the purposes of this Act. The Secretary shall coordinate the administration of this Act with other related programs and shall carry out this Act in such a manner as to encourage the utilization of private agencies, firms, and individuals furnishing services and materials needed in the application of practices, included in the forestry incentives program.

SEC. 7. There are authorized to be appropriated annually an amount not to exceed $25,000,000 to carry out the provisions of this Act. Such funds shall remain available until expended.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–856), explaining the purposes of the measure.

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

EXPLANATION

This bill provides a forestry incentives program for small nonindustrial private lands and non-Federal public forest lands. "Small non-industrial private lands" is defined as commercial forest lands owned by any person, group, or association (other than a manufacturing or public utility corporation) owning a total of less than 5,000 acres of such lands.

The program would provide for Federal payment of up to 50 percent of the cost of practices on non-Federal public lands, up to 80 percent of the cost of practices on small nonindustrial private lands and up to 80 percent of the cost of equipment to be provided to carry out such practices. The Secretary of Agriculture could use also loans, loan guarantees and contracts for payments up to periods of 10 years on a pilot program basis.

The proposed Forestry Incentives Act of 1972, would establish a forestry incentives program to supplement existing forestry assistance programs. One of its purposes would be to further motivate, encourage, and involve owners of small nonindustrial private forest lands and the owners of non-Federal public forest lands in actions needed to protect, develop, and manage their forest lands at a level adequate to meet emerging national demands.

To effectuate the purposes of the act, the Secretary of Agriculture would provide a range of forestry incentives including cost sharing with owners of small nonindustrial private forest lands and with owners of non-Federal public forest lands. The cost sharing could be provided through utilization of the services of State and local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (49 Stat. 1150, 16 U.S.C. 590h(b)).

The bill would also authorize the Secretary to investigate and evaluate the effectiveness of loans, loan guarantees, and annual payments for practices on private forest lands which meet the purpose and objectives of the act. The investigation would be conducted through a pilot program for which up to $5 million would be authorized to be appropriated. A total of $25 million would be authorized to be appropriated to cover the entire program.

NEED FOR LEGISLATION

Surveys of timber supply and consumption reveal an increasing need for wood caused by a continuing growth in population. More people will need more wood and paper. By the year 2000 the Nation may need more than twice as much wood as is being produced now. In fact the United States already has become a net importer of wood.

Surveys also indicate that within a decade or two wood requirements may well exceed timber growth unless steps are taken immediately to increase the productivity of forest lands. This is necessary because of the time it takes a seedling to get up to harvestable size.

Much of this problem rests on the private nonindustrial forests held by some 4 million owners. These woodlands aggregate more than 300 million acres, about three-fifths of all the commercial forest land in the United States.

Unfortunately, many of these private forests are in a low state of productivity. About one-fourth needs planting. About 46 percent needs some sort of cultural treatment, such as the removal of defective, deformed, and diseased trees.

Landowners often are reluctant to make the necessary investments in tree planting and similar activities because several decades may elapse before they get a return on their money.

Yet people need wood for many purposes, including homes. If supplies are limited, then the cost of wood will increase, and people will have to pay more than they should.

A study performed about 10 years ago on landownership patterns in North Carolina, which is not atypical of the Southeast as a whole, indicated that nonindustrial forest ownership accounts for 76.8 percent of the

commercial forest area of North Carolina—83.7 percent of the total privately held commercial forest. There are approximately 225,600 nonindustrial forest holdings in the State with an average forest area of 68.4 acres.

These nonindustrial forest properties are predominantly small, about 72 percent being less than 50 acres in size.

The nonindustrial forest owners of North Carolina have, on the average, held at least a portion of their ownership for over two decades (21.6 years). Over one-fifth of the owners have added to their properties during their tenure of ownership. The average length of tenure and frequency of acquisition during the period of ownership increases as the size of the ownership increases. Over a third of the properties and nearly as large a share of the aggregate forest area has been in the present owner's family at least one previous generation. However, well over half of the owners, representing a similar share of the total forest, claimed to have purchased at least a portion of their holdings. About four-fifths (82.8 percent) of the ownerships and two-thirds (65.1 percent) of the total forest area would be classed legally as individually owned.

One-half of the ownership surveyed were receiving little more than the most rudimentary forest care. Reaffirming many previous studies of non-industrial forest ownership, this study clearly showed that the intensity of all types of forest care increases significantly with the size of the property.

If substantial increased yields from these small private holdings are to be obtained on a sound basis by the turn of the century, these measures must be put underway promptly. That is why the enactment of this measure with long-term objectives has immediate urgency.

ESTIMATED COST

In accordance with section 252 of the Legislative Reorganization Act of 1970 the committee agrees with informal estimates by the Department of Agriculture that there will be no costs in fiscal year 1972, $10 million in fiscal year 1973; $15 million in fiscal 1974; $20 million in fiscal year 1975; and $25 million in both fiscal years 1976 and 1977.

Mr. STENNIS. Mr. President, I am pleased that the Forestry Incentives Act of 1972, which I introduced on February 2 of this year, has been favorably reported by unanimous vote of the Senate Committee on Agriculture and Forestry. I wish to extend my thanks to the distinguished chairman of the committee, the Senator from Georgia (Mr. TALMADGE), and the distinguished chairman of the Subcommittee on Environment, Soil Conservation, and Forestry, my colleague from Mississippi (Mr. EASTLAND), who is also a cosponsor of this bill, for the thorough consideration received by the legislation.

My gratitude is extended to the distinguished Senator from Nebraska (Mr. CURTIS), who very unselfishly altered his own schedule to preside at the hearing on the bill.

Other cosponsors of the Forestry Incentives Act, besides my colleague from Mississippi, are the distinguished Senator from North Carolina (Mr. JORDAN), the distinguished Senator from South Carolina (Mr. HOLLINGS), and the distinguished Senator from Alabama (Mr. SPARKMAN).

I am indebted to a number of old friends throughout the forestry community with whom I conferred during the course of preparing this bill. Many of them are Mississippians. All of them are men of long experience and broad knowledge in the growing, harvesting, and use of timber.

In the formulation of the bill, which began last year, I think it is safe to say that I received advice from the full spectrum of those in the best position to understand the problem of developing the forests of this country, and in particular the small privately owned forest lands, so that the future timber needs of the Nation can be met. They included consulting foresters, State foresters, representatives of forestry associations, and members of associations of users of forest products. I am grateful for their consultation and assistance over a period of 7 or 8 months, during which the bill was prepared, introduced, and presented at the hearing.

I wish to make a brief statement in explanation and support of the bill.

The Forestry Incentives Act authorizes the Secretary of Agriculture to develop and carry out a forestry incentives program to encourage a higher level of forest resource protection, development, and management by small nonindustrial private and non-Federal public forest landowners.

It is estimated that in 30 years the United States will need twice the amount of wood and other forest products that we now produce. A very substantial part of the required increase in production must come from privately owned nonindustrial forest lands. Over 300 million acres throughout the country fall in this category, and average growth on these lands is only one half the capacity.

Under the Forestry Incentives Act it will be possible to plant or improve 45 million acres in the next 10 years, and add 9 billion board feet of timber per year to the annual national harvest. And I want to stress that this is a national program in every respect. For example, in the North Atlantic Region, 68 percent of all the lands are forest lands, and of these, 70 percent are in private ownership. In the East there are 300,000 idle acres that are preeminently suited for growing the most valuable kinds of hardwoods.

Briefly, this bill would:

First. Authorize the Secretary of Agriculture to carry out a forestry incentive program to encourage the protection, development and management of nonindustrial private and non-Federal public lands. Land owners would be encouraged to plant seedlings where needed and apply such cultural treatments as are necessary to produce timber, expand recreational opportunities, enhance environmental values, protect watersheds and improve fish and wildlife habitat.

Second. Authorize the Secretary to share up to 50 percent of the cost of forest practices on non-Federal public lands; and up to 80 percent of the total cost on nonindustrial private lands. This covers, primarily, 80 percent of the cost of seedlings and their planting, and is of particular importance to the small and medium size privately owned farms.

Third. Utilize the services of State and local ASCS committees established under the Soil Conservation and Domestic Allotment Act. These committees, now composed primarily of agriculturists, also include representation of forest owners, forest managers and wildlife or other natural resource interests.

Fourth. Allocate Federal funds for cost sharing on a bid basis with priority accorded landowners contracting to carry out approved forestry practices for the smallest Federal cost share. This provision will spread Federal funds over a larger acreage.

Fifth. Require the Secretary of Agriculture to investigate the effectiveness of loans, loan guarantees and annual payments for periods not exceeding 10 years as methods of achieving the objectives of the forestry incentives program.

Finally. Require the Secretary of Agriculture to consult with State Foresters so that the forestry incentives program will be carried out in coordination with other related programs.

It will be recalled that the soil bank program resulted in a large increase in forest lands. From 1956 through 1964, 2,154,000 acres were planted. In spite of losses of some of these lands to highways and other developments, 90 percent of these lands are still bearing trees and are a major factor in our growth needs for future decades. The provisions of the Forestry Incentives Act will stimulate a similar but much greater expansion of wood production for the 1980's and 1990's, and beyond.

There are other benefits from the program that might be called indirect benefits because they are not directly addressed in the provisions of the legislation, but they are very real and valuable. This program helps relieve unemployment without any requirement for extensive training. In the future there will be more and larger job increases, from the harvesting, transporting, and processing of the timber. All of this contributes toward the revitalization of rural areas, so important throughout the country. The program combats the rising prices for wood products caused by limited timber growth. Also, there are the purely human benefits, such as environmental improvement, and outdoor recreation such as camping, for which opportunities are becoming limited.

The costs of this program are estimated to start at about $25 million a year, and the bill provides for this amount to be authorized annually. Ultimately the costs are expected to average $88 million a year. It is a long-term program, furthermore, and the need for reforesting private lands throughout the country are great, so that the total costs eventually will be quite sizable. There is, however, little choice as to whether we must try to solve the wood shortages of the future. The only choice is how to go about it.

I believe this bill meets the problem in a logical and effective manner. I strongly urge that the Senate give it favorable consideration.

Mr. EASTLAND. Mr. President, S. 3105, the Forestry Incentives Act of 1972 would establish a forestry incentives program to supplement existing forestry assistance programs.

One of its principal purposes would be to further motivate, encourage and involve owners of small nonindustrial private forest lands and the owners of non-Federal public forest lands in actions needed to protect, develop, and manage their forest lands at a level adequate to meet future national demands for timber.

It would accomplish this by providing for Federal payments of up to 50 percent of the cost of practices on non-Federal public lands, up to 80 percent of the cost of practices on small nonindustrial private lands and up to 80 percent of the cost of equipment to be provided to carry out such practices. It is intended that the equipment assistance would be provided soil conservation districts and similar groups who would then make the equipment available to forest land owners. The Secretary of Agriculture could also use loans, loan guarantees and contracts for payments up to periods of 10 years on a pilot program basis. The committee felt that the use of these incentives would provide the impetus necessary to the revitalization of our non-Federal forest lands.,

There is no doubt that our continually growing population will increase the demands for timber and wood substantially. Estimates indicate by the year 2000 the Nation may need more than twice as much wood as is now being produced. Further, there are surveys which indicate that within the next decade or two wood requirements may well exceed timber growth unless steps are taken now to increase the productivity of our forest lands. This is necessary because of the time it takes a seedling to get up to harvestable size.

Private nonindustrial forest lands are held by some four million owners and these woodlands aggregate more than 300 million acres, about three-fifths of all the commercial forest land in the United States.

Unfortunately, many of these private forests are in a low state of productivity. About one-fourth need planting, about 46 percent need some sort of cultural treatment such as the removal of defective, deformed, and diseased trees. Land owners often are reluctant to make the necessary investments in tree planting and similar activities because several decades may elapse before they get a return on their money. But unless these lands are made productive the Nation will suffer.

A study some years ago in North Carolina indicated that there were about 225,000 nonindustrial forest holdings in that State with an average forest area of slightly in excess of 68 acres, and 72 percent of these nonindustrial forest properties were less than 50 acres in size. This is typical of the southeast as a whole. That study also showed that one-half of the properties surveyed were receiving little more than the most rudimentary forest care. This reaffirms many previous studies of nonindustrial forest ownership and indicates that forest care decreases significantly with the size of the property.

If substantially increased yields from these small private holdings are to be obtained on a sound basis by the turn of the century the measures provided by this bill must be put under way promptly.

In its unfavorable report on the bill the Department of Agriculture agreed with the general objectives of S. 3105. They indicate that private forest lands will continue to play a vital role in meeting the Nation's timber and environmental needs and until the level and nature of management for all forestry resources on private forest lands is improved our total national forestry program will be out of balance.

However, their unfavorable reaction to the bill is predicated on the fact that the provisions of S. 3105 could be carried out under the President's special revenue sharing for rural community development, which would eliminate specially oriented grant programs and encourage State initiative in the allocation of broad grant funds; and since S. 3105 would create a new special grant program it would be inconsistent with the President's proposed special revenue sharing program, and for that reason they recommend that it not be established.

Mr. President, it is highly unlikely that the President's special revenue sharing as it relates to agriculture will become law. As a matter of fact, the Senate Committee on Agriculture and Forestry has already rejected that proposal when it was considering the provisions of the Rural Development Act of 1972.

During the course of the hearings on this measure there was no opposition to the bill, other than from the Department of Agriculture and even the witness testifying for the Department conceded that the program was a good one and that it was needed. This bill is in the best interests of this Nation's future and should be approved.

The amendments were agreed to.

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

ACCELERATED REFORESTATION OF NATIONAL FORESTS

The Senate proceeded to consider the bill (H.R. 13089) to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes which had been reported from the Committee on Agriculture and Forestry with amendments on page 1, line 77, after "1987", strike out "from moneys made available to carry out the provisions of section 32 of the Act of August 24, 1935 (49 Stat. 774, as amended, 7 U.S.C. 612c), amounts equal to the gross receipts from duties collected under the customs laws on wood and paper, and printed matter (including wood and wood products, cork and cork products, wood veneers, plywood, and other wood veneer assemblies and building boards, paper, paperboard, and products thereof, and books, pamphlets, and other printed and manuscript material)" and insert "such amounts as may be appropriated therefor. There is hereby authorized to be appropriated for such purpose for each of the fiscal years during such period the sum of $65,000,000"; and, on page 2, line 19, after "(46 Stat. 527, 16 U.S.C. 576b)", strike out "Any money transferred to the fund and not subsequently authorized for expenditure by the Congress within two fiscal years after which such money was transferred to the fund shall be retransferred to the fund established by section 32 of the act of August 24, 1935."

Mr. EASTLAND. Mr. President, the purpose of H.R. 13089, as amended by the Senate Committee on Agriculture and Forestry, is to establish a supplemental national reforestation fund and authorize an annual appropriation of $65 million to be transferred to that fund for the purpose of planting more trees on those areas of the national forests that are in most need of reforestation. Such moneys transferred to this fund shall be available until expended. Transfers shall begin with the fiscal year commencing July 1, 1972 and end on June 30, 1987.

The bill also calls for the Secretary of Agriculture to submit to Congress within 1 year of the date of enactment and annually thereafter a report setting out the scope of total reforestation needs and a planned program for reforesting such lands, including a description of the extent to which funds authorized by this act are to be applied to the program.

As passed by the House the bill would have allocated moneys from the fund established by section 32 of the act of August 24, 1935. Section 32 made available 30 percent of annual custom receipts through the special fund it established to encourage the exportation and domestic consumption of agricultural commodities. The section 32 moneys authorized to be used for the purposes of the bill passed by the House for national reforestation would have consisted of amounts equal to the gross receipts from duties collected under the customs laws on certain forest products listed in their bill.

The Senate Committee on Agriculture and Forestry amended this to provide for a direct appropriation of $65 million to the national reforestation fund as a supplemental source of moneys for use in reforestation.

During the course of the hearings on this bill it was pointed out repeatedly that a great need exists for more reforestation work. In 1970 the Forest Service reported that about 4.8 million acres were in need of planting. This has increased from the forest report of 1938 when about 4.5 million acres were in need of work.

Surveys of timber supply and consumption reveal an increasing need for wood caused by a continuing growth in population and that within a decade or two wood requirements could well exceed timber growth unless steps are taken immediately to increase the productivity of forest lands.

While the Department of Agriculture concurs with the basic objective that a national forests reforestation program should be accelerated they are opposed to the bill because of the use of section 32 moneys. In meeting that obligation the committe changed the funding from section 32 to a direct appropriation. The Department further opposes the bill because the earmarking approach tends

to give special priority to the funding of selected programs relative to total needs. This is true and the bill does provide for special funding for a selected program. But the facts are there that some additional effort must be provided now for reforestation if the needs of the future are to be met. For this reason, Mr. President, I hope the Senate will approve H.R. 13089, as amended by the Senate Committee on Agriculture and Forestry.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–857), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to establish a supplemental national reforestation fund and authorize an annual appropriation of $65 million to be transferred to that fund for the purpose of planting more trees on those areas of the national forests that are in most need of reforestation. Such moneys transferred to this fund shall be available until expended. Transfers shall begin with the fiscal year commencing July 1, 1972, and end on June 30, 1987.

This bill also calls for the Secretary of Agriculture to submit to Congress within 1 year of the date of enactment and annually thereafter a report setting forth the scope of the total national forest reforestation needs and a planned program for reforesting such lands, including a description of the extent to which funds authorized by this act to be applied to the program.

NEED FOR LEGISLATION

During the course of hearings on this bill it was pointed out repeatedly that a great need exists for more reforestation work. In 1970, the Forest Service reported 4,788,000 acres in need of planting.

Surveys of timber supply and consumption reveal an increasing need for wood caused by a continuing growth in population and that within a decade or two wood requirements will exceed timber growth unless steps are taken immediately to increase the productivity of forest lands.

The committee hopes that this legislation will provide the impetus needed for our reforestation requirements.

COMMITTEE AMENDMENTS

The bill originally provided for use of section 32 funds for the purpose of reforestation. The committee amendment changes this to a direct appropriation. However, this does not preclude the use of section 32 funds if the Appropriations Committee so desires to use this route.

ESTIMATED COST

In accordance with section 252 of the Legislative Reorganization Act of 1970 the committee estimates the cost at $65 million annually for the next 15 years if funding by the Appropriations Committee is at the level authorized by the bill.

The amendments were agreed to.

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

The bill was read the third time, and passed.

VISIT BY PRESIDENT LUIS ECHEVERRIA, PRESIDENT OF MEXICO

Mr. MANSFIELD. Mr. President, the Congress and the Nation are being honored today with a state visit by the President of the United Mexican States, Luis Echeverria.

President Echeverria has done a remarkable job in trying to face up to the difficulties which confront our sister Republic—and they are many. The President himself is a human dynamo, who spends a great deal of time traveling up and down the country, meeting with the farmers, workers, and businessmen, trying to find solutions to the problems which beset his nation, with its rapidly increasing population, and in relation to that, its limited availability of resources.

There will be many problems to be discussed between President Nixon and President Echeverria. Some of them will be most difficult of solution, but all of them will have to be faced up to.

Perhaps the most important of these immediate problems at the present time is the question of the salinity of the Colorado River. On the basis of a treaty signed in 1944, the United Mexican States—the Government of Mexico—was guaranteed a certain amount of good water, which in recent years has been diluted because of the building projects within the United States which have increased the salinity of the Lower Colorado and have had adverse effects upon the Mexicali Valley, which is just south of the Imperial Valley in southern California. So I hope it will be possible for these two nations, in the persons of their Chiefs of State, to arrive at a solution which will be agreeable to both sides, and to do so soon.

Then, of course, there is the question of narcotics control. The Attorneys General of both Republics have been working very closely and, on the basis of project cooperation, there has been some gain in handling this particular situation.

There is also the question of the bracero, the immigrant worker from Mexico to the United States, and the question of trade and other matters which will have to be considered in this momentous meeting between the chiefs of both nations.

I would hope, also, that out of this would come a recognition of the fact—in my judgment—that, as far as Latin America is concerned, Mexico is really the weather vane and the determiner of what happens in that huge area comprising, in addition to Mexico, Central America, South America, the Caribbean Islands, and elsewhere.

So, Mr. President, I ask unanimous consent that an editorial entitled "Below the Salt," carried in the Washington Evening Star of June 15, 1972, be incorporated at this point in the Record.

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

BELOW THE SALT

The state visit of Mexico's President Luis Echeverria to Washington today and tomorrow has been properly laid on by the White House in terms of the highest form of pomp and circumstance, but the Mexicans are here for more than just surface expressions of amity.

There can be no question that Mr. Nixon has extended himself to demonstrate the affection in which the U.S. holds Mexico. The President went out of his way to arrange an Echeverria appearance before a joint session of Congress and had to pull all sorts of strings to manage it. The rest of the schedule is pro forma for any chief of a friendly state.

But there are other issues between the two neighbors which require more substance than shadow. Perhaps the whole program will reassure the Mexicans about their status with the U.S. in the light of President Nixon's gaffe in virtually labeling Brazil as the future leader of all Latin America when President Emilio Garrastazu Medici was here.

If the red carpet treatment reassures the Mexicans on that score, the matters of substance require discussion and solution. The most important of these issues is the salinity of the Colorado river which evidently is dangerously salt-laden by the time the waters leave the California-Arizona agricultural areas and enter Mexico. The U.S. is committed to maintaining the Colorado sufficiently salt-free to be usable by Mexico's burgeoning farmlands in the north.

The trouble is that the Colorado is primarily under the control of the states, not the federal government. We don't know what the President intends to do about the increasing salinity of the river but we hope he has a program for helping Mexico either through a diversion canal or through construction of desalinization plants on the Pacific Coast of Baja California.

Another item on which the two countries can cooperate even further is narcotics control. Mr. Nixon can and probably should make some financial contribution to Mexico's program for preventing the passage of dangerous drugs across the frontier.

The Mexicans also are interested in trade, *bracero* (migrant farm labor) questions and agricultural export problems.

Mr. Nixon has competence up to a point in all three. In terms of trade, the Mexicans want expansion of the so-called border industries in which cheaper Mexican labor is used to assemble appliances and weave raw cotton into cloth. They also want, although this is difficult for any Mexican official to say, at least a partial return to the temporary use of Mexican farm labor on U.S. farms. Thirdly, Mexico's tomato, strawberry and other winter vegetable products occasionally encounter trade barriers when U.S. production attains bumper status.

The AFL–CIO, no friend of Mr. Nixon's, opposes the Mexican factories' output and the *braceros* and the southern U.S. does not want competition with Mexican agricultural products. But there is room for maneuver here, perhaps more so than in the question of the salty Colorado.

Overall, Mr. Nixon knows the Mexican president as a friend and values that friendship. Hopefully, this sentiment can be translated in the Nixon-Echeverria summit into something of value to both nations.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 12 noon, with statements therein limited to 3 minutes.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

POLITICS AND THE DEFENSE BUDGET

Mr. PROXMIRE. Mr. President, we have all been shocked in recent days by the outrageous demands of Secretary Laird and the Joint Chiefs of Staff that their approval of the SALT Treaty and Agreements is conditional on congressional approval of every new strategic weapon the military ever dreamed of building.

Included in their shopping list is full steam ahead for the B–1 bomber—already outmoded; a speedup in the ULMS or TRIDENT submarine, a good system but one which is premature; the potential hard-siting of land-based missiles; a new low flying cruise missile in lieu of the ABM; and a cost figure for two ABM sites equal to that requested for the original 12 sites.

The Christian Science Monitor has commented on this in an editorial for June 14, 1972 entitled "The Politics of Weaponry." They rightly point out that:

"The military security of the United States is in excellent shape. With some 5,700 nuclear blows targeted on the Soviet Union against 2,500 aimed the other way, the United States is in no immediate danger of being outgunned.

In the key paragraph the editorial states that:

To act on the essential facts about weaponry would mean bitter disappointment to several large industries and the trade unions associated with them. The juiciest kind of defense contracts are tied in with the theory that the Russians will some day emerge with a nuclear advantage unless a whole shopping list of new weapons is ordered now.

But the editorial points out that:

. . . 100 nuclear blows are a deterrent. Anything over a hundred is already deep in the realm of overkill.

OVERKILL IN SPADES

What the editorial does not say is that we are now building to a level of 9,000 or more targeted nuclear weapons. Some of them—the Minutemen MIRV'd bombs—are 10 times as large as the Hiroshima bomb. Others, such as those to be placed on the Poseidon submarines, are one to two times more powerful than the Hiroshima bomb.

In addition, we have 3,000 to 4,000 tactical nuclear weapons on the periphery of the Soviet Union which our aircraft can deliver. The Russians have no comparable tactical weapons which can reach us. All of this is overkill in spades.

WE SHOULD NOT GIVE IN TO BLACKMAIL

In these circumstances, and especially since neither side will now deploy an ABM even theoretically capable of preventing the other side from striking back, for Secretary Laird and the generals to demand a speedup in our strategic defenses is a form of political blackmail. It is also stupid. We should refuse to give in to that.

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

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

THE POLITICS OF WEAPONRY

The average American taxpayer should shed a tear as he listens to the debate now beginning on the new American weapons program which Secretary of Defense Melvin Laird has unveiled, but he should not worry too much about the future of the republic.

The military security of the United States is in excellent shape. With some 5,700 nuclear blows targeted on the Soviet Union against 2,500 aimed the other way, the U.S. is in no immediate danger of being outgunned. Even if the Russians were at the testing stage of MIRVs, which they are not, it would be another four or five years before they could begin to deploy them. Besides, 100 nuclear blows are a deterrent. Anything over a hundred is already deep in the realm of "overkill."

But such considerations are not conclusive in the area of politics. To act on the essential facts about weaponry would mean bitter disappointment to several large industries and the trade unions associated with them. The juiciest kind of defense contracts are tied in with the theory that the Russians will some day emerge with a nuclear advantage unless a whole shopping list of new weapons is ordered, and now.

In effect, Mr. Laird has said that the Pentagon will oppose ratification of SALT unless the Congress will authorize the Pentagon's full 1972 shopping list.

It could be called blackmail. Or the most practical kind of 1972 politics.

The aviation and air space industries are in parlous condition. A number of companies would go out of business if the Congress were to turn down the whole shopping list. It is politically unrealistic to think that it will.

The practical question is what price must be paid in unneeded weaponry.

One of the unfortunate features of the problem is that the most politically valuable of the proposed new weapons is probably the least justifiable. The new big manned bomber which the Air Force wants will cost from $30 to $50 million and bring comfort to the aircraft factories along the Pacific Coast, but is probably obsolete before the first rivet is driven. The $1 billion nuclear submarine (the Triton) which the Navy wants, is probably the most valid of all the proposed new weapons. But it won't mean as many new jobs. And Connecticut, where the submarines are built, is probably hopelessly lost to the Republicans, but California, the home of the airplanes, is not.

The net of it all is that the taxpayer is bound to be gouged for some surplus weaponry. The Republicans are simply not going into the next election campaign naked in new weapons programs. We merely hope that for the sake of the taxpayer, the programs will be kept as small as possible.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

AIR FORCE SHOULD INSTITUTE PROCEEDINGS AGAINST GENERAL LAVELLE

Mr. PROXMIRE. Mr. President, I call on the Air Force to begin formal proceedings against Gen. John D. Lavelle under the Uniform Code of Military Justice, leading to his court-martial. The time has come to determine whether a civilian or military finger is on the trigger.

Here is a general who in the nuclear age ordered as many as 20 unauthorized raids on enemy targets. He did so at a time when delicate negotiations to end the war were going on.

He apparently falsified reports. He defied the orders of his superiors. He countermanded the rules laid down by the President of the United States. He deliberately violated the principles of civilian control over the military.

TAPPED ON THE WRIST

Instead of bringing immediate charges against him, ordering his arrest, and throwing him in the brig, he was tapped on the wrist by his superiors and fawned over by a number of hawkish Members of Congress.

If a private first class defied the orders of his military superiors he would be investigated, charged, court-martialed, given a bad conduct discharge, and confined for 2 years at hard labor. But the insubordination of General Lavelle was glossed over while the general was quietly retired on a $2,500 a month pension and the military tried to cover up the event.

If the Air Force does not bring General Lavelle to trial, any General who ever dreamed of riding a white horse might be ordering air strikes, surreptitious raids, and unauthorized forays in dozens of situations where the survival of civilization itself is at stake.

SERIOUS ACT MUST BE MET BY SERIOUS ACTION

The appropriate military officers must begin to treat this matter with the seriousness it deserves. It is an act virtually unprecedented in modern American military annals and, due to the terror of the nuclear age, must be answered by disciplinary action commensurate with the seriousness of the act itself.

Generals, as well as privates, must obey orders. Generals, as well as civilians, must obey the law and the Constitution. The credibility of the Air Force and the issue of civilian control of the military is at stake.

I call upon the Air Force itself to take proper action. Failing that, the President of the United States should act and act decisively to assert once more the primacy of the President's authority over that of a military officer.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, with an amendment:

S. 2871. A bill to protect marine mammals; to establish a Marine Mammal Commission, and for other purposes. (Rept. No. 92–863) (together with supplemental, minority, and additional views).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with an amendment:

S. 1682. A bill to amend title 5, United States Code, to establish and govern the

Federal Executive Service, and for other purposes (Rept. No. 92-864).

By Mr. ROBERT C. BYRD, from the Committee on Appropriations, with amendments:

H.R. 15097. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92-865).

By Mr. MONDALE, from the Committee on Labor and Public Welfare, without amendment:

S. 5. A bill to promote the public welfare (Rept. No. 92-866), together with minority views.

By Mr. BAYH, from the Committee on the Judiciary, with an amendment:

S. 3443. A bill to amend and extend the provisions of the Juvenile Delinquency Prevention and Control Act of 1968 (Rept. No. 92-867).

ORDER FOR STAR PRINT OF REPORT NO. 92-861

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a star print of Senate report No. 92-861, having to do with the bill H.R. 12202, to increase the contribution of the Federal Government to the costs of health benefits, and for other purposes, in order to correct certain misprints.

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

EXECUTIVE REPORTS OF COMMITTEES

Mr. STENNIS. Mr. President, as in executive sessions, from the Committee on Armed Services I report favorably two promotions to major general and five promotions to brigadier general in the Air Force Reserve; also three promotions to major general and five promotions to brigadier general, Reserve of the Air Force—Air National Guard.

I ask that these nominations be placed on the Executive Calendar.

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

The nominations, ordered to be placed on the Executive Calendar, are as follows:

Brig. Gen. John W. Hoff, and Brig. Gen. Robert B. Mantz, Air Force Reserve, for appointment in the Reserve of the Air Force, to be majors general;

Col. Vincent S. Haneman, Jr., Col. Gilbert O. Herman, Col. Edwin R. Johnston, Col. William J. Reals, and Col. Joseph M. F. Ryan, Jr., Air Force Reserve, for appointment in the Reserve of the Air Force, to be brigadiers general;

Brig. Gen. William C. Smith, Tennessee Air National Guard, Brig. Gen. Charles S. Thompson, Jr., Georgia Air National Guard, and Brig. Gen. Joseph D. Zink, New Jersey Air National Guard, for appointment as Reserve commissioned officers in the U.S. Air Force, to be majors general; and

Col. William J. Crisler, Mississippi Air National Guard, Col. Francis R. Gerard, New Jersey Air National Guard, Col. Malcolm E. Henry, Maryland Air National Guard, Col. Ralph E. Leader, Massachusetts Air National Guard, and Col. Paul D. Straw, Texas Air National Guard, for appointment as Reserve commissioned officers in the U.S. Air Force, to be brigadiers general.

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. SCHWEIKER:

S. 3708. A bill to amend the tariff and trade laws of the United States, and for other purposes. Referred to the Committee on Finance.

By Mr. TUNNEY:

S. 3709. A bill to amend title 11 of the Social Security Act to permit a State, under its section 218 agreement, to terminate social security coverage for State or local policemen or firemen without affecting the coverage of other public employees who may be members of the same coverage group (and to permit the reinstatement of coverage for such other employees in certain cases where the group's coverage has previously been terminated). Referred to the Committee on Finance.

By Mr. JORDAN of North Carolina:

S. 3710. A bill to provide that tobacco graders shall be retained in a pay status for 10 months in a calendar year, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. STEVENS:

S. 3711. A bill to exempt from the provisions of the Airport and Airways Revenue Act of 1970 helicopters which are not operated on an established line. Referred to the Committee on Finance.

By Mr. YOUNG:

S. 3712. A bill for the relief of Arthur O. Bilden. Referred to the Committee on Veterans' Affairs.

By Mr. BENTSEN:

S. 3713. A bill for the relief of Swiff-Train Co. Referred to the Committee on the Judiciary.

By Mr. RANDOLPH (for himself, Mr. DOLE, Mr. ALLEN, Mr. ANDERSON, Mr. BAYH, Mr. BEALL, Mr. BENNETT, Mr. BENTSEN, Mr. BIBLE, Mr. BOGGS, Mr. BROOKE, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. ROBERT C. BYRD, Mr. CANNON, Mr. CHILES, Mr. CHURCH, Mr. COOK, Mr. COOPER, Mr. COTTON, Mr. CRANSTON, Mr. CURTIS, Mr. DOMINICK, Mr. EAGLETON, Mr. FONG, Mr. GRAVEL, Mr. GRIFFIN, Mr. GURNEY, Mr. HANSEN, Mr. HARRIS, Mr. HART, Mr. HATFIELD, Mr. HARTKE, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. JORDAN of Idaho, Mr. JORDAN of North Carolina, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCGEE, Mr. MCINTYRE, Mr. METCALF, Mr. MILLER, Mr. MONDALE, Mr. MONTOYA, Mr. NELSON, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. PERCY, Mr. PROXMIRE, Mr. RIBICOFF, Mr. ROTH, Mr. SCHWEIKER, Mr. SCOTT, Mrs. SMITH, Mr. SPARKMAN, Mr. SPONG, Mr. STAFFORD, Mr. STENNIS, Mr. STEVENS, Mr. STEVENSON, Mr. SYMINGTON, Mr. TAFT, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. TUNNEY, Mr. WEICKER, and Mr. YOUNG):

S.J. Res. 245. A joint resolution authorizing the President to designate the calendar month of September 1972, as "National Voter Registration Month." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHWEIKER:

S. 3708. A bill to amend the tariff and trade laws of the United States, and for other purposes. Referred to the Committee on Finance.

FAIR INTERNATIONAL TRADE ACT OF 1972

Mr. SCHWEIKER. Mr. President, I introduce a bill to amend the tariff and trade laws of the United States, and for other purposes, and ask that it be appropriately referred.

This legislation is designed to modernize existing law regarding the regulation of the dumping of foreign merchandise in the U.S. market, to make our countervailing duty law more effective, to provide for more liberal tariff adjustment and adjustment assistance relief for business and labor, and to provide for private treble damage actions based on international price discrimination.

Dumping is basically a form of international price discrimination, under which sellers subsidize low-price sales in foreign markets with high-price sales at home. In other words, dumping is the sale of a foreign product in the United States at a price lower than the price prevailing for the same product in the exporting country. Such sales, if they are injurious to U.S. products, become subject to a dumping duty equivalent to the difference between the market price domestically and the lower export price to the United States, after various adjustments are made. The reason this country has felt it appropriate to impose an additional duty on such imports is to neutralize the subsidization of low price export sales by high profits received from sales in what is often a protected domestic market of the exporting country.

Under existing law, there are two requirements essential for a dumping finding:

First, a determination of sales at "less than fair value" must be made by the Treasury Department; and

Second, a determination of injury must be made by the Tariff Commission.

The Bureau of Customs initially determines whether the necessary price difference exists. This finding is then confirmed by the Secretary of the Treasury. I should point out that the Treasury Department has made changes in procedures and has made additional proposals within the last 2 months in order to improve the handling of antidumping cases. In addition, the Treasury Department has been more liberal in making dumping findings under the Nixon administration than had previously been the case.

After the Treasury finds dumping has occurred, the case is transferred to the Tariff Commission for an investigation to determine whether American industry is being injured. If such a finding is made, dumping duties are assessed against the product. Recent Tariff Commission decisions have established that anything more than de minimus or immaterial injury to the U.S. industry is sufficient.

The Antidumping Act was amended in 1954 to limit Tariff Commission consideration to 3 months. In 1958, it was further amended to provide that a tie vote by the Tariff Commission constituted an affirmative finding of injury.

Although antidumping procedures are

being streamlined, I believe legislative changes are in order at this time.

Furthermore, I believe it is appropriate to revise existing provisions of the Tariff Act of 1930, the Trade Expansion Act of 1962 and the Revenue Act of 1916 to accomplish an overall modernization of our laws against unfair competition.

Let me make it clear that this bill does not represent protectionist legislation. It is not an attempt to hinder or prevent legitimate foreign competition. International trade is a good thing, and I want to encourage it. However, we are seeing increasing efforts on the part of foreign governments to subsidize their domestic industries through a variety of mechanisms. Foreign governments are teaming up with industry to compete in our markets. Our firms are faced with competition, then, not only from their counterparts overseas, but also from other governments. This is improper, and unfair. This is what our laws were designed to deal with. Unfortunately, since these laws were enacted, circumstances have changed, and we now need legislative changes to keep up with the times.

Title I of the Fair International Trade Act of 1972, which amends the Antidumping Act of 1921, contains the following major provisions:

First, the time limit on a tentative LTFV determination by Treasury is set at six months. Currently, Treasury has no statutory or official administrative timetable for reaching such a decision, and at present time it takes the Department a year or longer to make such a determination. While the proposed amendment to the antidumping regulations contain a time limit, it would allow as much as 13 months for a tentative LTFV determination. Moreover, even if the proposed amendment is adopted, the timetable contained therein would not be binding on Treasury, but would be only a "general" limitation.

Second, all proceedings and determinations are made subject to the Administrative Procedure Act, and judicial review is made available to all parties.

Third, since injurious price discrimination by U.S. companies selling in our domestic market is a violation of our antitrust laws, my bill would bring the basic injury standard of the Antidumping Act of 1921 more in harmony with the laws that govern domestic business conducts by specifically incorporating the Clayton act's "line of commerce" and "section of the country" market concepts.

Fourth, the legislation would codify the present Tariff Commission standard with reference to the quantum of injury required. That is, Tariff Commission decisions have established that anything more than de minimus or immaterial injury to the U.S. industry is sufficient. The legislation would incorporate this standard into law.

Fifth, the bill would codify the present Tariff Commission causation standard that LTFV imports need only be more than a de minimus factor in bringing about injury to the U.S. industry.

Sixth, my legislation would adopt recent Tariff Commission decisions which suggest that injury can be found where there is a reasonable likelihood that LTFV sales will cause future injury.

Title II contains amendments to the Tariff Act of 1930 and includes the following major changes:

First, the present provisions of the Tariff Act of 1930, which provide for countervailing duties equal to the amount of any bounty or grant given in a foreign country to subsidize exports to the U.S. market, is not as effective as it ought to be because of often substantial delays in enforcement. My bill would amend the present law to require the Secretary of the Treasury to make a determination as to whether imported goods receive a bounty or grant within 12 months after the question is presented.

Second, while under present law countervailing duties car be imposed only with respect to dutiable imports, my bill would provide that countervailing duties would be applicable to subsidized duty-free imports if the Tariff Commission determined that such subsidized imports were injuring a domestic industry.

Third, the Secretary of the Treasury would have discretion to impose countervailing duties on articles subject to quotas or to voluntary agreements limiting exports to this country.

Fourth, as under title I, the Clayton Act's "any section of the country" and "any line of commerce" concepts would be applied in an effort to make foreign competitors subject to the same kind of laws domestic industries fall under in our marketplace.

Fifth, the size of the Tariff Commission would be increased from 6 to 7 and their terms increased from 6 to 7 years. The purpose of this provision is to decrease the likelihood of tie votes, and to enlarge and strengthen the Commission.

Title III of the Fair International Trade Act of 1972 contains amendments to the Trade Expansion Act of 1962:

First, these provisions would permit persons adversely affected by foreign restrictions or discrimination against U.S. exports to seek effective relief. The present Trade Expansion Act contains no provisions for an orderly and timely procedure for parties in the United States to obtain relief, although it does permit the President to take retaliatory measures against exports from nations that discriminate against U.S. exports. My bill provides for a complaint procedure similar to that utilized in antidumping, countervailing duty, and "escape clause" cases. Any interested party could request the Tariff Commission to investigate restrictions against U.S. exports. The Tariff Commission would then have 3 months to investigate, and within 3 months following an affirmative Commission finding, the President would be required to inform Congress of his actions with regard to the situation.

Second, this bill would remove some of the barriers to relief currently faced by U.S. industries, individual firms and groups of workers that have been injured by imports. At the present time "escape clause"—tariff adjustment—relief is available only when the Tariff Commission determines that as a result in major part of concessions granted under trade agreements, an article is being imported in such increased quantities as to "cause or threaten to cause" serious injury to a domestic industry. My bill would liberalize the causal connection that must be shown between the increase in imports and injury to the domestic industry, and would broaden the definition of increased imports. Although the bill would maintain the present limitation of escape clause action to imports which have been the subject of prior U.S. trade concessions, the bill would eliminate the necessity of proving a causal connection between the tariff concession itself and the increase in imports. In essence, these provisions provide for relief where the imports contribute substantially toward causing and threatening to cause serious injury to the domestic industry, whether or not such increased imports are the major factor or the primary factor causing the injury.

Third, the Tariff Commission's authority to determine the nature and extent of relief granted in "escape clause" cases would be increased. While under present law, Tariff Commission findings with respect to relief amount to little more than recommendations to the President, my bill would require the President to implement the specific tariff adjustments determined by the Tariff Commission, unless he determined that such action would not be in the national interest.

Fourth, more liberalized standards for obtaining adjustment assistance would be available for workers and individual firms. In addition, the level of adjustment assistance for workers would be increased from the present 65 percent of average weekly wages to 75 percent of such wages. This would help U.S. workers, who generally have very little control over their own fate in such situations, by providing them with three-fourths of their weekly wages.

Title IV of this legislation amends the Revenue Act of 1916 by providing for a practically available procedure for maintaining private treble-damage actions against international price discrimination in the form of dumping. Again, the purpose is to subject offshore competitors to essentially the same rules of business conduct that are applied to domestic companies in the U.S. marketplace.

I feel confident that because this bill is directed against unfair trade practices it will receive broad support on a bipartisan basis in Congress, and the support of both business and labor. This legislation does not attempt to build a protective wall around the United States. Rather, it is designed to promote fair international trade practices.

Mr. President, in further explanation of this legislation, I ask unanimous consent that the following items be reprinted in the RECORD at the conclusion of my remarks.

First, a title by title analysis of the Fair International Trade Act.

Second, a chart illustrating a comparison of the Antidumping Act of 1921 and the Fair International Trade Act.

Third, the full text of the bill itself.

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

S. 3708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Fair International Trade Act of 1972."

TITLE I—AMENDMENTS TO THE ANTIDUMPING ACT OF 1921

SEC. 101. Section 201 of the Antidumping Act of 1921 (19 U.S.C. 160) is amended to read as follows:

"DUMPING INVESTIGATION

"SEC. 201. (a) Whenever the Secretary of the Treasury (hereinafter called the "Secretary") determines that a class or kind of foreign merchandise is being or is likely to be sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission (hereinafter called the "Commission"). The Commission shall determine within three months after notification from the Secretary whether an industry in the United States is being, or is likely to be, injured in any line of commerce in any section of the country, or is prevented from being established in any line of commerce in any section of the country by reason of the importation of such merchandise into the United States from one or more foreign sources or countries. The Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in this Act called a "finding") of his determination and the determination of the Commission. For the purposes of this subsection, the Commission shall be deemed to have made an affirmative determination if the Commissioners voting are evenly divided as to whether its determination should be in the affirmative or in the negative. The Secretary's findings shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers.

"(b) In the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, he shall, within four months after the question of dumping was raised by or presented to him or any person to whom authority under this section has been delegated—

"(1) determine whether there is reason to believe or suspect, from the invoice or other papers or from information presented to him or to any other person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value); and

"(2) if his determination is affirmative, publish notice of that fact in the Federal Register, and require, under such regulations as he may prescribe, the withholding of appraisement as to such merchandise entered, or withdrawn from warehouse for consumption, on or after the date of publication of that notice in the Federal Register (unless the Secretary determines that the withholding should be made effective as of an earlier date in which case the effective date of the withholding shall be not more than one hundred twenty days before the question of dumping was raised by or presented to him or any person to whom authority under this section has been delegated), until the further order of the Secretary or until the Secretary has made public a finding as provided for in subsection (a) in regard to such merchandise; or

"(3) if his determination is negative, publish notice of that fact in the Federal Register, but the Secretary may within three months thereafter order the withholding of appraisement if he then has reason to believe or suspect, from the invoice or other papers or from information presented to him or to any other person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value) and such order of withholding of appraisement shall be subject to the provisions of paragraph (2).

"For purposes of this subsection, the question of dumping shall be deemed to have been raised or presented on the date on which a notice is published in the Federal Register that information relating to dumping has been received in accordance with regulations prescribed by the Secretary, or on the date sixty days after receipt of such information by the Secretary, whichever date occurs earlier."

SEC. 102. Section 201 of the Antidumping Act of 1921 (19 U.S.C. 160) is further amended by adding after subsection (c) of section 201 the following new subsections:

"(d) Injury to a domestic industry shall be established, and the Commission shall make an affirmative determination, when the Commission finds that the sale of foreign merchandse determined to have been sold at less than its fair value has caused more than de minimus or immaterial injury in any line of commerce in any section of the country.

"(e) The Commission shall render an affirmative determination of likelihood of injury when it finds a reasonable likelihood that injury cognizable under subsection (d) of this section will tend to occur by reason of sales of the class or kind of foreign merchandise involved at less than its fair value.

"(f) The Secretary shall consolidate in a single dumping investigation all complaints received as of the institution of such investigation and when instituted on his own initiative all information available to him at that time from the invoice or other papers regarding the same class or kind of merchandise regardless of the number of importers, exporters, foreign manufacturers, and countries involved."

SEC. 103. Section 205 of the Antidumping Act of 1921 (19 U.S.C. 164), is amended by inserting "(a)" immediately after "SEC. 205.," and by adding at the end thereof the following new subsection:

"(b) If available information indicates to the Secetary that the economy of the country from which the merchandise is exported is state-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under subsection (a), the Secretary shall determine the foreign market value of the merchandise on the basis of the normal costs, expenses, and profits as reflected by either—

"(1) the prices at which such or similar merchandise of a non-state-controlled-economy country is sold either (A) for consumption in the home market of that country, or (B) to other countries, including the United States; or

"(2) the constructed value of such or similar merchandise in a non-state-controlled-economy country as determined under section 206 of this Act."

SEC. 104. Section 210 of the Antidumping Act of 1921 (19 U.S.C. 169), is amended to read as follows:

"JUDICIAL REVIEW

"SEC. 210. (a) All Treasury and Commission proceedings under the Act shall be in accordance with subchapter II of chapter 5 of Title 5 of the United States Code. All final determinations issued by the Secretary or the Commission shall be made on the records made in the Secretary's investigation and Commission investigation.

"(b) Any interested party shall be entitled to seek in the United States Court of Customs and Patent Appeals judicial review of questions of law relating to any final determinations of the Secretary or the Commission under this Act, within thirty days after its publication in the Federal Register."

(e) The amendments of the Antidumping Act of 1921, as amended, provided for herein shall apply to all investigations instigated by the Secretary on or after the expiration of one hundred eighty days from the date of enactment of this Act and to all Commission investigations resulting therefrom.

TITLE II—AMENDMENTS TO THE TARIFF ACT OF 1930

Chapter 1—COUNTERVAILING DUTIES

SEC. 201. Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) is amended to read as follows:

"SEC. 303. COUNTERVAILING DUTIES.

"(a) LEVY OF COUNTERVAILING DUTIES.—(1) Whenever any country, dependency, colony, province, or other political subdivision of government, or any private person, partnership, association, cartel, or corporation, shall pay or bestow directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however, the same be paid or bestowed. The Secretary of the Treasury shall conduct an investigation and shall determine, within twelve months after the date on which the question is presented to him, whether any bounty or grant is being paid or bestowed.

"(2) In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there is an affirmative determination by the Tariff Commission under subsection (b)(1).

"(3) The Secretary of the Treasury shall from time to time ascertain and determine or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated.

"(4) The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of the duties under this section. All determinations by the Secretary under this subsection and all determinations by the Tariff Commission under subsection (b)(1), whether affirmative or negative, shall be published in the Federal Register.

"(b) INJURY DETERMINATIONS WITH RESPECT TO DUTY-FREE MERCHANDISE; SUSPENSION OF LIQUIDATION.—(1) Whenever the Secretary of the Treasury has determined under subsection (a) that a bounty or grant is being paid or bestowed with respect to any article or merchandise which is free of duty, he shall—

"(A) so advise the United States Tariff Commission, and the Commission shall determine within three months thereafter, and after such investigation as it deems necessary, whether an industry in the United States is being or is likely to be injured in any line of commerce in any section of the country, or is prevented from being established in any line of commerce in any section of the country, by reason of the importation of such article or merchandise into the United States; and the Commission shall

notify the Secretary of its determination; and

"(B) require, under such regulations as he may prescribe, the suspension of liquidation as to such article or merchandise entered, or withdrawn from warehouse, for consumption, on or after the thirtieth day after the date of the publication in the Federal Register of his determination under subsection (a)(1), and such suspension of liquidation shall continue until the further order of the Secretary or until he has made public an order as provided for in paragraph (2) of this subsection.

"(2) For the purposes of subparagraph (A) injury to a domestic industry shall be established, and the Commission shall make an affirmative determination, when it finds that the sale of foreign merchandise determined to have been sold at less than its fair value has caused more than de minimus or immaterial injury in any line of commerce in any section of the country.

"(3) For the purpose of subparagraph (A) the Commission shall render an affirmative determination of likelihood of injury when it finds a reasonable likelihood that injury cognizable under subsection (2) of this section will tend to occur by reason of sales of the class or kind of foreign merchandise involved at less than its fair value.

"(4) If the determination of the Tariff Commission under subparagraph (A) is in the affirmative, the Secretary shall make public an order directing the assessment and collection of duties in the amount of such bounty or grant as is from time to time ascertained and determined, or estimated, under subsection (a).

"(c) APPLICATION OF AFFIRMATIVE DETERMINATION.—An affirmative determination by the Secretary of the Treasury under subsection (a)(1) with respect to any imported article or merchandise which (1) is dutiable, or (2) is free of duty but with respect to which the Tariff Commission has made an affirmative determination under subsection (b)(1), shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the thirtieth day after the date of the publication in the Federal Register of such determination by the Secretary.

"(d) SPECIAL RULE FOR ANY ARTICLE SUBJECT TO A QUANTITATIVE LIMITATION.—No duty shall be imposed under this section with respect to any article which is subject to a quantitative limitation imposed by the United States on its importation, or subject to a quantitative limitation on its exportation to or importation into the United States imposed under an agreement to which the United States is a party, unless the Secretary of the Treasury determines, after seeking information and advice from such agencies as he may deem appropriate, that such quantitative limitation is not an adequate substitute for the imposition of a duty under this section.

"(e) JUDICIAL REVIEW.—(1) All Treasury and Commission proceedings under this section shall be in accordance with subchapter II of Chapter 5 of Title 5 of the United States Code. All final determinations issued by the Secretary or the Commission shall be made on the records made in the Secretary's investigation and Commission investigation.

"(2) Any interested party shall be entitled to seek in the United States Court of Customs and Patent Appeals judicial review of questions of law relating to any final determination of the Secretary or the Commission under this Act, within thirty days after its publication in the Federal Register."

SEC. 202. (a) Except as provided in paragraph (b), the amendments made by section 201 shall take effect on the date of the enactment of this Act.

(b) The last sentence of section 303(a)(1) of the Tariff Act of 1930 (as added by section 201 of this Act) shall apply only with respect to questions presented on or after the date of the enactment of this Act.

Chapter 2—TARIFF COMMISSION

SEC. 211. (a) The first sentence of section 330(a) of the Tariff Act of 1930 (19 U.S.C. 1330) is amended to read as follows: "The United States Tariff Commission (referred to in this Act as the 'Commission') shall be composed of seven Commissioners appointed by the President by and with the advice and consent of the Senate."

(b) The third sentence of such section is amended by striking out "three" and inserting in lieu thereof "four."

SEC. 212. Section 330(b) of the Tariff Act of 1930 (19 U.S.C. 1330) is amended to read as follows:

"(b) TERMS OF OFFICE.—Terms of office of the Commissioners which begin after the date of the enactment of this statute shall be for seven years; except that the first term of office for the seventh Commissioner shall expire on June 16, 1979. The term of office of a successor to any Commissioner appointed to a term of office beginning after the date of the enactment of this statute shall (except as provided in the preceding sentence) expire seven years from the date of the expiration of the term for which his predecessor was appointed. Any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

SEC. 213. Section 330(a) of such Act is repealed.

TITLE III—AMENDMENTS TO THE TRADE EXPANSION ACT OF 1962

Chapter 1—FOREIGN IMPORT RESTRICTIONS AND DISCRIMINATORY ACTS

SEC. 301. Section 242(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(b)) is amended by striking out subsection (b)(3) and redesignating subsection (b)(4) as subsection "(b)(3)."

SEC. 302. Section 252(d) of the Trade Expansion Act of 1962 (19 U.S.C. 1882(d)) is amended to read as follows:

"(d) (1) Upon request of any interested party, the Tariff Commission shall immediately make an investigation to determine whether any specified restriction established or maintained by, or act engaged in by a foreign country or instrumentality constitutes—

"(A) a foreign import restriction referred to in subsection (a),

"(B) a nontariff trade restriction, or discriminatory or other act referred to in subsection (b), or

"(C) an unreasonable import restriction referred to in subsection (c).

"(2) Within three months after the submission of a request under paragraph (1), the Tariff Commission shall publish in the Federal Register the results of the investigation made pursuant to such request, together with its findings with respect thereto. In any case in which the Commission makes an affirmative determination of a restriction, or act referred to in subsection (a), (b), or (c) such finding shall be immediately reported to the President. Within three months after receipt of such report, the President shall report to the Congress the action taken by him under subsection (a), (b), or (c) with respect to such restriction, act, or subsidy."

SEC. 303. The heading of such section is amended to read as follows:

"SEC. 252. FOREIGN IMPORT RESTRICTIONS AND DISCRIMINATORY ACTS."

Chapter 2—TARIFF ADJUSTMENT AND ADJUSTMENT ASSISTANCE

PETITIONS AND DETERMINATIONS

SEC. 311. (a) Section 301 of the Trade Expansion Act of 1962 (19 U.S.C. 1901) is amended to read as follows:

"(a)(1) A petition for tariff adjustment under section 351 may be filed with the Tariff Commission by a trade association, firm, certified or recognized union, or other representative of an industry.

"(2) A petition for a determination of eligibility to apply for adjustment assistance under chapter 2 may be filed with the President by a firm or its representative, and a petition for a determination of eligibility to apply for adjustment assistance under chapter 3 may be filed with the President by a group of workers or by their certified or recognized union or other duly authorized representative.

"(b)(1) Upon the request of the President, upon resolution of either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, upon its own motion, or upon the filing of a petition under subsection (a)(1), the Tariff Commission shall promptly make an investigation to determine whether an article that has been the subject of concessions under trade agreements is being imported into the United States in such increased quantities, either actual or relative, as to contribute substantially (whether or not such increased imports are the major factor or the primary factor) toward causing or threatening to cause serious injury to the domestic industry producing articles like or directly competitive with the imported article.

"(2) For the purpose of this section, the duty free "binding" of any article shall be considered a trade concession under trade agreement.

"(3) In arriving at a determination under paragraph (1), the Tariff Commission, without excluding other factors, shall take into consideration a downward trend of production, prices, profits, or wages in the domestic industry concerned, a decline in sales, an increase in unemployment or underemployment, loss of fringe benefits, stagnant wages, an increase in imports, either actual or relative to domestic production, a higher or growing inventory, and a decline in the proportion of the domestic market supplied by domestic producers.

"(4) For purposes of paragraph (1), the term "domestic industry producing articles like or directly competitive with the imported article" means that portion or subdivision of the producing organizations manufacturing, assembling, processing, extracting, growing, or otherwise producing like or directly competitive articles in commercial quantities. In applying the preceding sentence, the Tariff Commission shall (so far as practicable) distinguish or separate the operations of the producing organizations involving the like or directly competitive articles referred to in such sentence from the operations of such organizations involving other articles.

"(5) If a majority of the Commissioners present and voting make an affirmative injury determination under paragraph (1), the Commissioners voting for such affirmative injury determination shall also determine the amount of the increase in, or imposition of, any duty or other import restriction on such article which is necessary to prevent or remedy such injury. No import restriction shall be determined which exceeds the limitations set forth in section 351(b) of the Act. For purposes of this title, a remedy determination by a majority of the Commissioners voting for the affirmative injury determination shall be treated as the remedy determination of the Tariff Commission.

"(6) In the course of any proceeding initiated under paragraph (1), the Tariff Commission shall investigate any factors which in its judgment may be contributing to increased imports of the article under investigation; and, whenever in the course of its investigation the Tariff Commission has reason to believe that the increased imports are attributable in part to circumstances which

come within the purview of the Antidumping Act, 1921, section 303 or 337 of the Tariff Act of 1930, section 801 of the Revenue Act, 1916, or other remedial provisions of law, the Tariff Commission shall promptly notify the appropriate agency and take such other action as it deems appropriate in connection therewith.

"(7) In the course of any proceeding initiated under paragraph (1), the Tariff Commission shall, after reasonable notice, hold public hearings and shall afford interested parties opportunity to be present, to present evidence, and to be heard at such hearings.

"(8) The Tariff Commission shall report to the President the determinations and other results of each investigation under this subsection, including any dissenting or separate views, and any action taken under paragraph (6).

"(9) The report of the Tariff Commission of its determination under this subsection shall be made at the earliest practicable time, but not later than six months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be). Upon making such report to the President, the Tariff Commission shall promptly make public such report, and shall cause a summary thereof to be published in the Federal Register.

"(10) No investigation for the purposes of this subsection shall be made, upon petition filed under subsection (a) (1), with respect to the same subject matter as a previous investigation under this subsection, unless one year has elapsed since the Tariff Commission made its report to the President of the results of such previous investigation.

"(c) (1) In the case of a petition by a firm for a determination of eligibility to apply for adjustment assistance under chapter 2, the President shall determine whether an article that has been the subject of concessions under trade agreements like or directly competitive with an article produced by the firm, or an appropriate subdivision thereof, is being imported into the United States in such increased quantities, either actual or relative, as to contribute substantially (whether or not such increased imports are the major factor or the primary factor) toward causing or threatening to cause serious injury to such firm or subdivision. In making such determination the President shall take into account all economic factors which he considers relevant, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment, loss of fringe benefits, and decreased or stagnant wages.

"(2) In the case of a petition by a group of workers for a determination of eligibility to apply for adjustment assistance under chapter 3, the President shall determine whether an article that has been the subject of concessions under trade agreements, like or directly competitive with an article produced by such workers' firm, or an appropriate subdivision thereof, is being imported into the United States in such increased quantities, either actual or relative, as to contribute substantially (whether or not such increased imports are the major factor or the primary factor) toward causing or threatening to cause unemployment or underemployment of a significant number or proportion of the workers of such firm or subdivision.

"(3) In order to assist him in making the determinations referred to in paragraphs (1) and (2) with respect to a firm or group of workers, the President shall promptly transmit to the Tariff Commission a copy of each petition filed under subsection (a) (2) and, not later than five days after the date on which the petition is filed, shall request the Tariff Commission to conduct an investigation relating to questions of fact relevant to such determinations and to make a report of the facts disclosed by such investigation. In his request, the President may specify the particular kinds of data which he deems appropriate. Upon receipt of the President's request, the Tariff Commission shall promptly institute the investigation and promptly publish notice thereof in the Federal Register.

"(4) In the course of any investigation under paragraph (3), the Tariff Commission shall, after reasonable notice, hold a public hearing, if such hearing is requested (not later than ten days after the date of the publication of its notice under paragraph (3)) by the petitioner or any other interested person, and shall afford interested persons an opportunity to be present, to produce evidence, and to be heard at such hearing

"(5) The report of the Tariff Commission of the facts disclosed by its investigation under paragraph (3) with respect to a firm or group of workers shall be made at the earliest practicable time, but not later than sixty days after the date on which it receives the request of the President under paragraph (3).

"(d) (1) All Tariff Commission proceedings under this section and section 351 of the Act shall be in accordance with subchapter II of chapter 5 of Title 5 of the United States Code. Any final determinations in such proceedings shall be on the records made in the Commission investigation.

"(2) Any interested party shall be entitled to seek in the United States Court of Customs and Patent Appeals judicial review of questions of law relating to any final determinations of the Commission under this section and section 351 of the Act, within thirty days after its publication in the Federal Register."

(b) (1) For purposes of section 301(b) (1) of the Trade Expansion Act of 1962, reports made by the Tariff Commission during the one-year period ending on the date of the enactment of this Act shall be treated as having been made before the beginning of such period.

(2) Any investigation by the Tariff Commission under subsection (b) or (c) of section 301 of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) which is in progress immediately before such date of enactment shall be continued under such subsection (b) or (c) (as amended by subsection (a) of this section) in the same manner as if the investigation had been instituted originally under the provisions of such subsection (b) or (c) (as so amended). For purposes of section 301(b)(9) or (c)(5) of the Trade Expansion Act of 1962 (as added by subsection (a) of this section) the petition for any investigation to which the preceding sentence applies shall be treated as having been filed, or the request or resolution as having been received or the motion having been adopted, as the case may be, on the date of the enactment of this Act.

(3) If, on the date of the enactment of this Act, the President has not taken any action with respect to any report of the Tariff Commission containing an affirmative determination resulting from an investigation undertaken by it pursuant to section 301(c)(1) or (2) of the Trade Expansion Act of 1962 (as in effect before the date of the enactment of this Act) such report shall be treated by the President as a report received by him under section 301(c)(5) of the Trade Expansion Act of 1962 (as added by subsection (a) of this section) on the date of the enactment of this Act.

SEC. 312. PRESIDENTIAL ACTION WITH RESPECT TO ADJUSTMENT ASSISTANCE.

(a) Section 302(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1902(a)) is amended to read as follows:

"(a)(1) If after receiving a report from the Tariff Commission containing an affirmative injury determination under section 301(b) with respect to any industry, the President provides tariff adjustment for such industry pursuant to section 351 or 352, he may

"(A) provide, with respect to such industry, that its firms may request the Secretary of Commerce for certifications of eligibility to apply for adjustment assistance under chapter 2,

"(B) provide, with respect to such industry, that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance under chapter 3, or

"(C) provide that both firms and workers may request such certifications.

"(2) If after receiving a report from the Tariff Commission containing an affirmative injury determination under section 301(b) with respect to any industry the President does not provide tariff adjustment for such industry pursuant to section 351 or 352, he shall promptly provide that both firms and workers of such industry may request certifications of eligibility to apply for adjustment assistance under chapters 2 and 3.

"(3) Notice shall be published in the Federal Register of each action taken by the President under this subsection in providing that firms or workers may request certifications of eligibility to apply for adjustment assistance. Any request for such a certification must be made to the Secretary concerned within the one-year period (or such longer period as may be specified by the President) after the date on which such notice is published."

(b) Section 302(b) of such Act is amended—

(1) by striking out "subsection (a)(2)," in subparagraph (1) and inserting in lieu thereof "subsection (a),";

(2) by striking out "subsection (a)(3)," in paragraph (2) and inserting in lieu thereof "subsection (a),"; and

(3) by adding at the end of paragraph (2) thereof the following new sentence: "A certification under this paragraph shall apply only with respect to individuals who are, or who have been employed regularly in the firm involved within one year before the date of the institution of the Tariff Commission investigation under section 307(b) relating to the industry with respect to which the President has acted under subsection (a),"

(c) Section 302(c) of such Act is amended to read as follows:

"(c)(1) After receiving a report of the Tariff Commission of the facts disclosed by its investigation under section 301(c)(3) with respect to any firm or group of workers, the President shall make his determination under section 301 (c)(1) or (c)(2) at the earliest practicable time, but not later than thirty days after the date on which he receives the Tariff Commission's report, unless, within such period, the President requests additional factual information from the Tariff Commission. In this event, the Tariff Commission shall, not later than twenty-five days after the date on which it receives the President's request, furnish such additional factual information in a supplemental report, and the President shall make his determination not later than fifteen days after the date on which he receives such supplemental report.

"(2) The President shall promptly publish in the Federal Register a summary of each determination under section 301(c) with respect to any firm or group of workers.

"(3) If the President makes an affirmative determination under section 301(c) with respect to any firm or group of workers, he shall promptly certify that such firm or group of workers is eligible to apply for adjustment assistance.

"(4) The President is authorized to exercise any of his functions with respect to determinations and certifications of eligibility of firms or workers to apply for adjustment assistance under section 301 and this section through such agency or other instrumentality of the United States Government as he may direct."

(d) The heading of such section 302 is amended to read as follows:

"SEC. 302. PRESIDENTIAL ACTION WITH RESPECT TO ADJUSTMENT ASSISTANCE."

SEC. 313. TARIFF ADJUSTMENT

(a) Paragraphs (1) and (2) of section 351(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1981 (a)) are amended to read as follows:

"(1) After receiving an affirmative injury determination of the Tariff Commission under paragraph (1) of section 301(b), the President shall proclaim the increase in, or imposition of, any duty or other import restriction on the article concerned determined and reported by the Tariff Commission pursuant to paragraph (4) of section 301(b), unless he determines that such action would not be in the national interest.

"(2) If the President does not, within sixty days after the date on which he receives an affirmative injury determination, proclaim the increase in, or imposition of, any duty or other import restriction on such article determined and reported by the Tariff Commission pursuant to section 301(b), or if he proclaims a modified increase or imposition—

"(A) he shall immediately submit a report to the House of Representatives and to the Senate stating why he has not proclaimed, or why he has modified, such increase or imposition, and

"(B) such increase or imposition shall take effect (as provided in paragraph (3)) upon the adoption by both Houses of Congress (within the sixty-day period following the date on which the report referred to in subparagraph (A) is submitted to the House of Representatives and the Senate), by the yeas and nays by the affirmative vote of a majority of the authorized membership of each House, of a concurrent resolution stating in effect that the Senate and House of Representatives approve the increase in, or imposition of, any duty or other import restriction on the article determined and reported by the Tariff Commission pursuant to section 301(b).

Nothing in subparagraph (A) shall require the President to state considerations of national interest on which his decision was based. For purposes of subparagraph (B), in the computation of the sixty-day period there shall be excluded the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The report referred to in subparagraph (A) shall be delivered to both Houses of the Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House of Representatives is not in session and to the Secretary of the Senate if the Senate is not in session."

(b) Paragraph (3) of such section 351(a) is amended by striking out "found and reported by the Tariff Commission pursuant to section 301(e)." and inserting in lieu thereof "determined and reported by the Tariff Commission pursuant to section 301(b)."

(c) Paragraph (4) of such section 351(a) is amended by striking out "affirmative finding" each place it appears and inserting in lieu thereof "affirmative injury determination."

(d) Section 351(c) of such Act is amended to read as follows:

"(c)(1) Any increase in, or imposition of, any duty or other import restriction proclaimed pursuant to this section or section 7 of the Trade Agreements Extension Act of 1951—

"(A) may be reduced or terminated by the President only after a determination by the Tariff Commission under subsection (d)(2) of this section that the probable economic effect of such reduction or termination will be inconsequential, and his determination, after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such reduction or termination is in the national interest.

"(2) Any increase in, or imposition of, any duty or other import restriction proclaimed pursuant to this section or pursuant to section 7 of the Trade Agreements Extension Act of 1951 shall be modified (not to exceed the limitations set forth in subsection (b)) and extended in whole or in part by the President for such periods (not in excess of four years at any one time) as shall be determined by the Tariff Commission under subsection (d)(3) of this section, unless, after seeking advice of the Secretary of Commerce and the Secretary of Labor, he determines that such extension is not in the national interest.

(e) Section 351(d) of such Act is amended to read as follows:

"(d)(1) So long as any increase in, or imposition of, any duty or other import restriction pursuant to this section or pursuant to section 7 of the Trade Agreements Extension Act of 1951 remains in effect, the Tariff Commission shall keep under review developments with respect to the industry concerned, including the specific steps taken by the firms in the industry to enable them to compete more effectively with imports, and shall make annual reports to the President concerning such developments.

"(2) Upon request of the President or upon its own motion, the Tariff Commission shall determine, in the light of specific steps taken by the firms in such industry to enable them to compete more effectively with imports and all other relevant factors, as to the probable economic effect on the industry concerned, and (to the extent practicable) on the firms and workers therein of the reduction or termination of the increase in, or imposition of, any duty or other import restriction pursuant to this section or section 7 of the Trade Agreements Extension Act of 1951, and shall so advise the President.

"(3) Upon petition on behalf of the industry concerned, filed with the Tariff Commission not earlier than the date which is one year, and not later than the date which is nine months, before the date any increase or imposition referred to in paragraph (1) or (2) of subsection (c) is to terminate by reason of the expiration of the applicable period prescribed in paragraph (1) or an extension thereof under paragraph (2), the Tariff Commission shall determine the probable economic effect on such industry of such termination and shall report its determination to the President. The report of the Tariff Commission on any investigation initiated under this paragraph shall be made not later than the ninetieth day before the expiration date referred to in the preceding sentence.

"(4) In advising the President under this subsection as to its determination of the probable economic effect on the industry concerned, the Tariff Commission shall take into account all economic factors which it considers relevant, including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment.

"(5) Determinations of the Tariff Commission under this subsection shall be reached on the basis of an investigation during the course of which the Tariff Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard."

SEC. 314. ORDERLY MARKETING AGREEMENTS.

Section 352(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1982(a)) is amended to read as follows:

"(a) If the President has received an affirmative injury determination of the Tariff Commission under section 301(b) with respect to an industry, he may at any time negotiate international agreements with foreign countries limiting the export from such countries and the import into the United States of the article causing or threatening to cause serious injury to such industry whenever he determines that such action would be appropriate to prevent or remedy serious injury to such industry. Any agreement concluded under this subsection may replace in whole or in part any action taken pursuant to the authority contained in paragraph (1) of section 351(a); but any agreement concluded under this subsection before the close of the period during which a concurrent resolution may be adopted under paragraph (2) of section 351(a) shall terminate not later than the effective date of any proclamation issued by the President pursuant to paragraph (3) of section 351(a)."

SEC. 315. INCREASED ASSISTANCE FOR WORKERS.

(a) Section 323(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1942(a)) is amended by striking out "an amount equal to 65 percent of his average weekly wage or to 65 percent of the average weekly manufacturing wage," and inserting in lieu thereof "an amount equal to 75 percent of his average weekly wage or to 75 percent of the average weekly manufacturing wage,".

(b) The second sentence of section 326(a) of such Act is amended to read as follows: "To this end, and subject to this chapter, adversely affected workers shall be afforded, where appropriate, the testing, counseling, training, and placement services and supportive and other services provided for under any Federal law."

(c) The amendment made by subsection (a) shall apply with respect to assistance under chapter 3 of the Trade Expansion Act of 1962 for weeks of unemployment beginning on or after the date of the enactment of this Act.

SEC. 316. CONFORMING AMENDMENTS.

(a) Section 242(b)(2) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(b)(2)) is amended by striking out "section 301(e)" and inserting in lieu thereof "section 301(b)".

(b) Section 302(b)(1) of such Act (19 U.S.C. 1962 (b)) (as amended by section 112(b) of this Act) is further amended by striking out "(which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused serious injury or threat thereof to such firm" and inserting in lieu thereof "have contributed substantially toward causing or threatening to cause serious injury to such firm".

(c) Section 302(b)(2) of such Act (as amended by section 112(b) of this Act) is further amended by striking out "(which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to cause unemployment or underemployment" and inserting in lieu thereof "have contributed substantially toward causing or threatening to cause unemployment or underemployment".

(d) Section 311(b)(2) of such Act is amended by striking out "by actions taken in carrying out trade agreements, and" and by inserting in lieu thereof "by the increased imports identified by the Tariff Commission under section 301(b)(1) or by the President under section 301(c)(1), as the case may be, and".

(e) Section 317(a)(2) of such Act is

amended by striking out "by the increased imports which the Tariff Commission has determined to result from concessions granted under trade agreements" and inserting in lieu thereof "by the increased imports identified by the Tariff Commission under section 301(b)(1) or by the President under section 301(c)(1), as the case may be".

TITLE IV—AMENDMENTS TO THE REVENUE ACT OF 1916

SEC. 401. (a) Section 801 of the Act of September 8, 1916, entitled "An Act to raise revenue, and for other purposes," 15 U.S.C. 72 (hereinafter referred to as the "Revenue Act, 1916"), is amended to read as follows:

"(a) No person selling, exporting or importing any articles from any foreign country into the United States shall knowingly sell, export or import within the United States at a price less than the actual market value or wholesale price of such articles, at the time of their importation into the United States, in the principal markets of the country of their production, or of other foreign countries to which they are commonly exported, after adding to such market value or wholesale price, freight, duty, and other charges and expenses necessarily incident to the importation and sale thereof in the United States where the effect of the sale of such articles at such price is or is likely to cause injury to an industry in the United States in any line of commerce in any section of the country or to substantially lessen competition or tend to create a monopoly in any line of commerce in any section of the country or to injure, destroy, or prevent competition with any person. For purposes of this provision any person in the United States who imports an article from a foreign country shall be conclusively presumed to know the actual market value or wholesale price of such article in the principal markets of the country of its production or other foreign countries to which it is commonly exported unless such person has no direct or indirect corporate affiliation with the foreign seller or producer of such article.

"(b) An affirmative determination by the Secretary of the Treasury under section 201 (b) of the Antidumping Act, 1921 (19 U.S.C. 160(b)) with regard to any article shall constitute prima facie evidence of the sale of such article at less than its actual market value or wholesale price for purposes of subsection (a) of this section.

"(c) A determination of injury to any industry in the United States by the Tariff Commission under section 201(a) of the Antidumping Act, 1921 (19 U.S.C. 160(a)) shall constitute prima facie evidence of injury to an industry in the United States for purposes of subsection (a) of this section."

(b) The second paragraph of such section is amended by inserting in the subsection designation "(d)" before such paragraph, by inserting "willfully" before the word "violates", and by striking out "$5,000" in such paragraph and inserting in lieu thereof "$50,000".

(c) The third paragraph of such section is deleted and the section is further amended to read:

"(e) Whenever it shall appear to the court before which any proceeding under this Act may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not, and subpenas to that end may be served in any district by the marshal thereof.

"(f) If a defendant, in any civil proceeding brought under this section in any court of the United States, fails to comply with any discovery order, or other order or decree, of such court, the court shall have power to enjoin the further importation into the United States, or distribution in interstate commerce within the United States, by such defendant of articles which are the same as, or similar to, those articles which are alleged in such proceeding to have been sold or imported in violation of the provisions of subsection (a) of this section, until such time as the defendant complies with such order or decree.

"(g) This section shall be held and considered to be an antitrust law of the United States, and any law of the United States which is applicable to the enforcement of the antitrust laws shall be applicable to the enforcement of this section, except to the extent that any provision of this section is inconsistent with such application."

(d) The last paragraph of such section is amended by inserting the subsection designation "(h)" before such paragraph.

TITLE-BY-TITLE ANALYSIS OF "THE FAIR INTERNATIONAL TRADE ACT OF 1972"

I. AMENDMENTS TO THE ANTIDUMPING ACT OF 1921

Title I of the "Fair International Trade Act of 1972" would amend the Antidumping Act of 1921 to provide faster and more practical relief against dumping. Dumping is essentially a form of international price discrimination, under which sellers subsidize low-price sales in foreign markets with higher-price sales at home. The Antidumping Act of 1921 is intended to protect U.S. industries from injury caused by foreign companies dumping in the U.S. market.

Injurious price discrimination by U.S. companies selling in the U.S. market is a violation of our antitrust laws. Title I of the "Fair International Trade Act of 1972" would bring the basic injury standard of the Antidumping Act of 1921 more in harmony with the laws that govern domestic business conduct by specifically incorporating the Clayton Act's "line of commerce" and "section of the country" market concepts.

A major problem that U.S. companies have encountered over the years in attempting to secure antidumping relief is inconsistency in Tariff Commission interpretations of the Antidumping Act's injury requirement.

Title I would add new subsections (d) and (e) to section 201, to codify the Tariff Commission's more recent and realistic interpretations of the injury requirement. It would also add a new subsection (f), which would direct that related antidumping investigations be consolidated, so that, where appropriate, the Tariff Commission would have before it evidence of the cumulative effect of dumping from different foreign sources.

Title I also addresses itself to one of the most frustrating aspects of the Antidumping Act from the standpoint of injured U.S. companies—delayed enforcement. Thus, Title I would require the Secretary of the Treasury to determine within four months after initiating an antidumping investigation whether there was reason to suspect dumping and, if so, to issue a notice of withholding of appraisement. The Secretary would also be required to initiate a formal investigation within 60 days after receiving a complaint unless his summary investigation indicated the complaint was clearly not meritorious.

Title I also would make the Antidumping Act practically as well as theoretically applicable to dumping by sellers from controlled economy countries, as to whom normal cost-price comparisons cannot be made.

Finally, Title I would amend the Antidumping Act of 1921 to make available to all parties the procedural protections of the Administrative Procedure Act, and to make decisions by the Secretary of the Treasury and the Tariff Commission subject to judicial review on the petition of any interested party. Under present law, aggrieved importers and foreign sellers, but not U.S. industries, have standing to seek review.

II. AMENDMENTS TO THE TARIFF ACT OF 1930

Countervailing Duties. Chapter 1 of Title II of the "Fair International Trade Act of 1972" would amend section 303 of the Tariff Act of 1930, which provides for the imposition of countervailing duties equal to the amount of any bounty or grant given in a foreign country to subsidize exports to the U.S. market. As in the case of the present antidumping statute, the effectiveness of official action with respect to countervailing duties is often weakened as a result of substantial delays in enforcement. Chapter 1 of Title II would amend the present countervailing duty law to require the Secretary of the Treasury to make a determination as to whether imported foreign articles receive a "bounty or grant" within twelve months after the question is presented.

Chapter 1 of Title II would also make other changes. Under present law, countervailing duties can be imposed only with respect to "dutiable" imports. Chapter 1 would amend the law to provide that countervailing duties would be applicable to subsidized duty-free imports if the Tariff Commission determined that such subsidized imports were injuring a domestic industry. Chapter 1 would also clarify that subsidies by private companies or industries are encompassed by the statute.

Chapter 1 of Title II would also amend the countervailing duty provisions to grant the Secretary of the Treasury discretion with respect to the imposition of countervailing duties on articles subject to quotas or to an agreement limiting exports to the United States.

Finally, Chapter 1 of Title II would, like Title I, attempt to harmonize our foreign trade laws with domestic antitrust law by specifically introducing in appropriate contexts the Clayton Act's "any section of the country" and "any line of commerce" concepts. It would also harmonize the corresponding injury standards of the Antidumping Act and the countervailing duty law, as amended, and would make available procedural protections and judicial review.

Tariff Commission. Chapter 2 of Title II would amend the Tariff Act of 1930 to increase the number of Commissioners from six to seven and to increase their terms from six to seven years. The principal purpose would be to decrease the likelihood of tie votes and, at the same time, to enlarge and strengthen the Commission.

III. AMENDMENTS TO THE TRADE EXPANSION ACT OF 1962 FOREIGN IMPORT RESTRICTIONS AND DISCRIMINATION

Chapter 1 of Title III of the "Fair International Trade Act of 1972" would enable persons adversely affected by foreign restrictions or discrimination against U.S. exports to seek effective relief. The Trade Expansion Act of 1962 contains provisions that empower the President to take retaliatory measures against the exports of nations that unduly restrict and discriminate against United States exports. However, the Act contains no provisions for an orderly and timely procedure whereby parties in the U.S. who believe themselves injured by such foreign restrictive or discriminatory action can seek to invoke the statutory sanctions.

Chapter 1 would provide a complaint procedure for affected persons to bring to the President's attention evidence of such trade restrictions against U.S. exports. The procedure would be similar to that utilized in antidumping, countervailing duty and "escape clause" cases, and would allow any interested party to request the Tariff Commission to investigate whether particular activities of a foreign country or instrumentality constitute the kind of trade restrictions these provisions of the Act are directed against. The Commission would have three months to conduct its investigation, and within three months following an affirmative Commission finding, the President would

be required to inform Congress of his actions with regard to these foreign restrictions.

The *"Escape Clause."* Chapter 2 of Title III would amend the Tariff Adjustment and Adjustment Assistance sections of the Trade Expansion Act of 1962 to remove some of the barriers to relief currently faced by United States industries, individual companies and groups of workers that have been injured by imports.

Under present law, "escape clause" (tariff adjustment) relief—which consists of increased duties, quotas or such other import restrictions as are necessary to prevent or remedy serious injury from imports—is available only when the Tariff Commission determines that as a result in major part of concessions granted under trade agreements, an article is being imported in such increased quantities as to "cause or threaten to cause" serious injury to a domestic industry.

Chapter 2 of the "Fair International Trade Act" would amend these criteria by liberalizing the causal connection that must be shown between the increase in imports and injury to the domestic industry, and by broadening the definition of increased imports. In addition, while Chapter 2 would maintain the present limitation of escape clause action to imports which have been the subject of prior U.S. trade concessions, the bill would eliminate the necessity of proving a causal connection between the tariff concession and the increase in imports.

Chapter 2 would make parallel changes in the standards for obtaining adjustment assistance by workers or firms, would permit petition for adjustment assistance directly to the President, and would increase the adjustment assistance benefits available to workers who meet the amended injury standards.

In addition to liberalizing the standards for obtaining "escape clause" relief by injured U.S. industries, Chapter 2 would also significantly increase the Tariff Commission's authority to determine the nature and extent of the relief granted. Under present law, Tariff Commission findings with respect to relief amount to little more than recommendations to the President. Chapter 2 would require the President to implement the specific tariff adjustments—or the specific increases or extensions of prior adjustments—determined by the Tariff Commission, unless he determined that such action would not be in the national interest. Chapter 2 would also limit the President's authority to reduce or terminate existing tariff adjustments under the statute.

Other provisions of Chapter 2 include a definition of "domestic industry" that provides for more equitable treatment of U.S. multi-product or multi-industry companies, application of the Administrative Procedure Act to Tariff Commission procedures under the statute, and the availability to all interested parties of judicial review from Commission determinations.

IV. AMENDMENTS TO THE REVENUE ACT OF 1916

Title IV of the "Fair International Trade Act of 1972" amends the Revenue Act of 1916 to provide an additional deterrent to international price discrimination—a practically available procedure for maintaining private treble damage actions. This is accomplished by amending the 1916 Act to permit private recovery for injurious international price discrimination without requiring the plaintiff to prove specific unlawful intent. Here again the purpose is to subject off-shore competitors to essentially the same business rules that govern the conduct of domestic companies.

The Revenue Act of 1916, though providing for treble damage recovery in certain cases, has not proved an effective means of discouraging international price discrimination or compensating those injured by it. The reason has been the Act's onerous intent requirement. As amended by Title IV of the "Fair International Trade Act of 1972", the 1916 statute would become a more effective antitrust tool against international price discrimination. Under the amendments, the requirement of showing injury to competition would be harmonized both with the Antidumping Act of 1921 and the domestic anti-price discrimination law, the Robinson-Patman Act.

Title IV would also amend the Revenue Act of 1916 by providing that decisions of the Treasury Department and the Tariff Commission in proceedings under the Antidumping Act of 1921 would be given *prima facie* effect in private suits under the 1916 Act. This is a device borrowed from the Clayton Act and, once again, is for the purpose of harmonizing domestic and foreign antitrust trade policy.

The criminal provisions of the 1916 Act would be retained and the penalty for violation increased to $50,000, which is the level of fine that may be imposed for violation of domestic antitrust law. However, there would be no criminal liability in the absence of a willful violation of the statutory pricing and injury standards.

ISSUE	ANTIDUMPING ACT OF 1921	PROPOSED FAIR INTERNATIONAL TRADE ACT
1. Who may initiate an investigation and how may it be initiated?	No restrictions. Presumably by any individual or group and in any form. ("Whenever . . . the Secretary has reason to believe or suspect . . . from information presented to him. . . .")	No change in statute.
2. Governmental agencies and their functions.	Department of the Treasury determines if sales are at less than fair value (LTFV). Tariff Commission determines whether U.S. industry is injured. Treasury determines and imposes dumping duties.	No change.
3. Time limit on proceeding.	LTFV determination: no limit (current Treasury goal is nine months). Injury: three months after LTFV finding.	LTFV determination: six months. Injury: no change. Total: nine months.
4. Quantum of injury required	Injury is not defined in statute. Tariff Commission decisions have established that anything more than *de minimus* or immaterial injury to U.S. industry is sufficient.	Codifies Tariff Commission standard.
5. Standard of causation between LTFV import and injury.	Causation not defined in statute. Tariff Commission decisions establish that LTFV imports need only be more than *de minimus* factor in bringing about injury to U.S. industry.	Codifies Tariff Commission standard.
6. Standard for determining likelihood of injury.	Likelihood standard not defined in statute. Tariff Commission decisions suggest that injury will be found where there is a "reasonable likelihood" that LTFV sales will cause injury.	Adopts Tariff Commission standard.
7. Potential intervention by President	Not possible.	Not possible.
8. Effect of tie vote by Tariff Commission	Tie is considered an affirmative finding of injury to U.S. industries.	No change.
9. APA protection and judicial review	No APA protection. Review only available to importers or foreign producers.	All proceedings and determinations subject to APA protections. Judicial review available to all parties.
10. Withholding of appraisement	Appraisement may be withheld when Secretary of Treasury believes goods were sold at LTFV.	No change.
11. Definition of industry	Undefined in statute, but some Commission decisions have recognized regional industries or markets.	Facilitates finding of injury to a less-than-national industry by adopting Clayton Act "line of commerce, section of the country" concept.
12. State controlled economies	No special provisions.	New provisions to facilitate effective antidumping regulation of products from State controlled economies.

By Mr. TUNNEY:

S. 3709. A bill to amend title II of the Social Security Act to permit a State, under its section 218 agreement, to terminate social security coverage for State or local policemen or firemen without affecting the coverage of other public employees who may be members of the same coverage group (and to permit the reinstatement of coverage for such other employees in certain cases where the group's coverage has previously been

terminated). Referred to the Committee on Finance.

RETIREMENT FOR SAFETY WORKERS

Mr. TUNNEY. Mr. President, I am introducing today a bill which would permit State and local policemen or firemen to withdraw from social security without affecting the coverage of other public employees who are members of the same coverage group.

It would also open the way to reinstatement of those employees whose coverage has already been terminated as a result of action initiated by policemen or firemen.

The difficulties which policemen and firemen have encountered in relation to the social security system are amply reflected in the disjointed development of provisions affecting them, and the present great disparities in the treatment of identical groups in different States.

At the heart of these problems is the fact that for retirement and general social security purposes policemen and firemen constitute a separate and difficult class.

The national social security system is predicated on a relatively uniform national social pattern of retirement at a certain age after a certain number of years of covered work.

Its benefits are based on these broad actuarial facts and are framed according to these general expectations and needs.

Unfortunately, policemen, and firemen, by the very nature of their occupations, do not fall easily into this broad pattern.

Necessarily, they retire early—at 55 or 50.

Social security benefits are not available to them until they are 62, and then they are actuarially reduced benefits—calculated on the assumption that even that small degree of early retirement is an aberration from normality, which is patently not the case for them.

Moreover, should they reach the point of claiming benefits, their personal entitlements are limited in two significant ways. Their working life and, therefore, the period of covered employment, is shorter, and in the time between their stopping work and receiving benefits increases in the general level of wages leave them at a disadvantage compared with those who qualify for social security immediately on retirement.

Furthermore, as the average life expectancy of safety workers on retirement is low, they stand an abnormally high chance of receiving nothing at all.

Thus, the national social security system inadequately addresses the needs of their special situation.

Because of these particular needs and the failure of social security to take them into account, many State and local governments have developed specially tailored retirement systems. Providing as they must for realistic retirement income after a shorter span of working years, these have been expensive systems.

Their necessary cost results in policemen and firemen having to pay, with social security, as much as 14 percent of their paycheck just for retirement purposes. They must pay for their special system if they are to hope for adequate and appropriate coverage, and they are required to pay for the doubtful benefits of social security on top of that.

Not surprisingly, many of them want to get out.

That is where the difficulty arises.

WITHDRAWAL GREATER THAN NECESSARY

The law at present rightly places a total ban on individual withdrawals from coverage. It also seeks to deter extensive termination by permitting only entire coverage groups to withdraw.

In practice, however, this provision is acting only partially as a deterrent.

Groups are withdrawing. That is to be expected under any system which is not totally closed. But in many cases it would seem that the existing withdrawal requirements are having quite the opposite effect to that intended—more employees are being taken out of social security than would likely opt for that alternative if the requirements were not so rigid.

Currently, in the State of California alone, 23 cities have completed action to take their employees out of social security. A further 14 are in the process of doing so. Involved in this movement out of coverage are 1,928 policemen and firemen and 4,678 miscellaneous employees. Similar action is being prepared or contemplated in a number of other districts.

There are various reasons for withdrawal.

My bill seeks to address only one of them.

The initial and overriding factor in a considerable number of cases has been the very firm conviction and desire of firemen and policemen who are covered as part of a general local government employees' group, to have that coverage terminated, for reasons I have already outlined.

Under the present machinery, they can only terminate if their whole local government group—miscellaneous workers as well as policemen and firemen—terminates as a single entity.

In many cases, the safety groups have acted reluctantly, knowing that the interests of the rest of their coverage group did not match their own, but feeling that it was necessary for them to withdraw and realizing that no other way was open to them than taking the whole group out of coverage.

Because of the firmness of their conviction that they should withdraw, and their cohesiveness as a group, they have been able to create enough momentum to achieve withdrawal.

As a result, a considerable number of miscellaneous workers have left the umbrella of protection which the national system affords them.

For those who have amassed considerable entitlements already, the effects of withdrawal may be comparatively limited. For those who have little, and especially for those who are yet to join the employee group, it means total exclusion from the strengths and benefits of the national social security system—a system which is basically appropriate to their needs.

This bill would make it possible for police and firemen to seek withdrawal in the future without jeopardizing the coverage of these other employees.

It would also make it possible for the miscellaneous workers to protect their long-term interests by seeking reinstatement of coverage separate from the policemen and firemen who initiated the original withdrawal.

OPPORTUNITY TO RETURN

My investigations in California have revealed that should this bill become law the miscellaneous workers in at least 13 groups would be given the opportunity to return to the system.

These problems are not peculiar to California by any means. They are repeated in State after State.

In fact, they are partially recognized in the law already, for in a limited number of States firemen may now be treated as a separate group.

In the interests of equity and the strength of the system as a whole, it is important to limit the extent of withdrawal so that only those with a deep-seated mismatch with the system leave it, and so that those who want to remain within the system are able to do so regardless of the interests and desires of a quite different class of employees who happen to be covered in the same local group.

I believe that this bill approaches that problem realistically and effectively, and I ask my distinguished colleagues in the Senate to lend it their full support.

Mr. President, I have also submitted an amendment to H.R. 1, the Social Security Amendments of 1972, which would accomplish these objectives. I ask unanimous consent that my bill be printed in the RECORD at this point.

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

S. 3709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 218(g)(1) of the Social Security Act is amended by striking out "either" after "Secretary", by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) with respect to services of—

"(i) all employees included under the agreement as a single coverage group within the meaning of subsection (d)(4) which is composed entirely of positions of policemen or firemen or both;

"(ii) all employees in positions of policemen or firemen or both which are included under the agreement as a part of a coverage group within the meaning of subsection (d)(4); or

"(iii) all employees in positions of policemen or firemen or both which were included under the agreement as a part of a coverage group as defined in subsection (b)(5) and which were covered by a retirement system after the date coverage was extended to such group,

but only if the agreement has been in effect with respect to employees in such positions for not less than five years prior to the receipt of such notice."

(b) Section 218(g)(3) of such Act is amended by adding at the end thereof the following sentence: "If any such agreement is terminated with respect to services of employees in positions of policemen or firemen as described in paragraph (1)(C), the Secretary and the State may not thereafter modify such agreement so as to again make

the agreement applicable to services performed by employees in such positions."

SEC. 2. Notwithstanding any provision of section 218 of the Social Security Act, any agreement with a State under such section may, if the State so desires, be modified at any time prior to July 1, 1975 so as to again make the agreement applicable to services performed by employees, other than employees in policemen's or firemen's positions, in a coverage group with respect to which the agreement was terminated by the State prior to the enactment of this Act if the Governor of the State, or an official designated by him, certifies that the following conditions have been met—

(1) the majority of such employees have indicated a desire to have their coverage reinstated, and

(2) the termination of the agreement with respect to the coverage group was for the purpose of terminating coverage for those employees in policemen's or firemen's positions or both.

Notwithstanding the provisions of section 218(f)(1) of such Act, any such modification shall be effective as of the date coverage was previously terminated for those members of the coverage group who meet the conditions prescribed in section 218(f)(2) of such Act.

By Mr. STEVENS:

S. 3711. A bill to exempt from the provisions of the Airport and Airways Revenue Act of 1970 helicopters which are not operated on an established line. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, I am introducing a bill today which would exempt from the Airport and Airways Revenue Act of 1970 helicopters not operated on established lines. The effect of this would be to exempt from the operation of the tax, those helicopter lines operating on nonscheduled routes.

The reason I am introducing this legislation is because it has been called to my attention that many small helicopter operators have had a great deal of difficulty and a great financial burden put upon them and their customers as the result of this tax.

Many of these helicopter companies are small and are not subsidized. They are required to charge their customers the tax on the full charter rate being charged for the helicopter, whether there be one passenger or a full load. The result may be a payment of tax on the full charter rate for a 15-seat helicopter which may in fact carry but one or two passengers.

Moreover, many of these helicopter operators do not use airports and airways communications, two of the major types of facilities supported by such taxes. For example, one company in my State of Alaska, operating approximately 20 miles north of Kenai on the shores of Cook Inlet, maintains two heliports which are owned or leased by the oil industry. The improvements thereon are owned and maintained by the helicopter company. For this base, helicopters support 13 permanent drilling platforms in Cook Inlet. They have their own flight following procedures, their own as well as oil industry owned radio communication, and have no need of nor do they use any governmental communications facilities whatsoever.

The only times such facilities are utilized are on the infrequent occasions that helicopters must return to their Anchorage bases for major maintenance. A similar situation obtains for the many nonscheduled helicopters operators throughout the Alaska bush area. Many of these go from 4 to 6 months between the times they use FAA facilities.

Many of the helicopters which utilize FAA facilities because they are flown in and out of Anchorage airports are those with gross takeoff weights under 6,100 pounds. These are subject to the fuel tax rather than the transportation tax. Seldom is a helicopter chartered on a noncompetitive basis in the weight class over 6,100 pounds simply because of the costs involved. These helicopters are hired on a competitive bid basis and often leave their base of operation for a continual period of time. As indicated above, these also go for many months without contacting any governmentally provided facility. I am informed that between 80 and 90 percent of the total flight time of Alaska helicopter operation is completed in the bush, in remote wilderness areas where FAA facilities for helicopters are not only nonexistent, but unnecessary.

Such taxes often yield extremely unfair results, especially in situations such as the one described above in Cook Inlet, in which many companies share the use of one helicopter. In such cases the bookkeeping problems are immense for small operators. It is almost impossible to adequately and fairly charge a proper customer the transportation taxes due. Such problems arise because the helicopter operator must, several times a day, transport a varying number of passengers per helicopter to a number of different platforms owned by different oil companies and pick passengers on each of the platforms, returning them to shore or even to other platforms out in the inlet.

As many as 28 passengers working for as many as six different companies may be transported on a 20-minute flight. Out in the inlet some passengers may deplane and others may board, only to be transported a relatively short distance for a very brief flight to another platform or back to the mainland. To give you an idea of the briefness of the flight, the total flight takes but 20 minutes from the heliport to each of four platforms in Cook Inlet and back to the heliport again.

Moreover, these taxes are extremely high and quite burdensome to the customers involved. For example, a tax charge of $48 must be made on a 1-hour charter flight in a Bell 205A–1 in which six people are being transported. The same six people would be required to pay only $8 each in transportation taxes on a Boeing 747 from Anchorage to Seattle. The total amount of the taxes collected is equally substantial. For example a single Alaska helicopter operator was required to pay from July 1, 1970, to November 1, 1971, a total of $230,000 in transportation taxes. One customer alone was invoiced $47,000 in transportation taxes for the 15-month period. This is a substantial amount.

Helicopters not subjected to this tax are now and would continue to be subject to the fuel tax imposed by section 4041 (c)(4) of the Internal Revenue Code—title 26 United States Code.

For these reasons, I hope serious consideration will be given to amending these transportation taxes for helicopters not being operated on established lines. I ask unanimous consent that my bill be printed in the CONGRESSIONAL RECORD at this point.

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

S. 3711

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that 26 U.S.C. 4281 is amended by adding at the end thereof the following sentence: "Nor shall such taxes apply to transportation by a helicopter except when operated on an established line".

By Mr. RANDOLPH (for himself, Mr. DOLE, Mr. ALLEN, Mr. ANDERSON, Mr. BAYH, Mr. BEALL, Mr. BENNETT, Mr. BENTSEN, Mr. BIBLE, Mr. BOGGS, Mr. BROOKE, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. ROBERT C. BYRD, Mr. CANNON, Mr. CHILES, Mr. CHURCH, Mr. COOK, Mr. COOPER, Mr. COTTON, Mr. CRANSTON, Mr. CURTIS, Mr. DOMINICK, Mr. EAGLETON, Mr. FONG, Mr. GRAVEL, Mr. GRIFFIN, Mr. GURNEY, Mr. HANSEN, Mr. HARRIS, Mr. HART, Mr. HATFIELD, Mr. HARTKE, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. JORDAN of Idaho, Mr. JORDAN of North Carolina, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCGEE, Mr. MCINTYRE, Mr. METCALF, Mr. MILLER, Mr. MONDALE, Mr. MONTOYA, Mr. NELSON, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. PERCY, Mr. PROXMIRE, Mr. RIBICOFF, Mr. ROTH, Mr. SCHWEIKER, Mr. SCOTT, Mrs. SMITH, Mr. SPARKMAN, Mr. SPONG, Mr. STAFFORD, Mr. STENNIS, Mr. STEVENS, Mr. STEVENSON, Mr. SYMINGTON, Mr. TAFT, Mr. TALMADGE, Mr. THURMOND, Mr. TOWER, Mr. TUNNEY, Mr. WEICKER, and Mr. YOUNG):

S.J. Res. 245. A joint resolution authorizing the President to designate the calendar month of September 1972, as "National Voter Registration Month." Referred to the Committee on the Judiciary.

Mr. RANDOLPH. Mr. President, on behalf of myself and the Senator from Kansas (Mr. DOLE), and 72 cosponsors I introduce a Senate Joint Resolution authorizing the President to designate the period September 1 through September 30, 1972, as National Voter Registration Month.

Too many Americans take their freedom and franchise for granted. Too many Americans enjoy the excitement of an election year without actual participation. If we are to have more responsive government, we must make every effort to have a more responsive electorate. It is important that we continue to work and encourage all eligible citizens to register and participate in

the electoral process. This resolution, I believe, will help to focus national attention at a period of time just prior to the 1972 general election. A similar proposal has been introduced in the House of Representatives by Representative RIEGLE.

Since June 30, 1971, when the 26th amendment to the U.S. Constitution was formally ratified, a potential 25 milion new voters have become eligible to vote. I was privileged to have authorized such an amendment as early as 1942. The action by Congress and the individual States last year was most gratifying. But the so-called youth vote will be lessened in value if youth do not vote.

This joint resolution is directed at encouraging all eligible voters to register and vote. It is a sad commentary on our electoral system, I feel, when only two out of three eligible voters of all ages cast their ballots, as happened in 1968.

I am confident that the indifference or ignorance of one-third of this Nation's electorate can be overcome. I am certain that a massive infusion of youthful ideals and energies in the electoral process will stimulate reaction and concern among the millions of adults who do not bother to vote. To this end, I commend the national student lobby and other organizations who are actively involved not only in voter registration, but in day-to-day legislative issues before this Congress.

It was reported to me recently that in my home State of West Virginia, more than 60,000 of the 99,000 newly enfranchised young voters in the 18-to-21 age bracket already have registered for the fall election. I am informed that this 61 percent registration figure is among the highest, if not the highest, in the country.

Political analyists are divided on what impact, if any, the youth vote will have on this year's general election results. Certainly, the activities of college students in the primary campaigns have received high visibility. But I remind you that only 26 percent of the potential young voters actually attend college. Another 4 percent are in high school. This leaves 70 percent of the youthful electorate which is composed of men and women who are working or seeking work, who are starting families, buying homes, paying taxes, and looking to a future they themselves could have a role in shaping.

With new voting eligibility of this significant segment of our population, it is appropriate that our Nation initiate a special effort to increase participation in the electoral process. The focus of attention on youth involvement provides a real catalyst for renewed action in this area so that all citizens will benefit. I believe that our citizens—from the youth to the senior citizen—can form a partnership of activity to make the use of the ballot a more meaningful exercise.

I am hopeful that the Senate will adopt this important joint resolution in the bipartisan spirit in which it is presented. I urge Congress to tell all the citizens of this Nation that full participation in our electoral process is not only a desirable dream, but an achievable goal.

Mr. DOLE. Mr. President, the right to vote is a precious freedom, an integral element of an open and democratic system of government. The vote is the fundamental and most powerful force in the hands of a free people who wish to guide and direct the destiny of themselves and their Nation. From the ballot of each voter flows an uninhibited mandate and a statement to those who would represent him. It gives each voter an equal say in the election process, a voice which is not affected by wealth, race, geography, religion or any other element which from time to time may influence the affairs of men.

The importance of voting is difficult to overstate. Indeed, this importance raises it to an obligation upon all eligible men and women, for, just as each citizen is responsible for the quality of a government which is of, for, and by the people, that responsibility is most importantly met through regular and conscientious exercise of the vote.

EXPANDING THE FRANCHISE

We Americans have always cherished the institutions of our Republic—including the electoral process—and we have taken significant steps over the years to broaden both voter participation and the scope of the votes cast.

In 1868 and 1869 the 14th and 15th amendments to the Constitution granted and insured the right to vote to former slaves. The 19th amendment, extended the franchise to women in 1920. The 23d amendment, ratified in 1960, gave the vote in presidential elections to residents of the District of Columbia. The 24th amendment in 1964 removed the impediment of the poll tax in Federal elections. And most recently, in 1971, the 26th amendment granted the vote to those aged 18 to 20. The cumulative effect of these six amendments is that some 60 to 70 percent of today's voting population enjoys the franchise which would be denied them under the "free, male, white and 21" construction originally given the Constitution.

Voter participation has also been enhanced by recent voting rights acts which provide real protections for participants in all Federal elections and less stringent barriers to absentees and new residents in presidential contests. The Supreme Court has just this year delivered a major decision still more strictly limiting the inhibitions of residency requirements.

INCREASED SCOPE

The scope of the vote has also been broadened in this country by such steps as the 17th amendment providing for direct election of Senators, and the Supreme Court's one-man, one-vote decisions which govern the population of congressional districts. Of course, efforts are continuing to devise a new formula for the election of the President and Vice President whereby the electoral college can be reformed or eliminated to make way for direct or automatic apportionment of each State's vote.

Of course, our people can take justifiable pride in this record. It is a story of continuing progress toward improving our election system and thereby the quality of our Government.

A NATIONAL SHORTCOMING

But there is, unfortunately, an aspect of our electoral process which is not a source of pride, but which is, rather, a point of some embarrassment for a nation with our heritage, wealth and position of prominence in world affairs.

The fact is that, although many avenues of voter eligibility have been opened and in spite of the increased importance which the vote of each individual has assumed, Americans do not exercise their right to vote—do not live up to their responsibility to vote—as they should.

POOR COMPARISONS

In fact, in the 1968 presidential election only 61 percent of the American voting age population cast ballots. This figure compares poorly with 76 percent in Canada; 89 percent in Denmark; 86 percent in West Germany; 87 percent in New Zealand and 89 percent in Sweden. The comparison is even more unfavorable when one considers that the highest turnout in the last two decades was 64 percent in 1960, and the rate in nonpresidential years runs far below 50 percent. In 1970, only 44.9 percent voted. Such performance amounts to a national disgrace.

Of course, get-out-the-vote drives are features of every election, but such activities only address part of the problem. Undoubtedly, voters should be gotten out, but, more fundamentally, voters should be enrolled so they can be eligible to be brought to the polls.

UNTAPPED RESOURCE

Voter registration is the key to increasing voter turnout on election day, and unregistered voters are the great, untapped resource of the political world. In 1968, it was estimated that some 23.1 percent, nearly one-fourth, of our eligible voters were not registered. It takes no great gift of insight to appreciate the impact these votes would have on contests from the presidency to the city council. Even at the prevailing 61 percent turnout rate in 1968, those additional 18.3 million votes could very well have changed the outcome of a significant number, if not a majority of the races. After all, how many officeholders received greater than a 5 to 10 percent majority—much less one in the 25 percent range?

INCREASED ATTENTION

In 1972 a great deal of attention should—and is—being paid to the unregistered but otherwise eligible voter. Both national parties are directing significant voter registration drives all across the country, and many other groups and organizations have developed programs. Some of this activity is directed at the newly enfranchised 18- to 20-year-olds, but it goes much further. I believe that the entire political apparatus of America is awakening to the opportunity to be found in the unregistered voter. Whether he or she is young or old, a college student or a retired person, whether an individual is a member of a highly mobile executive family or one who suffers from a mobility-reducing disability—there is

growing recognition that this individual must be sought out and brought into the electoral process in unprecedented numbers.

And because of this awakening and activity, I believe the American political system stands at the threshold of a great opportunity to take on the increased vitality and strength which inevitably comes from greater citizen participation.

NATIONAL VOTER REGISTRATION MONTH

It is a pleasure to join with the distinguished senior Senator from West Virginia (Mr. RANDOLPH) in introducing a measure which will serve to draw the Nation's attention to the importance of voter registration.

Authorizing the designation of September 1972 as "National Voter Registration Month" will put the Congress on record as a full-spirited participant in the campaign to expand the voter polls and thereby the people's part in securing the sound and wise functioning of government in America—at local, State and national levels. It is highly appropriate that the legislative branch take this step to provide leadership and support for the many efforts which will be made between now and election day to reach and enroll unregistered voters.

The Senator from Kansas would certainly hope that the support already shown for this measure by the many Senators who have joined as cosponsors indicates that it might receive rapid approval from the Senate. Hopefully, our colleagues in the House can approve an identical bill, so full congressional action can send it to the President in ample time to give National Voter Registration Month a well-deserved round of national publicity.

SPECIAL SIGNIFICANCE

I would also take this opportunity to congratulate the Senator from West Virginia for his long record of leadership in extending and expanding the vote in this country. This year is of particular significance to him and his work, because it marks the first presidential election in which 18- to 20-year-old citizens have been universally entitled to vote. They gained this privilege and responsibility in large measure because of Senator RANDOLPH's leadership and support for the measure which finally became the 26th amendment to our Constitution.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2719

At the request of Mr. PERCY, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 2719, the Alcoholic Drivers Safety Act.

S. 3443

At his own request, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3443, a bill to amend and extend the provisions of the Juvenile Delinquency Prevention and Control Act of 1968.

S. 3507

Mr. HOLLINGS. Mr. President, through error, the name of my distinguished colleague from Texas (Mr. TOWER) was not included in the list of cosponsors of S. 3507, the Coastal Zone Management Act.

I ask unanimous consent that he be added as a cosponsor.

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

S. 3515

At the request of Mr. BELLMON, the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of S. 3515, the Weather Modification and Precipitation Management Act of 1972.

S. 3641

At the request of Mr. PEARSON, the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 3641, a bill to establish a National Energy Resources Advisory Board.

S. 3656

At the request of Mr. ROBERT C. BYRD, the Senator from Florida (Mr. CHILES) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 3656, the South Atlantic Environmental Basin bill.

SENATE JOINT RESOLUTION 228

At the request of Mr. HOLLINGS, the Senator from Alabama (Mr. ALLEN), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Montana (Mr. MANSFIELD), the Senator from Montana (Mr. METCALF), the Senator from Rhode Island (Mr. PASTORE), the Senator from Illinois (Mr. PERCY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) were added as cosponsors of Senate Joint Resolution 228, to pay tribute to law enforcement officers of this country on Law Day, May 1, 1973.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1237

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

Mr. BENTSEN submitted an amendment intended to be proposed by him to the bill (S. 3010) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

IMPROVED FINANCING FOR PUBLIC BROADCASTING—AMENDMENT

AMENDMENT NO. 1238

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

Mr. CURTIS submitted an amendment intended to be proposed by him to the bill (H.R. 13918) to provide for improved financing for the Corporation for Public Broadcasting, and for other purposes.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1239

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

Mr. TUNNEY submitted an amendment intended to be proposed by him 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.

(The remarks of Mr. TUNNEY on this subject appear under the heading "Statements on Introduced Bills and Joint Resolutions" when he introduced S. 3709.)

UNIFORMED SERVICES SPECIAL PAY ACT OF 1972—AMENDMENT

AMENDMENT NO. 1240

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

PUBLIC HEALTH SERVICE AMENDMENT

Mr. GRAVEL. Mr. President, this past March S. 3410 was introduced which would revise the special incentive pay structure for members of the armed services. This legislation is entitled the "Uniformed Services Special Pay Act of 1972."

Holding the views that I do on the need to move to an all volunteer force I am always in favor of more adequate pay scales for the recruitment and retention of persons for the services. In the case of S. 3410 I am especially interested in those provisions relating to additional incentive pay for physicians and dentists. The effect of this provision as it now stands would be to exclude medical personnel of the Public Health Service from gaining the same special pay benefits as their counterparts in the military.

Mr. President, this is patently unfair and unwise, and I will offer an amendment to repair this inequity.

It may be argued, of course, that the incentive pay already granted miiltary and Public Health Service personnel is enough or too much; that there is no need for Government to provide additional pay to make up for some alleged or real deficiency between the income of doctors and dentists while on active duty and what they might receive in provate practice. There may well be an obligation toserve a period of time in public service of this sort at some financial sacrifice.

I am not arguing all that. What I do say is that Public Health Service personnel should be treated the same for pay purposes as military medical personnel. After all, the Public Health Service has long had a particular relationship with the military—a medical officer has the choice of serving his obligated time with one or the other agency. How then could the Public Health Service compete with the military for medical personnel if the pay scales are skewed sharply in favor of the military? Is this the basis on which we want people to

make their choice? Can it be demonstrated that the public need is substantially greater for medical personnel for the Department of Defense than the Public Health Service? Do we know that the contribution is greater?

I am advised that a study on the status of all medical personnel in the governmental service is soon to be conducted. Fine. I certainly do not object to that, and I am sure there is much to be studied on this complex issue. I do object to arbitrarily and unfairly disrupting the pay parity between the Public Health Service and the Department of Defense medical personnel in the meantime. Imbalances once made are often hard to redress.

I am also aware that S. 3410 would retain the provision for continuation pay for Public Health Service medical officers. The proposed disparity comes in where the Department of Defense counterparts are dropped from eligibility for continuation pay, but would be given bonus pay of not to exceed $17,000 annually for each year of agreed continued service. The net difference is that S. 3410 if enacted in its present form would permit critical health specialists in the Armed Forces to receive as much as $13,000 per year more than their professional counterparts in the Public Health Service.

Mr. President, the Public Health Service has done a generally outstanding job in Alaska and its personnel are important contributors to the health and welfare of our State. I am sure that many of my colleagues would say the same for Public Health Service activities in their States. In Alaska there are some 85 physicians and 35 dentists in the Public Health Service doing yeoman work. Nationally the numbers are something like 2,550 physicians and 549 dentists. I am told the additional cost of bringing these people under S. 3410 in a like manner with Department of Defense medical personnel would be approximately $6 or $7 million for fiscal year 1973—subsequent annual costs would be greater. This is a small amount to pay for equitable treatment and the continued staffing of our Public Health Service to meet the ongoing demands on that important domestic agency.

Accordingly I submit an amendment to S. 3410 which would maintain equal treatment for Public Health Service medical officers along with Department of Defense medical officers by making the former eligible for the same bonus pay arrangements as the latter in section 2(5) of S. 3410—and paragraph 311 (a) of the basic legislation, chapter 5, title 37, United States Code.

FOREIGN ASSISTANCE ACT OF 1972—AMENDMENT

AMENDMENT NO. 1241

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

Mr. ALLOTT submitted an amendment intended to be proposed by him to the bill (S. 3390) to amend the Foreign Assistance Act of 1961, and for other purposes.

NOTICE OF HEARING ON NATIONAL CORRECTIONAL STANDARDS ACT

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee's Subcommittee on National Penitentiaries, I wish to announce hearings for the consideration of S. 3049, the National Corrections Standards Act, beginning at 10 a.m. on June 22, 1972, in room 1318 of the New Senate Office Building.

This legislation is designed to provide minimum standards in connection with certain Federal financial assistance to State and local correctional, penal, and pretrial detention institutions and facilities.

This is the second scheduled hearing on this legislation, and I would anticipate that several additional days will be necessary to carefully consider this proposed legislation. These additional days will be scheduled as time permits.

Any person who wishes to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on National Penitentiaries, room 6306, New Senate Office Building.

NOTICE OF HEARING ON NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, June 22, 1972, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Marion T. Bennett, of Maryland, to be an associate judge of the U.S. Court of Claims, vice Linton M. Collins, deceased.

Thomas E. Kauper, of Michigan, to be an Assistant Attorney General, vice Richard W. McLaren, resigned.

Samuel P. King, of Hawaii, to be U.S. district judge for the District of Hawaii, vice C. Nils Tavares, retired.

A. William Olson, Jr., of California, to be an Assistant Attorney General, vice Robert C. Mardian, resigned.

J. Clifford Wallace, of California, to be U.S. circuit judge for the ninth circuit, vice James M. Carter, retired.

Hirman H. Ward, of North Carolina, to be U.S. district judge, middle district of North Carolina, vice Edwin M. Stanley, deceased.

Harlington Wood, Jr., of Illinois, to be an Assistant Attorney General, vice Louis Patrick Gray III, resigned.

At the indicated time and place, persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND) chairman; the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Nebraska (Mr. HRUSKA).

ADDITIONAL STATEMENTS

MISUSE AND ABUSE OF BARBITURATES

Mr. TOWER. Mr. President, I am pleased to cosponsor S. 3538 and S. 3539, two bills that could significantly curtail the misuse and abuse of barbiturates.

Barbiturates are replacing, and in some areas of the country, surpassing heroin and amphetamines as "the drug most abused." Some drug experts have called 1966 "the year of acid"—LSD—1968 "the year of speed"—amphetamines—and 1970 "the year of smack"—heroin. If the incidence of barbiturate abuse continues to grow at the present rate, 1972 may well be known as "the year of the downer"—barbiturates. Although this is a general statement, it indicates that the drug abuser will gravitate to the drug which is most readily available. Unfortunately, not only are barbiturates readily available, they are also relatively inexpensive. Consequently, they are the most abused drug among our school age population.

Today, on the streets of America, a youth can easily obtain "reds," "red devils," "red birds," "red lillies," or "Mexican reds" for 25 to 50 cents a capsule. In fact, he has a colorful selection from which to choose. He might prefer "blue devils," "blue heaven," "blue bullets," "yellow jackets," "purple hearts," or "rainbows." The names may vary, but the product is the same—a class of drugs derived from barbituric acid. One youth of 16 has said that it is less trouble to obtain barbiturates than it is to purchase cigarettes.

Barbiturates are the best known of the drugs which are used medicinally to relax the central nervous system. Generally, they are known as sleeping pills. Such trade names as Amytal, Seconal, Nembutal, Luminal, and Tuinal are found in many medicine chests in households across the land. These medications have many legitimate and useful purposes in treating a wide range of medical disorders, such as epilepsy, insomnia, gastritis, duodenal, and gastric ulcers, meningitis, relief of anxiety, and surgical anesthesia. Until recently, however, the general public was not aware of the potential harm involved in their misuse or abuse.

Unfortunately, the effects, the availability, and the low cost of barbiturates have made them extremely attractive as drugs of abuse.

Barbiturates are highly dangerous when they are taken without proper medical supervision. Increasing use of these pills quickly produces a tolerance. Once this tolerance has been achieved, the user experiences a euphoric effect from taking barbiturates. Rather than feeling merely drowsy and sluggish, he actually feels high, and completely insulated from reality. It permits the user to escape from the anxieties of his everyday life.

Barbiturates relax the muscles and impair the judgment of the user. He reacts more slowly and he is less coordinated. Violent behavior often accompanies barbiturate abuse. The heavy abuser is confused, agitated, aggressive, and prone to hostile activities.

Barbiturates are clearly drugs of abuse and dependency. Abuse is defined by the World Health Organization as excessive use of a drug to the extent that it damages a person's health and social adjustment.

Barbituric dependency, as defined by the World Health Organization, is the state arising from repeated administration of barbiturates on a continuous basis, generally in amounts that exceed the usual therapeutic dose, with a strong desire or need to continue taking the drug.

The withdrawal from barbiturate dependence is even more severe than withdrawal from opiates such as heroin and morphine. Even a moderate reduction of the accustomed dose may bring on a severe withdrawal. After 12 hours off the drug, the user experiences nervousness, headache, tremors, insomnia, fever, and nausea. After 3 days, some go into convulsions and delirium. Visual hallucinations, usually of a persecutory nature, are common. Barbiturate withdrawal is a serious medical emergency and requires hospitalization. In fact, without medical supervision, it is often fatal. Furthermore, barbiturate dependency is often more difficult to cure than narcotic addiction.

The potential for abuse has become a reality—the abuse of barbiturates is significant numerically; it is widespread; and it is increasing. Over 4 million school age youth have abused barbiturates. A recently released Gallup poll revealed a 50-percent increase in the use of barbiturates on college campuses. Barbituric abuse accounted for 89.3 percent of all reported drug abuse in the armed forces serving in Korea, 42.2 percent of the detected drug abuse by troops in Europe, and 33.3 percent in Panama. The task force on drug abuse national survey of police departments indicates that barbiturate abuse is a problem or a major problem in 77 percent of the jurisdictions surveyed. Police seizures of barbiturates, likewise, indicate an alarming level of abuse in many areas. The Dallas Police Department, for example, seized over half a million barbiturates in 1969.

In response to a letter from the task force on drug abuse inquiring about the drug abuse patterns of certain localities, the corodinator of a free clinic in Texas wrote:

> We are open all night on a walk-in or call-in basis. I would have to say that the single drug which causes the bulk of our problems these days is barbiturates. They are legal, easily obtainable, and not respected by the drug taking population . . .

Drug availability is one of the prime factors in drug abuse. Barbiturates are readily available. While amphetamine production has decreased over the past several years, barbiturate production has increased dramatically. Production has increased from 3 billion dosage units in 1967 to 5 billion dosage units in 1970.

In recent years, these drugs have flooded the black market. Unlike amphetamines, barbiturates are not easy to synthesize. The result is that most of the drugs found on the street are from legitimate manufacturers. President Nixon, in his address on June 22, 1971, before the American Medical Association, said that he would estimate that of the over 5 billion doses legally produced each year, half would be diverted into illegal sales.

In testimony before the Juvenile Delinquency Subcommittee on September 15, 1969, John Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, stated that 92 percent of the barbiturates on the illicit market are "legitimately manufactured and diverted." Indeed, Mr. Ingersoll has recently stated to this same subcommittee that—"umlike the case of all other major drugs of abuse, it appears that this demand—for barbiturates—is supplied exclusively from what begins as legitimate production."

A survey by the task force on drug abuse substantiates Mr. Ingersoll's statement. Twenty-seven of 35 police departments responding to the survey estimate that more than 90 percent of the barbiturates available on the street were legitimately manufactured.

These legitimately manufactured barbiturates are diverted from legal channels by theft, smuggling, hijacking, forgery, and prescription abuse.

S. 3539 could significantly reduce the volume of barbiturates being diverted into the black market. It would remove the four short-acting barbiturates most frequently abused from schedule III of the Controlled Substances Act and place them in the more strictly regulated schedule II of the same act. Rescheduling barbiturates would impose production quotas—so that only enough dosage units for legitimate medical purposes would be manufactured. By substantially eliminating overproduction, the number of barbiturates diverted into the black market would be reduced. Furthermore, drug manufacturers, wholesalers, and retailers would be required to keep accurate records, thus preventing diversion in the distribution of barbiturates on a large scale. Furthermore, the rescheduling would require more careful dispensing of barbiturates. The physician would be required to put his BNDD control number on any prescription of barbiturates. Prescriptions would be for a limited duration and would not be renewable indefinitely. Hence, the abuse of legitimately prescribed barbiturates would be curtailed without affecting the legitimate use of these drugs when prescribed under careful medical supervision. S. 3539 would effectively prevent much of the diversion which presently occurs.

S. 3538, a companion bill, would require all manufacturers and producers of solid oral form barbiturates to place identifying marks or symbols on their products. Hence, barbiturates seized by law enforcement agencies could be readily traced to the original source, enhancing the possibility of locating the leaks in manufacturing and distribution. I am encouraged by Mr. John Ingersoll's concurrence that this bill would facilitate police efforts to trace illicitly diverted barbiturates.

Mr. President, I am further encouraged by the progress of the hearings on these two bills before the Subcommittee on Juvenile Delinquency. I fervently hope that Congress will act affirmatively on these measures at this session.

WHAT LIFE IS LIKE IN ALASKA

Mr. STEVENS. Mr. President, quite often people from throughout the country write to me asking what life is like in Alaska. Many of these people are interested in moving to my State or starting businesses there. Many students also write to me requesting information on Alaska.

A large number of these people have specific questions to be answered, but many of them would just like some general information on my State.

Recently in the April 1972 issue of NOAA, the magazine of the National Oceanic and Atmospheric Administration, of the U.S. Department of Commerce, an excellent article entitled "Alaska—Big, Wild and Beautiful" appeared on page 9. The article is short, but it contains much useful information.

Mr. President, I ask unanimous consent that the article be printed in the RECORD so that it may be available to the many people to whom it may be of interest.

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

ALASKA—BIG, WILD AND BEAUTIFUL

Alaska, our 49th state, is a land of superlatives. Not only is it our northernmost and coldest state, it is also the biggest (twice the size of Texas), least populous (with one third as many people as Rhode Island), and possibly the richest with a 1968 oil strike on the North Slope that may be one of the greatest in history and brought more than 900 millions in bids for oil-land leases.

Alaska has the highest mountain in North America—Mount McKinley, soaring 20,320 feet above sea level, and 17 of the 18 highest peaks in the nation (the 18th being Mount Whitney, in California—14,494 feet). It has the longest tidal shoreline, which, at 34,000 sinuous, craggy miles, approaches that of the entire lower 48 states, measuring 54,000 miles.

The nation's lowest temperature on record was observed January 23, 1971, at Prospect Creek, Alaska, in the southern foothills of the Brooks Mountains—a numbing 80 degrees below zero. The lowest annual average temperature in the U.S. is at Point Barrow, Alaska—9.6 degrees above zero—where you'll also find the coolest summers, averaging 36.7 degrees. Coldest winters are at Barter Island on the Arctic Coast of northeast Alaska, averaging minus 15.6 degrees. Yet, with all these frigid records, a sweltering 100 degrees was recorded at Fort Yukon in July 1915.

Alaska also is a place of great extremes in precipitation, varying by region from an annual average of 4 inches to 220. The Arctic portion, north of the Brooks Range, is as dry as Arizona. Yet the southeastern part, which is shielded by the mountains and draws warmth and moisture from the Alaska current, gets four times as much precipitation as New York City or Washington, D.C. In the central Gulf of Alaska area, much of the precipitation falls as snow. A record snowfall of 975.5 inches (81 feet) occurred at Thompson Pass on the highway out of Valdez in 1952–53, with that same station registering a record fall in one month of 298 inches (25 feet), in February 1953. A record of 62 inches (5 feet) was measured on a single day in December 1955.

Yet most Alaskans scoff at the "igloo image" lower 48ers have of them. Reason is that most live in modern comfort in the relatively "balmy" portion where Anchorage is situated, which has a climate somewhat like the north coast of Maine. Almost half the total population of 300,000 people lives in and around Anchorage. So, when you note that the state's average density is one half person per square mile, compared with 60 in the lower 48, it's obvious that in areas outside of Anchorage and Fairbanks (the only two cities

with more than 25,000 people), urban congestion isn't much of a problem.

In fact, Alaska has at one time been likened to a huge government game preserve, where 53,000 Indians, Aleuts, and Eskimos can still hunt and fish in the manner of the ancestors. (Alaska has more Eskimos than any other place in the world.) When Alaska was admitted to the Union on January 3, 1959, the Federal government owned 99.8 percent of the land, and still owns 96 percent. In this huge happy hunting ground are 100 million acres of timber, principally hemlock and spruce, seven million acres of lakes, and several thousand miles of navigable rivers. It has the nation's only active volcanoes—about 40, all told—and is sprinkled with some 5,000 glaciers and icefields. Also, it is subject to frequent earthquakes. The greatest earthquake ever recorded in North America occurred on Good Friday, March 27, 1964, in Alaska. It killed 114 persons, caused 50,000 square miles of land to heave and tremble, and did about 311 million dollars' property damage.

Alaska's wildlife is just as impressive as its climate and topography. Included are Alaskan brown bears (a king-sized subspecies of the grizzly), polar bears, black bears, timber wolves, wolverines, lynx, foxes, snowshoe rabbits, moose, caribou, mountain goats, Dall sheep, musk oxen, bald eagles, ptarmigan, spruce grouse, puffins, walrus, sea lions, seals, sea otters, salmon, trout, tom cod, smelt, king crabs, scallops, and shrimp—to name only a few of the more illustrious. Many of these are delicious. Some of them, such as the brown bears and polar bears, feel the same way about people.

Alaska, like Ireland, has no snakes.

In all this vast territory, covering 586,500 square miles, or 375 million acres, and streaching 2,000 miles east to west and 1,100 miles north to south—there are only a few million acres suitable for crops. Less than 100,000 acres is actually under cultivation, much of this in hay, silage, and pasture. Milk and vegetable crops are also important which introduces more superlatives. The growing reason is short, averaging about 160 days a year, but 16 to 19 hours of sunshine a day produces some of the finest and/or biggest vegetables grown anywhere, such as 60-pound cabbages and 30-pound turnips.

In keeping with the rest of its wild and youthful character, Alaska is short on surface transportation and long on aircraft. There is only one railroad, the government-owned Alaska Railroad, which runs north 470 miles from Seward to Fairbanks, and about 3,000 miles of surfaced roads. Yet the state has a dozen local airlines and about 700 airfields. One of every 54 residents has a pilot's license. International air carriers use it as a major way-stop for crossing the Pole.

Now that serious efforts are under way to find a means of transporting vast quantities of oil from the North Slope to consumers in the lower 48, Alaska's prospects for development are greater than ever. Officials undoubtedly will be calling for a host of sophisticated new services from many disciplines, a large number of which will no doubt come from members of the NOAA family.

U.S. DEFIANCE OF U.N. PROCEDURES

Mr. McGEE. Mr. President, we have been witnessing a growing tendency on the part of the U.S. Congress to take unilateral action highly detrimental to the future of the United Nations and in violation of our treaty obligations to that institution.

Our increasing defiance of U.N. procedures and obligations has called into question this Nation's credibility and integrity. In Tuesday's—June 13—edition of the Evening Star, columnist Charles Bartlett writes about the U.S. Congress and this Nation's financial obligation to the U.N. Mr. Bartlett makes some very poignant observations relative to recent efforts by Congress to unilaterally cut its U.N. contribution in defiance of regular U.N. procedures for resolving such questions.

As I have always maintained, it is incumbent upon this country to do all within its power to strengthen the United Nations and the role it plays in the international community. Yet, there appears to be increasing opinion that we should allow the U.N. to experience the same demise as the League of Nations. Such a path would be highly regrettable and without merit.

I therefore ask unanimous consent that Mr. Bartlett's column be printed in the RECORD.

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

CONGRESS AND OUR U.N. CONTRIBUTION

(By Charles Bartlett)

UNITED NATIONS, N.Y.—This is really not a prudent time for Congress to manifest the nation's weariness of its world responsibilities with a unilateral cut in its U.N. contribution.

The Senate Appropriations Committee has softened the harsh, precipitous act of the House, which voted 202 to 156 for an immediate cutback to 25 percent of the U.N. budget. Acknowledging that this step at this point will leave the U.N. flat broke by October, the Senate committee has postponed the retrenchment until the start of 1973.

But this concession is not enough because it will deny the American government an opportunity to negotiate the 25 percent ceiling through the regular procedures. The U.N. Contributions Committee meets in 1973 and the reduction in the American share can be achieved then. But Congress, in defying the procedures, will set a flighty precedent and leave the nation in legal default on a commitment made only one year ago.

The bitterness stirred by the expulsion of Taiwan was fully reflected in the House debate. Disenchantment with the U.N. reaches from high officials in the Nixon administration to the general public, and those who know it best do not hide their concern over the steady expansion of U.N. costs. The world body's bureaucrats have learned how to fatten their resources by aligning the poor members against the rich ones who pay most of the costs.

So no American officials dispute the wisdom of the goal that Congress has set, and there is considerable optimism that Ambassador George Bush and his team here will be able next year to persuade the other major contributors to accept it. But much will be lost, and only some $25 million will be saved, by setting aside the procedures which have kept the U.N. in business.

For one thing, important leverage will be lost in the dealings with those nations which caused the U.N.'s financial crisis by defaulting on payments for political reasons. This leverage is being applied with increasing success, and France is repaying almost all of what it has withheld since 1963. There is no real hope now that the Soviets may be persuaded to compensate for their refusal to participate in the costs of some expensive peace-keeping operations.

This cooperative trend is important because the Chinese newcomers are going to have to be talked out of their present inclination to balk at paying their share of budget items which they don't approve. Fortunately their recalcitrance is now directed at small items like the cost of keeping up the U.N. cemetery in South Korea, but their approach will be damaging over the long run unless they can be persuaded that it will not serve the interests of world peace.

There will be an important loss to the momentum of the new secretary-general, Kurt Waldheim, who is setting out to revive the U.N. from the slump in which U Thant left it. He is still an uncertain figure whom some view skeptically, but he is showing energy and courage and above all an awareness that the U.N. needs a leader who can articulate its claims on the world's support and exploit its opportunities for useful diplomacy.

Unlike U Thant, Waldheim is showing determination to come to grips with a budget which has more than doubled in the past 10 years. He has persuaded one of Canada's ablest career officials, George Davidson, to take on the management responsibilities. He is putting a tight hold on current expenditures, trying to keep them 10 percent below the authorized budget of $213 million.

There is no magic handle by which the U.N. can quickly reclaim public enthusiasm. There is no administrative handle by which the four nations paying 60 percent of the budget can prevent the 128 paying 40 percent from running up the costs. But the U.N. members are sensitive to the winds that are blowing, and its financial crisis has made the point that it can be destroyed, as was the League of Nations, by fiscal atrophy.

So Congress' warning will be useful, but the task of shrinking the American burden will more safely be left to the diplomats.

U.S. SERVICEMEN VIEW OUR VIETNAM COMMITMENT

Mr. DOLE. Mr. President, listening to certain politicians, pundits, and self-proclaimed spokesmen around the country, one might be tempted to draw negative conclusions about the men and women of the Armed Forces who have been called to serve in Vietnam. But the impression that might be gained from the publicity and promotional stunts of anti-war students, some journalists and others would be wholly inaccurate and unfair to the vast majority of personnel—career, draftee, and volunteer—who have served in Southeast Asia with honor, distinction, and a high commitment to their Nation and its policies.

More eloquently and more convincingly than I could put it, Americans serving in Vietnam tell the story of the sensitivity, concern, and thoughtful dedication which has characterized the presence of greater number of our troops in indochina. I believe it would be appropriate for three of these statements to be made a part of the RECORD, for they persuasively set forth points of view which too seldom seem to find the wide expression given to those of the doom and gloom merchants. Therefore, I ask unanimous consent that a letter from M. Sgt. William E. Peters, of Salina, Kans.; a letter from Sgt. John Lozarek and 13 others published in the Kansas City Star of May 28; and excerpts from a letter from Capt. Ed. E. Blankenhagen, of Manhattan, Kans., be printed in the RECORD.

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

APRIL 16, 1972.

Senator ROBERT DOLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: In a few days I will be leaving the Central Highlands here at Pleiku, Republic of South Vietnam, after spending two years of my life in service to our nation in RVN and in the cause of freedom. I can assure you I am most proud of our nation and the ideals for which it stands. I have witnessed incursions into the rights and freedoms of a lovely gracious people during my stay here, but none more serious than the past few days. I am sad indeed to leave my friends here and I worry about their well-being as I do of my own family. I am sick and tired of people at home forgetting those in need throughout the world, especially those political leaders in opposition to the Administration. The United States did not start this war, nor have they perpetuated it for greedy means, but the Hanoi regime has done this in flagrant violation of human rights and freedoms. They grossly abuse their own people for enhancing and insuring they retain control, power and the "right" image. Should there be any doubts of this speak to the people who live there and know from experience. Those peoples' problems are simply they will do what their told or else and the "else", in the case of NVA soldiers in the Highland Regions anyway, is death, with no hope of returning home even in a body bag.

With the massive buildup of forces in the Highlands, it would seem one of Hanoi's principle objectives is to mount a large scale invasion here, thrusting to the coast. They very probably expect to do this once South Viet troops are well occupied in Quang Tri Province and at the An Loc area. I would expect this to occur near May 1 to coincide with the communist celebrations, hopefully on their part, victory. So I personally feel very grave danger existing for American forces in this area, along with the residents of Kontum and Pleike. Something has to be done to counter the threat and to help save the misery and terror in store for our friends here in town.

So far this area has been saved from attack, but I know personally the enemy moves closer, day by day to set up positions for artillery and rockets. The enemy is up to no good and he must be defeated once and for all. The battle here will be the last major offensive prior to the rains, but I feel it will be spectacular, possibly defeating South Vietnam by splitting the nation again.

Still the South Viets seem to be fighting well and they are gaining needed experience. There is much hatred here for communists, a result of their methods of forcing their views on people in the 1968 Tet offensive at Hue. Even the Viet Cong (VC) support is not here; there may indeed by remnants of VC forces throughout Vietnam, people who still live in the hills and are isolated from the population because they retain a label.

The VC label is one threatened by extinction, as one can tell in the battle of An Loc, with the NLF wanting desperately to set up their capital there. It is strange the NVA is fighting the battle there and not the Viet Cong forces. This is how Vietnam has changed—before the VC force was the principle factor—now its outside forces and I can assure you the NVA invasion is highly opposed. The VC dream of popular revolt and the Madam in Paris, figurehead for the NLF has passed, much to these peoples hopes of maintaining an "Image" of power, authority and control. Right now the NVA realize the necessity of trying to re-establish the NLF and VC stature. I believe there is indeed people here who oppose the Thieu government much like our own people's political rows, but that doesn't necessarily label them as violent. The old VC core was killed off in 1968 and since remnants of them seem to be felt mostly on the central coastal regions and in the Delta around Can To. Even then a lot of those people at Can To seem to just disagree, perhaps violently if any one comes close to their property and they are not necessarily VC.

There is *nothing* the enemy wishes a majority of people to believe more now, than to fear the VC are everywhere and in complete control, ready to attack at given moments. Yet nothing is further from the truth. Its the NVA to worry about now.

My feeling is communists have pretty well been kicked out of South Vietnam over the past. Now of course they try to return by force and I pray to God it doesn't work. Hopefully, I make some sense and perhaps help in my way. I hope that help comes for the Highlands—defensively, if not offensively prior to D Day.

Wishing you the best of luck and of course it goes without saying, I'm highly complimentary of President Nixon's actions since the March 30th invasion.

Very sincerely,

M. Sgt. WILLIAM E. PETERS.

We here in Vietnam have listened with disappointmentand bewilderment to people putting down the President of our country for what he is doing. If they, the protesters, had to live with the threat of dying, they would be glad to have air strikes keeping the rockets, mortars and other devices of war away from them.

The other night, for instance, the North Vietnamese were sitting about six miles from us at Da Nang. If it were not for the air strikes a few of us might not be alive today. We are all scared and want to come home. That is what President Nixon is trying to do—get us home.

Most Americans agree that the war is wrong and we have no business being here. President Nixon was not the one who put us here. The tough, dirty job of getting us out was placed on him. To us, President Nixon is doing his best to do what's right for us and the United States. But what can one man do?

We say to all people who have never been here, and to all protesters in general, please stop the protesting and help our country and President to get this war over a lot faster.

Sgt. JOHN LAZAREK,
(and 13 others).

APO SAN FRANCISCO.

MAY 1, 1972.

Why don't you guys start a backlash back home in favor of bombing North Vietnam. I mean they invaded, we didn't. The NVA is mortaring civilians down here, kidnapping and killing civilians, so why should the people in North Nam be exempt. You won't believe the jubilation of the people at the news of bombing Hanoi and Haiphong. Both the VN's and U.S. were ecstatic. Also, thank God for aircraft carriers. We've got them stationed off-shore of Binh Dai. They're pounding the VC and NVA bad here in Kien Hoa. I mean, like we've got 5 battalions of bad guys roaming through the area. The U.S. here are pretty disheartened because we are not in the news. We don't have fighting on the scale of Quang Tri or An Loc, but the danger is the same. We've pulled Kit Carson Scouts into the U.S. compound for added security. The KCS are a U.S. funded group of ex-VC who are U.S. led and the best fighting unit in Kien Hoa. The KCS is hated by the VC and not trusted by the VN's so they work together for the sole reason of survival. Nobody messes with them.

My first job here was a 4 day mission with KCS. Now, don't get upset and worried, though I know you will be anyway til I get home, but the situation is well in hand. The PSDF is really being targeted by the VC, because they can get recruits and weapons. In a 5 day period I had 41 PSDF MIA and 50 weapons lost. These were the reported incidents and I know of some more unreported.

Boy, is it great to listen to the news of war protests back home. Love that moral support. . . . Excuse the language but that's the only way I can protest. The protestors are so idealistic in a pragmatic world. The bombing is indirectly saving U.S. lives and don't forget it. I value my life and those of my fellow U.S. and VN and it would be a real heartbreaking affair if my President did not help us. He is actively protecting our lives. The protestors would throw them away and our allies. We're close to final success, so let's not quit now.

Capt. ED E. BLANKENHAGEN.

MEAT IMPORT QUOTAS

Mr. PEARSON. Mr. President, I am deeply concerned by reports that the administration is seriously considering taking action to set aside the Meat Import Act of 1964 and to eliminate all quotas. Serious consideration is also being given, as I understand it, to the imposition of meat price controls following the elimination of quotas.

Mr. President, I am opposed to either of these courses of action. A removal of the meat import quota would not affect retail prices and therefore would bring no relief to the housewife. On the other hand, such action could very well have a depressing effect on live cattle prices. Moreover, the precedent setting nature of such action would be such that the cattlemen could not look to the future with confidence. If there is to be no stability to the meat import program cattlemen would be confronted with an intolerable element of uncertainty regarding future production plans.

An imposition of price controls at a level that would be clearly visible to the housewife would have an economically depressing effect on the cattle industry and this would tend to discourage the expansion of future production which is so clearly needed if we are to meet the growing demand for meat in this country.

The plain and simple fact is, of course, that live cattle prices are not too high. Current price levels are about where they were 20 years ago. And during that time, of course, costs of production have risen dramatically. Cattlemen are now receiving a workable profit but by no conceivable stretch of the imagination are they making an excessive profit. Indeed, any lessening of the small profit margin that now exists will discourage future production increases which the consumer is obviously demanding.

The well-being of the cattle industry is, of course, of great importance to the entire agricultural sector. Many wheat and feed grain farmers are able to continue satisfactory operations only because of the current stability in livestock prices. And in Kansas, beef is a $1¼ billion industry. Any decline here would, of course, have ramifications throughout the entire State economy.

Mr. President, if the administration wants to do something in this area it seems to me that they should look very carefully at processing and retail price margins. Past experience has shown that many of the retail markups on meat are simply not justified.

Mr. President, because of my concern over this matter I wrote the President outlining my views on this. I ask unani-

mous consent that my letter be printed in the RECORD.

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

U. S. SENATE,
Washington, D.C., June 13, 1972.

Hon. RICHARD M. NIXON,
The President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: I want to express my concern regarding reports that the Administration is considering eliminating the meat import quotas and/or establishing price controls on meat. I wish to respectfully register my opposition to either of these two actions.

A removal of the meat import quota would not significantly affect retail prices, therefore, bringing no relief to the Housewife. On the other hand, such action would cause great consternation among the cattlemen, even if such action did not, in fact, affect live cattle prices, because of the cattlemen's concern over the precedent setting nature of such action.

An imposition of price controls at a level that would be clearly visible to the housewife would have an economically depressing effect on cattlemen and this would have the effect of discouraging the expansion of future production which is clearly needed to meet the growing demand for meat in this country.

Current live cattle prices are about where they were 20 years ago, and, of course, during this period costs of production have risen dramatically, and even though cattlemen have increased the efficiency of their production, current cattle prices can in no way be seen as yielding the cattlemen an excessive profit. Indeed, as I have indicated any lessening of the small profit margin that now exists will discourage future needed production increases.

Activities by your Administration over recent months have served to demonstrate to American farmers that you are concerned about their economic well being and are committed to seeing to it that they have the opportunity to participate fairly in the expanding prosperity of this nation. I believe it is important that we make every effort to assure the American farmers that these policies will continue.

Very truly yours,

JAMES B. PEARSON,
U.S. Senator.

COOPERATIVE LEAGUE ENDORSES GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I received a letter recently from Mr. Stanley Dreyer, president of the Cooperative League of the U.S.A., expressing that organization's support from my efforts to keep the Genocide Convention before the attention of the Senate. The Cooperative League joins scores of organizations in our country which have endorsed the convention—from the Federation of Women's Clubs to the AFL–CIO to the National Conference of Christians and Jews to the Federation of Teachers.

The Cooperative League's letter notes that the United States has kept the Genocide Convention "in limbo" for more than 20 years. The letter continues:

As you have pointed out repeatedly, many other members of the United Nations have long since ratified the treaty and it is embarrassing to thoughtful citizens that our country has dillydallied here for so many years despite the proud idealism informing our foreign policy throughout American history.

There is a symbolic importance to our acting on the treaty that shrinks into insignificance the petty objections to which the Senate has listened far too long.

Mr. President, the endorsement of the Cooperative League provides still more evidence of the broad public support the Genocide Convention has in this country. The Senate's failure over the past 23 years to ratify this treaty is disgraceful. Since the favorable report of the Foreign Relations Committee last year, our inaction must seem to the world more like apathy than uncertainty. I urge the Senate to consider and ratify the Genocide Convention without delay.

READING CRISIS IN THE NATION

Mr. BOGGS. Mr. President, too few of us are really well aware of the reading crisis in this Nation today. The National Reading Center of Washington, D.C., tells us that 8 million schoolchildren need special help in learning to read.

There are 21 million Americans who are bound down economically and socially because they lack the basic reading skills to qualify for a job with a future.

I am pleased to report that citizens of Delaware are moving to meet the reading problem in our State, on a volunteer basis, in helping our young children to get a good start in reading.

In Dover recently, 117 volunteer tutor-trainers and coordinators, representing 18 of our school districts, participated in a 2-day training workshop scheduled by the National Reading Center.

These trained volunteers have now returned to their home communities to teach other volunteers how to tutor primary-grade children in reading.

The participating school districts include:

Alexis I. Dupont, Alfred I. Dupont, Appoquinimink, Caesar-Rodney, Cape Henlopen, Capital, Claymont, Conand, Conrad, Indian River.

Lore, Marshall-McKean, Milford, Mount Pleasant, Newark Special, New Castle Gunning Bedford, Seaford, Smyrna, Woodbridge.

Also, the Richardson Park community action programs and the Delaware Division of Libraries are supporting this productive project.

There is no charge to local volunteers for the National Reading Center's tutor-training program.

This important step in providing trained reading help for the children of Delaware has been acclaimed by the Wilmington, Del., Morning News in an editorial dated May 31, 1972. I ask unanimous consent that the editorial, entitled "Volunteers To Help Johnny Learn To Read," be printed in the RECORD.

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

VOLUNTEERS TO HELP JOHNNY LEARN TO READ

American society's massive use of volunteer workers is unique. In no other nation do so many citizens perform for free so many important functions for total strangers in institutions or even in their homes. While this generous outpouring of volunteer help—be it in schools, hospitals, prisons, nursing homes or whatever—is highly commendable and bespeaks of a spirit of generosity, it also carries with it some problems.

Volunteer workers often have not been as effective as one might hope, because the receiving agency has failed to train, instruct and properly direct them. There has been an understandable reluctance to tell volunteers what to do, since, after all, they are doing something for nothing and one should not be too demanding of them. Fortunately, this attitude of false consideration toward volunteers is changing and those who give of their time for free are more and more being treated as persons who can generally be expected to perform a given task at a given time and place. This more professional attitude results in the volunteer feeling more competent in what he is doing and makes the volunteer services more effective for the recipient.

To bring about this better integration of volunteers into work forces, receiving agencies have been running all sorts of orientation and training sessions for those offering to donate their time and energies. But few training programs are as ambitious as the one just undertaken with federal aid for the training of reading tutors. A team from the National Reading Center went to Dover recently to conduct an intensive training session in the techniques of teaching reading. This team worked with 100 "trainers" who are then expected, in turn, to offer 20 hours of instruction to volunteer tutors. The training program is expected to grow in pyramid fashion: From a small team of federal instructors to 100 Delaware trainers and, hopefully, to as many as 2,500 qualified tutors throughout the state's schools.

It's a giant, constructive effort to overcome the problems faced by regular teachers that do not have enough time to give individual attention to slow readers. And through volunteers are already performing many tasks in the state's school system, this is the first comprehenive endeavor to harness their talents in a truly productive manner. If it works, it will bring satisfaction to the hard-working volunteer and give a good many of the students the extra support they so desperately need.

PHILIP J. PHILBIN

Mr. BROOKE. Mr. President, the people of Massachusetts are deeply saddened by the death of a respected and loved public servant, former Representative Philip J. Philbin, of Bolton, Mass.

Phil Philbin spent the better portion of his adult life in service to the people of the Commonwealth and of the Nation. He developed an expertise in labor problems through his years as a special counsel to the Senate Committee on Education and Labor, as an official of the U.S. Department of Labor, and as a member of the advisory board of the Massachusetts Unemployment Compensation Commission.

For 28 years Phil Philbin served in Congress with great distinction, rising to the chairmanship of the House Armed Services Committee before his retirement from public life in 1970.

I was privileged to know Phil Philbin for many years, and cherished his warm friendship and wise counsel. To his two daughters, and his many friends, I extend my deepest sympathy.

NADER ON PENSION REFORM

Mr. HART. Mr. President, it has been said that the quality of a society can

be judged by how well or poorly its older citizens fare.

If that is true, history may well be less than kind in its judgment of our society.

The harsh fact is that many of our older citizens live out their final years in poverty or near poverty.

Social security and medicare are helpful, but even as we prepare to vote another increase in social security payments we know that this program is not designed to provide by itself an adequate retirement income.

However, even with all the problems and inadequacies of the Social Security System, it does provide some assistance. Our greater failing has been our continued disregard of the legitimate interest society has in the development of well financed, strongly protected, responsive pension programs.

As long as social security or some other form of Federal payments remains a base on which to build an adequate retirement income, society will have an interest in seeing that pension programs work for all those who seek to participate, and work in a way that frees rather than inhibits an individual from pursuing a productive career.

The failures and abuses of present pension systems have been well documented.

It has been estimated that one-half of all persons participating in a retirement program will receive no payments when they retire. And many of those who do will receive payments far smaller than anticipated.

Pension programs disappear when plants are closed or companies are merged.

An employee loses his stake in a pension program when he is fired or moves to a new job.

Some workers never remain with one company long enough to qualify for a pension, even though payments to the retirement fund may be part of the fringe benefits included in his compensation.

And many people work for businesses too small to be able to afford the administrative costs of establishing a pension plan.

For those who may doubt the seriousness of these failures, I refer them to the excellent study made by the Senate Subcommittee on Welfare and Pension, under the leadership of Senator WILLIAMS and Senator JAVITS.

Of course no study can accurately assess the unknown costs the present pension exact from employees who, except for fear of losing a pension, might move on to more rewarding employment.

It seems clear that a society which places a high value on an individual's right to grow to his or her full potential should seek to do what it can to remove unnecessary barriers to such growth.

Equally important, a society which believes in the dignity of the individual, regardless of age, should do what it can to protect the individuals preparations for an economically sound retirement.

After too many years of talk, it now appears that the time for pension reform has come.

The question remains what kind of reform and how extensive a reform should Congress consider.

The Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS) have introduced a bill, which I cosponsored, which includes major reform proposals, but which stops short, for example, of full portability and immediate vesting.

As always, many feel it is a question of half a loaf or no bread at all.

And, of course, opinions differ as to how much pension reform bread we can afford.

Others believe that the time is here to go for the whole loaf, and that if we miss this opportunity we will not soon again have another chance.

Ralph Nader, the consumer advocate, is one who holds this latter view.

He outlined his thoughts on pension reform in a speech to the Sixth Annual Conference on Employee Benefits in New York City on May 24, 1972. I ask unanimous consent that excerpts of Mr. Nader's speech be printed in the RECORD.

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

REMARKS BY RALPH NADER BEFORE THE SIXTH ANNUAL CONFERENCE ON EMPLOYEE BENEFITS, NEW YORK CITY, MAY 24, 1972

In terms of dollar impact, the private pension system represents one of the most comprehensive consumer frauds that many Americans will encounter in their lifetime. And I use the term "fraud" advisedly.

Those of you who sell, service and administer private pension plans, as well as those who negotiate and establish plans, have seriously and deliberately misrepresented the nature of this pension system. The industry has induced some 30 million Americans to rely on the system's promise of retirement security knowing full well that the system can afford to provide that security to very few. At least one-half of all persons participating in private pension plans will not receive pension benefits when they retire. More than one-half of all persons who receive private pension benefits receive less than $1,000 a year. The majority of pension plans do not provide for benefits for dependent widows or widowers, or provide very limited benefits. This vast 151 billion dollar system—heavily subsidized by an annual Federal tax subsidy of well over 8 billion dollars a year—is hurting too many people unnecessarily and unfairly.

The problem is not, as many of you like to contend, simply a problem of communication. It is a problem which goes to the very essence of the system. The response of many of you to the petition I filed with the Secretary of Labor last July made that all too clear.

In that petition I asked the Secretary to exercise his authority under the Welfare and Pension Plans Disclosure Act to require plan administrators to advise plan participants in negative and unambiguous language of circumstances under which they or their survivors might not or would not receive pension benefits. Your immediate reaction was that this would be disastrous—if employees were made aware of the contingent nature of their promised benefits, they might not want pension plans!

Although you quickly withdrew this objection, it had its effect. The rule proposed by the Department of Labor on February 1st of this year, while acknowledging that plan administrators do have an obligation to advise participants of the circumstances under which they may not receive benefits, would allow administrators to satisfy this obligation in such a way that only the most diligent of employees would ever be likely to discover the limitations of their plans. The rule would also ensure that those few employees who do manage to read these provisions could rely on them only at their peril. It would be difficult to find a better expression of what appears to be the prevailing industry ethic: the less employees know about the operation of the pension system, the better.

What is disconcerting is to find this attitude emerge from the department of labor, the government agency generally considered to be the advocate for the interests of employees. [The explanation may be that the department acted on the recommendation of its advisory council on employee welfare and pension benefit plans which has a minimum of 10 of its 13 members with strong "vested" interests in the present operation of the pension system and no members specifically representing the interests of the millions of persons who have been or will be hurt by the pension system.] . . .

The pension industry has made it clear that its phenomenal economic and political power will be used to ensure that there is as little meaningful reform as possible. Your efforts to forestall the enactment of truly comprehensive legislation represent a classic case study of the influence of special interests on our legislative processes.

Not only do you have members of the U.S. chamber of commerce, the national association of manufacturers, the American Bankers Association and the Life Insurance Association of America in almost continual communication with members of Congress and the Administration, you also have the Association of Private Pension and Welfare Plans, Inc., a main purpose of which is to arrange meetings for industry representatives with Senators and Congressmen, and the ad hoc groups from the several regional pension conferences which make it their business to call repeatedly on every person in Washington who might conceivably be in a policy-making position. Some of you neglect nothing including encouraging key congressional staffers to adopt legislative proposals you know to be politically unfeasible, solely as a means of distracting attention from more viable alternatives. Others guarantee that a professional association will report out position papers favorable to your interests by making sure that its members know that their statements will be relayed back to their clients. Still others put forward studies that you know are based on unrepresentative samples. And all of this has considerable effect: bills are introduced which are increasingly less comprehensive, more "acceptable"—to that curious pension coalition of industry and organized labor.

None of this would be particularly remarkable but for the fact that no one is being heard on the other side.

Compromises are being made, not of opposing views, but all from the same starting point—do as little as possible. No one is representing the interests of persons hurt by the system, the usual adversary process isn't operative. [It is also not working, I might add, in the courts. Despite a few significant breakthroughs, it is still virtually impossible for employees to get representation in pension cases, even if they can afford to pay. A member of my staff tried to find a lawyer for a pension claimant here in New York and learned that most pension lawyers consider themselves employer lawyers and will not represent employees, even where there is no possibility of a conflict of interest. Last year at another pension industry conference I suggested that you undertake to establish a clearinghouse for pension complaints. In response to the suggestion I was contacted by several lawyers and actuaries around the country willing to volunteer their services. All that is now needed is minimal funding staff.]

In the absence of representation of the interests of beneficiaries before Congress, the intensity of industry lobbying seems somewhat strange. It is particularly so, given the fact that sole reason for the existence of the industry is ensure the well-being of the persons whose interests you so actively oppose. Many of you are fiduciaries, obligated by law to act in the best interests of pension beneficiaries. Even if you do not actively support realistic reform legislation, as I think your fiduciary responsibility requires you to, at the very least it is incumbent upon you not to oppose it.

The financial community has consistently taken an unduly narrow view of fiduciary responsibility. Even though you acknowledge that you have a responsibility to seek a maximum return (consistent with safety) on pension money, you have not acted effectively to rid yourselves of the interlocking directorates, and other conflicting interests that may adversely affect pension, fund performance.

Even more important, you have failed to recognize that pension beneficiaries are a unique class of beneficiaries and that their money is allocated to a very special use—providing income at retirement. From this perspective, yield although important (particularly when increased earnings are used to increased benefits), is not the only consideration in determining the best interests of beneficiaries. High benefits are meaningless to a retiree who faces even higher costs at retirement. His concern is with his *real* income—his income less expenses a higher benefit is of no use to him if he cannot afford a place to live because there is a housing shortage. It won't help him if he must pay large amounts for medical care because he has been maimed in an unsafe factory or automobile or has emphysema aggravated by polluted air. And his interests will have been substantially disserved if he can't afford to purchase essential consumer goods because his pension money has been invested to increase concentration and decrease competition among the manufacturers of those goods. I submit that for these reasons such considerations may be very relevant to your investment of pension fund money. Is it too much to expect you to take longer run concerns into account in addition to maintaining shorter run concerns? Consider what has happened to societies in the past who chose myopia?

Partly in response to the concern of a number of trust officers and insurance company administrators who expressed a genuine interest in responsible investment of pension fund monies but who were unclear as to what mechanism to use to ascertain the interests of those beneficiaries, I put forward a suggestion last year for a possible restructuring of the pension system to achieve that end. The idea, which was later published in the September issue of Pension and Welfare News, met with widespread interest within the industry and considerable enthusiasm by members of Congress. The suggestion was a means of preserving capital in the private sector, while at the same time providing an equitable means of guaranteeing retirement security.

To summarize, I propose the creation of a limited number of private, competitive, cooperative, insured institutions to be licensed and regulated by the Securities and Exchange Commission. These institutions would be empowered to receive contributions made by employers for their employees and by employees and self-employed persons for themselves and their dependent spouses. All contributions to these institutions would be tax deductible and the funds' earnings would be exempt from taxation.

Employees and self-employed persons would choose the institution where their contributions would be invested. Each person could belong to only one such institution at a time, although he could transfer his money to another fund if dissatisfied with the investment or other practices of his original fund.

An individual's contributions would be pooled for investment purposes with all other employee contributions and a prorata share of the fund's earnings each year would be credited to his account. Each employee would have a passbook indicating the total amount in his account. At any time that he opted to file a declaration of retirement (but only one time during his life), he would begin receiving a lifetime annuity calculated on the basis of the total amount in his account and his actuarily determined life expectancy. He would also receive a cost of living adjustment to the extent of amounts available to the fund.

The directors of each fund would be representative of the fund membership and would also include persons with appropriate financial expertise. They would be subject to reelection by fund members, much as corporate officers are elected, and officers would be appointed by the directors.

The fund charters would outline the fiduciary responsibility of fund officers and directors and would specifically provide for prudent socially responsible investments. The directors would seek guidance in making investment decisions by sending investment and proxy voting preference questionnaires to fund participants. The questionnaires would not be binding on the directors. All investment decisions would be open to public scrutiny.

This proposal has now been worked out in its details but the basic outline remains the same.

Three questions were raised by industry members about the proposal: would there be enough money available to a fund participant when he retired? How could the proposed system be instituted without hurting those persons who expect to benefit from the present system? And, finally, what about increases in the cost of living? Let the following tentative thoughts serve as discussion-starters:

First, would there be enough money? Those of you who are actuaries know that there would be. An oversimplified and extremely conservative example will illustrate. The average American worker earns roughly $9,000 a year. Assume that his earnings remain constant over his lifetime and that he works from age 25 to age 65. Assume also that his employer puts an amount equal to 4 percent of the employee's pay into the employee's pension account and that this money earns 3 percent a year. Given a life expectancy of 15 years at retirement, that employee could count on a pension benefit of roughly $2,200 a year, considerably more than the current average private pension benefit which is estimated to be less than $1,000 a year.

The second question dealt with the problem of a transition to the new system. How could the proposed system be instituted without hurting those under present plans, particularly the older workers. What about making explicit what is implicit in the present system? Why not use the money theoretically allocable to younger employees to pay the benefits of older employees?

Let me be more specific. Employees assume that a certain percentage of their pay is being withheld in order to pay for their pension benefits. In fact, ordinarily pension contributions are determined in terms of percentage of payroll not percentage of pay, and the amounts paid into the pension fund are used to pay the benefits of retirees and older workers, particularly those with fast service credits.

What I suggest is that for purposes of the transition, is that employers first calculate their pension contributions in terms of a percentage of each employee's pay and then pay these contributions as follows: (1) all contributions allocable to employees now covered by the existing pension plan to the fund established by that plan: (2) all contributions allocable to new employees who are 35 years or older to their accounts in one of the new pension institutions: (3) all contributions allocable to new employees who are under 35 years to the pension fund established under the old plan. I have been told that this would make it possible for all employees now covered by pension plans to receive the benefits they have been promised by those plans. In addition all new employees would be guaranteed at least some coverage—up to 30 years of coverage for the younger employees—under the new system. In time, perhaps in 10 years, the age 35 cut-off date could be reduced to age 30—or earlier if a fund is able to pay all previously promised benefits before then. In another 10 years, the age cut-off could be reduced to age 25 or 3 years of service whichever is less.

At that time, the transition would be complete and all participants would be able to contribute to the new system for at least 40 years.

[During the transition period it would also be possible for employees and self-employed persons to contribute to their own retirement fund accounts, and for employers, if they chose, to do so, to transfer employees' discounted vested pension rights to these accounts. In addition it would be open to employers to terminate existing plans and distribute the money to individual accounts in accordance with the plan's termination schedule. Such a distribution might also take place in three-fourths of the employees covered by a given plan voted for termination.]

Under this approach all benefits that have been promised by existing plans would be paid. Participants would receive no less than they now can expect to receive. They also would receive no more. Those who are now programmed to lose out because of unrealistic vesting or funding requirements would still lose out. [Unless, of course, the employer is in a position to accelerate the transition. If so, he could then improve vesting provisions and funding and even increase benefit levels.]

The answer for those persons already scheduled to lose the pension "lottery," and particularly for those who have already lost, is not to apply first-aid to the system but to provide a direct and immediately effective retired workers' subsidy. This might be an amount which, added to income from all other sources would ensure that every American over 65 years of age would be able to live at least at the poverty level (and preferably at the low-income level). It is incredible that one-fourth of our aged population is now forced to live below the poverty level. This subsidy would be a temporary measure, phasing itself out as the public and private retirement systems begin to live up to their promises of a decent retirement for all. The money for the subsidy could come from a specially earmarked emergency corporate income surtax which instead of being passed on to consumers in the cost of goods and services might be taken out of divided payments on a uniform basis. In effect it would be a contribution by shareholders in recognition of services rendered to all American corporations.

Finally, there is the cost of living problem. As nearly as practicable, the retirement funds should, of course, make cost of living adjustments. It might be possible for this money to come from earnings on retirees' accounts and forfeitures. At the point when an employee files a declaration of retirement, his funds would be set aside with the funds of all other retirees. That money would continue to earn interest and the interest would be apportioned among the retirees.

In addition, there could be forfeitures coming from employees who died prior to filing a declaration of retirement without survivors and from some survivors' accounts. Let me explain this very briefly. The proposed system would encourage separate accounts for husbands and wives. Contributions would, of course, be made for working women, but in addition, husbands might be encouraged by a tax deferral to contribute to accounts for wives during periods when they stay home to raise families. Husbands and wives could jointly file a declaration of retirement at any time and receive an annuity based on three-fourths the amount in their combined accounts. The survivor would continue to receive the same amount. [This is merely a variation of a proposal contained in H.R. 1 which may have even greater applicability to the private system than to social security where there are complicating factors.] If husband and wife did not make this election at retirement, the survivor would take an annuity based on his life expectancy and the amount in his account or his spouse's whichever was larger. All amounts reverting to the fund by reason of a participant's death without a survivor or where the survivor opted to take his own account would be paid over to a Federal Pension Insurance Corporation. The F.P.I.C. would use a portion of this amount to pay off insurance premiums and then at the end of each year would return the balance remaining to the several funds on a pro rata basis according to total assets, to be added to the retirees' cost of living fund. [Until this additional money is available for the purchase of insurance premiums, funds would have authority to borrow from the Treasury.] I leave it to the actuaries among you to determine whether something along these lines would work.

Opposition to this proposal may come far more from its impact on the immense economic power you have amassed over the past 20 years than from any technical objections. 151.8 billion dollars increasing at a rate of more than 13.6 billion a year is a lot of money, and there is very little regulation at all over how it is invested and to what ends.

If this is our only objection to the proposal, I submit that it is untenable at this time in our history. The vote phenomenon in recent primaries is indicative of an impatience on the part of the public with bigness, with the remoteness of decision making from the citizen, consumer and taxpayer. There is increasing realization that the investment practices of pension funds are directly and significantly affecting the economic priorities of the nation, that it may be one of the causes of the lack of diversification essential to a healthy, competitive economy. At the same time persons covered by pension plans are beginning to express an interest in how the money taken out of their paychecks is being spent.

Pensions are only just beginning to surface as a popular issue. Increasingly congressmen are coming back to their districts to find that as many persons are concerned about pensions as tax reform and busing. Until now there has been a good deal of discontent, but there has been very little understanding as to the reasons for this discontent. That may change soon. This summer Grossman Publishers will be coming out with a small, simple and eminently readable handbook entitled *You and Your Pension*, authored by myself and Kate Blackwell. It is designed to explain the operation of the private pension system to the millions of persons affected by it both, directly and indirectly, and to outline some suggestions for change and ways for beneficiaries to assert their rights. The book says little you do not already know—it merely synthesizes the volumes of material that somehow hasn't yet filtered down to those people most immediately concerned—but you may find it interesting reading.

I suspect that once the public becomes aware of how the system operates its reaction will not differ significantly from that of the 537 persons who responded to a questionnaire that I sent out to 839 people last year (actually to 758, since 81 envelopes were returned unopened). The questionnaire was sent to people who had written to the president, Members of Congress or myself describing their experiences with the private pension system. The responses have been tabulated for a pension report which I will be submitting on behalf of these people to all Members of Congress.

The responses came from 40 States. Slightly less than half of those answering were retired, about a third were over 65 years of age, and a fourth were female. More than half were receiving or expected to receive private pension benefits.

Not unexpectedly an overwhelming majority—4 out of 5—said that employer contributions to private pension funds were more like wages than gratuities. More surprisingly, slightly more than half said that they would rather see private pension benefits for more people rather than more money for persons now receiving private pension benefits. All but a very small proportion believe that privae pension plans should provide for survitors and should be insured. They would also like to see some sort of vesting. Almost all of these persons are willing to pay the cost of these provisions in terms of reduced benefits. They also are interested in having a voice in who administers the pension fund and where it is invested.

I noticed that your conference literature describes this as the year of decision in employee benefits. You may find that when the time comes for a decision and if and when the public understands the operation of the private pension system, they are going to seek a simple solution. Increasingly, people in Washington who think about these matters are asking the question—"Why the private sysem? Why not an expansion of the social security system"? And there may not be an effective answer. When persons responding to the questionnaire were asked whether they would rather see higher social security retirement benefits for everybody or more people getting private pension benefits, only 9 more people opted for the private system than social security. This may be a response worth thinking about. Especially, as more and more disclosures are emerging to persuade them that their complaints reflect, not an aberration, but a system.

NEW FEDERAL PROGRAMS REQUIRE TAX INCREASES

Mr. BROCK. Mr. President, our penchant for deficit spending has brought us to a point where our currency is weakening throughout the world and where we can no longer finance new Federal programs without tax increases.

At the Federal and State levels, we have exhausted virtually all traditional sources of revenue. Yet, there continues to be a desperate need for additional moneys. Where we should seek these revenues and how they are to be collected has been the subject of much discussion in Congress.

Mr. President, steps toward resolution of this dilemma is the subject of an editorial published recently in the Memphis Commercial Appeal. I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

The article deals with the inability of the Federal Government to improve the effectiveness of its programs in both human and budgetary terms.

In addition, the Commercial Appeal's editorial offers an excellent discussion of the various alternatives which are now presented as solutions to growing revenue demands. Moreover, I am particularly pleased that they find that the most logical approach to tax reform is the one embodied in the recent report by the Brookings Institute. This proposal calls for a comprehensive income tax with reduced rates to replace the present narrow tax with high rates.

Mr. President, all indications point to a tax increase in the near future. If this is to be the case, the concept of a comprehensive tax reform appears to be the most equitable and effective alternative to provide the funds necessary to maintain the search for remedies to problems which now face our country.

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

TAXES AND SERVICES

Spokesmen for the Nixon administration have reacted defensively to the report by the Brookings Institution that the federal government will not be able to finance the normal growth of existing services, much less introduce major new programs, without tax increases or comprehensive tax reform.

John D. Ehrlichman, the President's chief adviser for domestic affairs, criticized the Brookings analysis for rejecting the possibility of cutting federal spending. The administration, he said, is committed to holding the tax line at least through fiscal 1974. This is a good political response, especially since it puts the burden on Congress to resist the demands and ignore the needs for federal aid.

George P. Shultz, who has been nominated to be secretary of the Treasury, took the same tack before the Senate Finance Committee when he said, ". . . we must do everything we can to bring outlays under control."

Economies in government should always be sought. Government officials shouldn't even have to remind the public of that. But the Brookings report did study lower spending. It concluded that "the total sums involved (in the possible expenditure reductions) are small compared to the cost of new program proposals (by the administration)." It also noted that Congress is not likely to substantially cut any of the large federal subsidies, such as those for education and the poor.

The federal tax or revenue crisis was caused in large part by the expansion of services that returned relatively little in economic or social improvements. Since 1965, the largest percentage increase in federal spending has been aid to states and cities. That aid rose from 11 billion dollars in 1965 to a projected 36 billion in fiscal 1972. It is estimated to be 41 billion next year. Much of these funds have been poorly spent. It costs as much to keep a child in a day care center in New York City as it does to send a young man to Yale. The billion-dollar-plus compensatory education programs have been dismal failures. The waste in welfare spending is becoming a national scandal.

These problems have stimulated two kinds of proposals: One for tax reform, the other for reforms or reductions in services.

Senator Hubert Humphrey and others have lent their voices to an increasing popular demand to close tax loopholes "that protect the super-rich." Humphrey estimates the nation could take in an extra 16 billion dollars, although that figure does not seem to have a sound statistical basis. Neither does the proposal realistically take into consideration the difficulty of getting tax reforms through

Congress. At best, in the view of many economists, the additions to federal revenues through plugging up loopholes would be gradual and much more modest.

As far as tax reform is concerned, the most logical approach seems to be the one recommended by Brookings tax specialists. They propose a comprehensive income tax with lower rates to replace the present narrow tax with high rates. The poor would be exempted, but preferential treatments would be eliminated across the board, from capital gains to Social Security. The tax would apply to all kinds of income. Additional revenues of 77 billion dollars are predicted.

To combat the problems with expanding services, the administration has proposed to cut back or eliminate many of the "Great Society" programs started by President Johnson. Other domestic programs would be shifted to state and local governments through revenue sharing. Welfare reform also is high on the administration's priority list. But as important and promising as the reform plan is, it won't cut welfare spending over the short run.

It seems clear that the government will have to cut its services or raise taxes. Even good economic growth in the next three years probably will not yield more than 20 billion dollars in new revenues, which would be exhausted by present government programs and such new ones as family assistance and medicare for the poor and the disabled. That would leave the government with continued annual deficits of about 30 billion dollars (the current year's may run as high as 39 billion).

If the administration and Congress could agree on cuts, they still would not have dealt with the heart of the Brookings report's message.

The report concluded by saying: "Giving up the search for solutions to urgent social problems would be both irresponsible and dangerous. But taking refuge in pat, simple answers—decentralize, regulate, coordinate, spend more, spend less—seems unlikely to lead to a workable new strategy. It is time for a new and more realistic look at the federal government and the ways in which it can hope to carry out its activities effectively."

Perhaps when the political demands of the election year are past, both the administration and Congress will take that look. A more equitable system of taxation and better ways of providing necessary services must be found.

ECOLOGICAL THREATS TO SEA-LEVEL CANAL THROUGH PANAMA

Mr. TOWER. Mr. President, there continues to be a great deal of controversy in the scientific community over the ecological threats to building a sea-level canal through Panama. Aside from the cost factor of building a sea-level canal, which seems almost prohibitive, the ecological questions must be settled before we could even consider whether or not to build one. For the information of Senators, who I know are much concerned with this matter, I ask unanimous consent to have printed in the RECORD at this point a letter that I received from Mr. John P. Sheffey, special adviser, Office of Interoceanic Canal Negotiations, Department of State, relating to the environmental dangers of building a sea-level canal connecting the Atlantic and Pacific Oceans. Since Mr. Sheffey disagreed with the findings of Dr. John C. Briggs, director of graduate studies of the University of South Florida, I asked Dr. Briggs to reply to Mr. Sheffey's allegations. I ask unanimous consent that the reply of Dr. Briggs be likewise printed in the RECORD at this point.

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

DEPARTMENT OF STATE,
Washington, D.C., April 27, 1972.

Hon. JOHN G. TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: The article by Dr. John C. Briggs, "The Sea-Level Canal Proposal", which you inserted in the Congressional Record of April 19, 1972 (pages 13392–13393) points out valid concerns about the potential ecological threats of a sea-level Isthmian canal. However, Dr. Briggs failed to cite the mitigating factors, of which he is well aware. I personally called them to his attention in the course of the Sea-Level Canal Study.

In the interest of objectivity I would greatly appreciate your placing in the Record the following summary of the factors that led the President's Canal Study Commission to conclude that the ecological risks in opening a sea-level canal were acceptable.

The Commission was well aware that a sea-level canal would inevitably impact on the ecology of the surrounding area and that the United States had an obligation to prevent any harmful changes, if possible, and to avoid entirely risks of damage to the environment out of proportion to the potential benefits of the project. In recommending that a sea-level canal be built, the Commission did take cognizance of this obligation, and made provision in its recommendations for a fresh-water barrier to the transfer of ocean populations through the sea-level canal if further research proves it needed.

Obviously, a sea-level link between the oceans would introduce new opportunities for biological changes, but there are many reasons for confidence that explosive changes in the ocean populations are unlikely. There has been a considerable movement of marine life between the oceans through the present canal by three distinct means in its 58 years of operation. First, swimming and drifting biota that thrive in both salt and fresh water readily pass through the locks and some eventually make their way across Gatun and Miraflores Lakes to the opposite oceans. Some have already been identified as having followed this path.

Second, barnacles, algae, and similar clinging organisms pass in both directions on the hulls of ships. Entrapped in this growth many other small forms of marine life—parasites, plankton, etc.—are bound to have made the passage year in and year out. Third, and perhaps most important to the question of the biological impact of linking the oceans, is the daily transfer of large amounts of salt water in ships' ballast tanks. Lightly loaded or empty ships approaching the canal are frequently required to take on ballast water before entering the locks. This is to deepen their drafts to make them easier to handle in the canal. On leaving the canal a few hours later at the opposite ocean, this ballast water is discharged to lighten the ships to save fuel on the remainder of the trip. Thus, all the small swimming and drifting marine life that would be found in these thousands of samples of sea water taken from both oceans daily since 1914, have made the trip across the Isthmus in salt water in both directions. While a sea-level salt-water channel between the oceans would vastly augment the movements of marine creatures between the oceans, the new avenue would appear to offer previously denied passage only for that portion of ocean life that could not transit by one or more of the three existing means. It follows that a large portion of the small swimming, drifting, and clinging creatures on both sides of the Isthmus have long been exposed to inoculations of the same category from the opposite ocean. To date, no discernible effects have resulted. It seems reasonable to conclude that a sea-level canal would create little or no new threat to the major portions of the two ocean populations which comprise the species that now can transit the Isthmus. New exposures would be limited to the larger swimming and drifting biota, and even these can transit at present in infant or larval stages. Thus, the area of danger of harmful biological changes when the oceans are joined is much less broad than it first appears.

The only specific dangers thus far identified are the poisonous Pacific Sea Snake and the coral-eating Crown-of-Thorns star-fish. An objective view of both threats is not very alarming. The sea-snake abounds in the millions throughout the warm waters of the Pacific and the Indian Oceans and creates no problems for the countless beach resorts bordering on these waters. The snake avoids inshore waters in the first place, it flees humans rather than attacking them, its mouth is too small to bite a flat body surface easily. In its free state it just does not attack humans, and when it bites in self-defense while being handled it rarely succeeds in injecting harmful amounts of venom. Fishermen throughout the Pacific handle them quite freely when they are caught in their nets. There is simply no evidence that their presence in the Pacific is a significant threat to humans. In much of the Orient, incidentally, they are regarded as a great delicacy, and fishermen handle them by the hundreds for the commercial market for their flesh and skins. The only obstacles to the sea-snake's migration through the present canal are the canal's length and its maze of locks and channels. Its fresh water is no barrier. There is even less to prevent its migration through the salt water Suez Canal from the Indian Ocean through the Mediterranean to the Atlantic. The entire route consists of the warm waters in which it thrives. One can only conclude that its avoidance of in-shore waters keeps it away from these canal entrances, and those few that may have wandered into these canals, and possibly through them, have not found the new environment suitable for colonization. The Smithsonian Institution's experiments have, I believe, indicated that predator fish in the Atlantic are ignorant of the snake's poison and eat it readily. Although the fish might die as a result, the snake frequently does also. This could be the reason it has not colonized the Mediterranean and subsequently the Atlantic through the Suez, and the few strays from the deep Pacific that might make their way through a sea-level isthmian canal certainly will have a hard time surviving long enough to colonize the Caribbean and the warm waters of the Atlantic. Should it succeed in doing so, there is no discernible reason for it being any more of a problem in the Caribbean or the Atlantic than it is now at the Pacific beach resorts of Panama and the hundred of others ringing the warm waters of the Pacific and Indian Oceans where bathers are generally unaware of its presence offshore.

The Crown-of-Thorns starfish now also appears to be somewhat exaggerated threat. According to a recent edition of the Smithsonian Magazine, marine biologists are having second thoughts about its destructiveness to coral reefs and suspect that its recent increase in numbers along the Great Barrier Reef north of Australia was a natural population cycle that is again in a downswing. It is possible that the drifting larvae of this starfish have already been transported through the Panama Canal in ships' ballast tanks and found the Caribbean environment inhospitable. In any event, the Pacific tides

prevent coral growth anywhere near the planned entrance to the sea-level canal, and hence the offshore approaches to the canal and its forty-mile length of turbid waters would be major barriers to the starfish as well as to a large percentage of the other denizens of both oceans.

Because of the great divergence of views on the ecological consequences of a sea-level canal, the Canal Study Commission had an evaluation made by the Battelle Memorial Institute of Columbus, Ohio. This study's findings are summarized as follows:

"On the basis of the limited ecological information currently available we were unable to predict the specific ecological consequences of marine mixing via a sea-level canal. Preliminary modeling studies indicate that the net flow of water would be from the Pacific to the Atlantic. This would result in minor environmental changes near the ends of the canal and near the shore to the east of the Atlantic terminums. Passive migration of planktonic organisms would occur almost entirely in the same direction. Active migration of nekton could occur in either direction, but environmental conditions in the canal would favor migration from the Pacific to the Atlantic. We have found no firm evidence to support the prediction of massive migrations from one ocean to another followed by widespread competition and extinction of thousands of species.

"Evidence currently available appears to indicate a variety of barriers to migration of species from one ocean to another and/or the subsequent establishment of successful breeding colonies in the latter. Environmental conditions in the canal would constitute barriers to the migration of both plankton and nekton, and the effectiveness of these barriers could be enhanced by engineering manipulations of freshwater inputs to the canal and other artificial means. The marine habitats and biotic communities at the opposite ends of most proposed sea-level canal routes are strinkingly different. Where similar habitats do occur on both sides of the Isthmus, they are already occupied by taxonomically similar or ecologically analogous species. These differences in environmental conditions on the two sides of the Isthmus and the prior occupancy of similar niches by related or analogous species would constitute significant deterrents to the establishment and ecological success of those species which may manage to get through the canal.

"It is highly improbable that blue-water species like the sea-snake and the Crown-of-Thorns starfish could get through the canal except under the most unusal circumstances. On the other hand, we can be fairly certain that some Pacific species could pass through the canal and could become locally established in the Pacific waters of the Atlantic. It is also improbable that these species would be able to survive in the Atlantic outside the region of environmental modification due to water flow through the canal. The Pacific species most likely to become established along the Caribbean shore are those of estuarine and other shallow-water habitats, the very habitats that have been least thoroughly studied.

"To improve the precision and reliability of these and similar ecological prediction would require additional information and quantitative data which could be provided only by a comprehensive program of field, laboratory, and theoretical (modeling) studies. Extensive taxonomic surveys would be required to improve our knowledge of the biota of the Tropical Western Caribbean and Tropical Eastern Pacific. Except for a few economically important species, ecological life history data are virtually non-existent. Basic biological studies would be required to obtain such information. The geographical extent and physiochemical characteristics of the marine habitats on the two sides of the Isthmus are imperfectly known from a few cursory surveys. The species composition and functional-ecological structure of the biotic communities that characterize these habitats are imperfectly known and inadequately understood. The parameters required to predict the flow of water and plankton through the canal have not been adequately measured. The processes of migration, establishment, and competition have been but little studied and are not well understood. To remove these deficiencies in our knowledge would require a comprehensive, long-term program of well-coordinated physical oceanography, marine ecology, and basic marine biology studies."

The Commission concluded that the risk of adverse ecological consequences appeared to be acceptable. However, it also concluded that long-term studies were needed to be more confident and that tentative provisions should be made for a fresh water or heated water barrier in the midsection of the sea-level canal should a barrier prove needed. The National Academy of Sciences developed a study program, and it is expected that such a program would be initiated with the decision to build a sea-level canal. In any event, the choice between additional locks for the present canal and a sea-level canal need not be made for 15 to 20 years, and the construction of either will take an additional 10 to 15 years. There is adequate time to investigate the potential environmental effects before the oceans can be joined at sea-level.

Sincerely,

JOHN P. SHEFFEY,
Special Adviser Office for Interoceanic Canal Negotiations.

UNIVERSITY OF SOUTH FLORIDA,
Tampa, Fla., June 9, 1972.

Hon. JOHN G. TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: In his letter of criticism about my article on the sea-level canal proposal, Mr. John P. Sheffey, Special Advisor to the Office for Interoceanic Canal Negotiations in the Department of State, emphasized two main points: (1) there has been considerable movement of marine animals through the present freshwater canal and it hasn't done any harm so why should an increased movement through a sea-level canal have any drastic effects? and (2) the poisonous seasnake and the crown-of-thorns starfish pose no real threats to the ecology of the Atlantic.

There is evidence that occasional, individual marine animals are transported through the present canal mainly on ship bottoms or in ballast tanks. However, biologists know that in order for a species to successfully colonize a new environment a considerable number of individuals is necessary. Otherwise, the new colony will not contain enough genetic variability, i.e. a gene pool of sufficient size, to permit it to survive. Fortunately, the present freshwater canal has proved to be such an effective barrier that interoceanic colonization has been almost entirely prevented.

Mr. Sheffey feels that the dangers posed by the migration of such animals as the poisonous, yellow-bellied seasnake and the crown-of-thorns starfish through a sea-level canal have been exaggerated. His reasoning is based mainly on some evidence that these animals are really not very harmful in the Pacific. Again, this is a problem that can be evaluated only in the light of what biologists know about the behavior and ecology of such animals. Predatory species are, in their native environment, generally counteracted by various kinds of defense mechanisms that have evolved in the prey species. Also, such predators, in their home waters, have to contend with pressure by animals that prey upon them, parasitize them, or compete with them. It is the combined action of such factors that ordinarily keep populations of dangerous or obnoxious animals at a tolerable level.

I cannot emphasize too strongly that the introduction of animals, such as the seasnake and the predatory starfish, into the Atlantic via a sea-level canal is very likely to result in these species becoming *far more* numerous in the Atlantic than they ever have been in the Pacific.

They would be entering an environment where their natural prey species have developed no defense mechanisms and where their own predators, parasites, and competitors are likely to be absent. Thus we have the real threat of a population explosion, such as took place when rabbits were introduced into Australia, whereby the seasnake and starfish could exist in enormous numbers in the tropical Atlantic from northern Florida to southern Brazil.

Mr. Sheffey, in his letter, quoted at length from a Battelle Foundation study which, as far as its biological content is concerned, represents questionable professional advice. He said nothing about the conclusions reached by a distinguished committee convened by the National Academy of Sciences for the express purpose of examining the ecological consequences of the proposed sea-level canal. The NAS committee felt that if such a canal had to be built there were "grave potential dangers of inter-oceanic migrations of plants and animals" and furthermore that it was "essential that migrations be prevented as far as possible by installing the most effective barriers that can be devised."

The important point in my article was that the Terminal Lake-Third Locks Plan for the modification of the present canal presents an attractive and desirable alternative to the sea-level canal proposal. By adopting the former, we can avoid the undertaking of an enormous project that is biologically dangerous, economically expensive, and commercially unnecessary.

If the Terminal Lake-Third Locks Plan were adopted by Congress, the State Department would not have to proceed with its plans to give up our sovereignty over the Canal Zone in order to gain permission to construct a sea-level canal in Panamanian territory.

Sincerely,

JOHN C. BRIGGS,
Director, Graduate Studies.

WILLIAM PENN PATRICK, CHAIRMAN OF HOLIDAY MAGIC, INC.

Mr. GRAVEL. Mr. President, our early pioneers had no vast country to call their own. Instead, against seemingly insurmountable deterrences, they went out into the wilderness and from the plains, forests, and mountains carved out the towns and cities and greatness that today makes up our Nation.

As a Senator from the State of Alaska, where brave men and women still strive to conquer our last Northern frontier, it is strongly within me to recognize and exalt a pioneering spirit in keeping with the honor and tradition of our cherished history.

Such a person is William Penn Patrick, North Carolinian by birth, now a Californian residing in Tiburon. As founder and chairman of the board of Holiday Magic, Inc., Mr. Patrick is a man who classified as fallacy the legend that no one man today could singlehandedly create an international corporation. His belief in his ideals has given to tens of thousands of persons across the country gainful and needed employment.

In his accomplishments, Mr. Patrick has truly embodied the rags-to-riches theme. Holiday Magic, Inc., was formed in 1964 when Mr. Patrick became committed to a belief that perseverance and imagination could create for a dedicated American a future of his choosing.

Holiday Magic has changed dramatically the lives of his many employees through an imaginative, practical marketing concept that rewards initiative. Mr. Patrick's unique marketing concept threatens to dramatically change the sales technique of some of our Nation's largest direct sales companies. Its marketing concept which is as old as selling itself, is a means by which goods or services are distributed to the consumer through more than one independent intermediary rather than directly from the source. This procedure enables Holiday Magic distributors to realize a higher percent of profit as their share of retail sales for merchandise than other ordinary direct sales firms offer their representatives.

This concept has caused competitive corporations such as Avon and Amway to attack his method of distribution and sales when their own methods could bear investigation and may have to.

Loyal sales women, appropriately named Holiday Girls, a sizable number of whom work and reside in Alaska, are determined that no critics can detract from the enormous success and integrity of Holiday Magic. For these people, Holiday Magic provides a means to become independently successful and pridefully self-supporting.

In 1964, when Mr. Patrick committed his family's entire savings of a few thousand dollars to a dream, the preseverance and dedication of his pursuit was to rekindle again in the heart of an American pioneer an urge to carve from a dream a wonderous reality of success. For this fact alone, he and the people who work with him, should be commended.

ACCOMPLISHMENTS OF B. BOYD FLICKINGER

Mr. BEALL. Mr. President, on May 12, a distinguished Marylander was recognized as Shepherd College's "Outstanding Alumnus of the Year," in ceremonies held on the Shepherdstown, W. Va., campus. B. Floyd Flickinger has compiled a long and distinguished career as historian, educator, conservationist, and lecturer. Of particular note, was his service as first historian of the National Park Service and superintendent of the Colonial Historic Park, comprising Jamestown and Yorktown, where he closely directed the development of those shrines. At present Professor Flickinger is a member of the Maryland Bicentennial Commission for the Commemoration of the American Revolution.

I ask unanimous consent that two articles, from the Baltimore Evening Sun and the News American of May 17, 1972, be printed in the RECORD, so that Senators might read of the many accomplishments of Professor Flickinger.

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

[From the Baltimore Evening Sun, May 17, 1972]

SHEPHERD COLLEGE ALUMNI HONOR PROF. FLICKINGER

B. Floyd Flinckinger, of 300 St. Dunstans road, has been named "Outstanding Alumnus of the Year" by the Alumni Asscciation of Shepherd College, Shepherdstown, W. Va.

The citation was presented to Professor Flickinger, a member of the board of trustees of the Shepherd College Foundation, at the annual alumni banquet held Friday at the college. The presentation was one of the highlights of the celebration of the college's centennial.

After his graduation from Shepherd, Professor Flickinger attended Lafayette College, where he was graduated summa cum laude with Phi Beta Kappa honors. Later, he was a duPont Fellow in American history at the University of Virginia.

Since that he has taught history, political science, economics and English at Loyola College, the University of Baltimore, Mount St. Agnes College, the University of Maryland and Baltimore Community College, as well as at the College of William and Mary.

He was the first historian of the National Park Service and was superintendent of the Colonial National Historic Park, comprising Jamestown and Yorktown, directing their development.

Professor Flickinger is a member of the Maryland Bicentennial Commission for the Commemoration of the American revolution, a member of the commission's executive committee and chairman of the historical committee.

[From the Baltimore News American, May 17, 1972]

NAMED ALUMNUS OF THE YEAR

B. Floyd Flickinger, a history teacher of 300 block St. Dunstan's Road, has been named "Outstanding Alumnus of the Year" by the Alumni Association of Shepherd College, Shephardstown, W. Va.

Flickinger has taught at Loyola College, University of Baltimore, Mt. St. Agnes College, the University of Maryland and Baltimore Community College.

DUMPING OFF SANDY HOOK HURTS SEA LIFE

Mr. HOLLINGS. Mr. President, the New York Times for today contains an article entitled "U.S. Survey Indicates Dumping Off Sandy Hook Hurts Sea Life," written by Mr. Harold M. Schmeck. The article is one more piece of evidence in the growing collection of reasons for strong and immediate legislation to curb the pollution and total destruction of the waters adjacent to the United States.

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:

U.S. SURVEY INDICATES DUMPING OFF SANDY HOOK HURTS SEA LIFE

(By Harold M. Schmeck)

WASHINGTON, June 14.—The dumping of sewage and sludge from dredging into the New York Bight—east of Sandy Hook—appears to be harming marine life, according to a report by the National Marine Fisheries Service.

Studies during the last two years showed that the total population of marine-dwelling species was decreased and that many large crustaceans, such as crabs and lobsters, were diseased.

Abnormally high concentrations of bacteria were found and traces of heavy metals were detected in higher-than-normal amounts in the dumping areas at sampling stations both to the north and south, the report said. Some of the heavy metals used in industry are poisonous when absorbed.

Fish caught on the periphery of the dumping area were found often to have such things as cigarette filters in their stomachs.

"DELETERIOUS EFFECT"

"We conclude from the data accumulated during the present study that disposal of dredging spoils and sewage sludges has had a significant and often deleterious effect on the living resources of the New York Bight. However, an expert in ocean pollution who was not involved in the study said that far larger amounts of pollutant material reached these waters from sewage into the Hudson and other rivers. He said this pollution almost certainly played a part in the ecological problems of the waters off the New York and New Jersey coasts.

The implication was that many factors probably need to be considered in fixing blame for pollutant effects beyond the limits of the dumping area, which comprises 14 square miles.

The report said that there had been few studies of the effects of solid-waste disposal in coastal waters and that differing conditions made it hard to apply the results of one study to the probable effects of pollution in another area.

SLOW RECOVERY CITED

Based on the studies that have been done, the report concluded that disposal of wastes in oceans had harmful effects on various marine environments and that recovery of the regions was slow after heavy pollution.

"This suggests that we should objectively consider all evidence before commencing to despill new areas or before moving existing inshore disposal activities farther offshore," the report said.

The document was prepared for the United States Army Corps of Engineers by the Sandy Hook Laboratory, Middle Atlantic Coastal Fisheries Center of the National Marine Fisheries Service. The service is a unit of the National Oceanic and Atmospheric Administration, Department of Commerce.

ADEQUATE CREDIT NEEDED FOR SMALL FARMERS

Mr. JORDAN of North Carolina. Mr. President, the plight of many small farmers, not only in my State of North Carolina but elsewhere across the country, in obtaining adequate credit to keep them from being forced out of business because of crop failures due to natural and other causes is widely known. But I think the situation has been particularly well documented in an editorial published several months ago in the Elizabeth City, N.C., Daily Advanced. I ask unanimous consent that it be printed in the RECORD.

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

WHERE IS UNCLE SAM?

The federal government's efforts to help the farmer have resulted in substantial production increases and better prices for farm products.

President Richard Nixon, in his State of the Union Message in January, said the pro-

ductivity of America's farmers has increased 200 percent during the past 20 years.

However, there is still no established credit system to prevent capable small farmers from being forced out of business by bad weather and plant diseases.

Due to adverse circumstances during 1971 the farmers of eastern North Carolina are now faced with a gloomy outlook.

Growers in the Northeastern part of the state, where most of the farms are small, are in need of immediate aid. The plight of the small grain grower is acute.

In northeastern North Carolina, normally a prosperous growing area, grain farmers struck out four times last year, and some of them may be out of the game for good.

The first strike was a shortage, and high cost, of blight-free seed corn. Seed corn in 1971 was $35 to $38 per bushel, compared to a price of $25 per bushel the year before.

The second strike: Due to the blight in 1970 the Government encouraged increased planting. The Government thought, and rightfully so, that we might possibly have more blight that could cut yields nationally. It turned out just the opposite. So when there was less blight and the government estimates came out, the price on corn dropped from $1.60 per bushel at planting time to $1.20. Now the farmer already had the corn planted. At harvest time the price was only $1.07.

The third strike: Hurricane Ginger! This storm, coming just at the very beginning of harvest time, blew down all the corn that was already damaged by blight and badly damaged all other. Ginger damaged the blossom of the soybean, then in the blooming state.

The fourth strike: The rains of October totalled 16.3 inches. This cut the soybean yield 40 per cent and adversely affected prices due to damaged and decayed beans.

All farmers in the hurricane area are in a bind. Those who have part-time jobs or are more diversified can survive, but those depending entirely on producing grain are in severe financial trouble.

For example, five years ago, M. J. Baum, a chain store executive, decided to take early retirement and return to his native Currituck County to develop land he owned and to do some sharecropping. Sharecropping is an arrangement between land owner and farmer, whereby the landowner provides the land and and pays a portion of the crop expenses of seed and fertilizer in exchange for a portion of the profit of the crop, usually one-third while the farmer provides the labor, equipment, gas, etc., and pays two-thirds of the crop expense in exchange for two-thirds of the profit.

Baum's observations while dealing in agricultural products as an executive of A&P stores convinced him that small farmers could profitably adopt modern methods such as the use of liquid fertilizers and larger equipment.

He entered into an agreement with Carlton Smith, an experienced Sligo, N.C., farmer to cultivate one of the Baum farms.

At the time, Smith was living in a $35-a-month rented house which cost $50 per month to heat. He was paying up to $30 per acre for other land which he rented.

In 1971, after being on his own for four years, Smith was cultivating 700 acres and using modern equipment.

Through hard work and cooperative landlords, the Smith family prospered. Mrs. Smith, on her day off from nursing at a nearby hospital, operated a tractor with a two-year-old baby in her lap. Her teenage sons picked up roots and handled chores.

Baum was favorably impressed by the enterprising tenant farmer and gave him a 250' x 420' lot on which to build his own home.

In 1971, with grain planted and a highly favorably crop outlook, Smith obtained a loan of $26,000 to build a house. He borrowed $5,000 from his crop lien in order to make a $6,000 down payment. Then came fall and the harvest—Hurricane Ginger, rain, rain, and more rain.

Yield was down 40 per cent from 1970. His gross income loss, figured on the basis of his 1970 yield per acre, is $19,000 compared to the previous year.

If the government had paid the farmer the average price for what was delivered, he would have received over $9,000, but the area was not declared a major disaster area by the President because no bridges were washed away and no homes completely destroyed. At a meeting held in the Elizabeth City Armory in November, federal, state and local political leaders unsuccessfully sought to obtain a major disaster designation. Farmers by the hundreds flocked in from the surrounding counties and were disappointed with the government's decision.

Now farmer Smith is in a real bind. He owes for last year's grain. His credit has run out, since he doesn't own land. Land rent is due. He could lose his brand new home.

Smith, an honest, hardworking 39-year-old farmer with no social affiliations except his church, with a wife and four children ranging in age from five to 14 years, is in real trouble.

He does not want to quit farming or move to the city—and he certainly does not want to become a welfare case.

It should be pointed out, however, that a farmer in Smith's predicament could move his wife and four children into a big city and collect several thousand dollars per year in welfare funds without working. In fact, the amount of welfare money which he could draw over a two-year period would solve his problem if made available to him through a three-year loan.

According to a Wall Street Journal story Feb. 9. Smith might have fared better if his new house had been roughed up by an earthquake. Then he might have arranged a $3,000 federal loan, only $500 of which would be repaid.

In his State of the Union Message, President Nixon said, "Still there are very serious farm problems—and we are taking strong actions to meet them."

A few hours after the President spoke, a Democratic party leader said his party would make special efforts to help the country's small farmers.

There are many Carlton Smiths who may lose their homes and machinery for reasons beyond their control unless they can arrange low interest loans.

As collateral, they pledge their full-time efforts to repay the loans and at the same time to accelerate America's farm productivity. They feel that the American government should aid those with enterprise and determination to stand on their own feet.

WHAT IS RIGHT WITH TITLE IX OF S. 3010—LEGAL SERVICES?

Mr. BROCK. Mr. President, I do not challenge the concept of legal services, nor do I object to the principle of the creation of a legal services corporation. However, the proposal, as reported by the Senate Committee on Labor and Public Welfare, bears little resemblance, in form or in substance, to what was envisioned by the President when he first transmitted to the Congress a message on the creation of a new corporation. As written, this legislation is a sham and a fraud.

Over the course of the last few weeks many Senators have illustrated the many problems which exist within the present program. The proposed amendments to the existing act would do nothing to resolve these problems—unless as some seem to believe, to cover them in a blanket of obfuscation and rhetoric is supposed to resolve them.

Mr. President, resolution of the problems of the present programs should be the first course of business. Yet, this bill seeks to thwart remedial efforts and further obscure the principle of guaranteeing the right to legal counsel by compounding the problems of the existing program. These problems are not minor. They are as major as—

The role of Federal oversight as to this to-be-federally-created and to-be-federally-funded new Corporation;

The role of accountability of the Corporation, its directors, officers, and employees to the people through their elected representatives;

The qualifications of attorneys and personnel who will provide legal services to the poor;

The question as to who is eligible to be represented by the project attorneys;

The nature of the attorney-client relationship within federally created and federally funded efforts;

The question of solicitation by project attorneys within the client community;

The question of the permissible scope of the outside practice of law and representation, if any;

The establishment of priorities as to the types of cases which will be given top priority;

The role of project attorneys in criminal representation and in prison activities;

The role of project attorneys in so-called community organization and education;

The promotion of philosophical, ideological, political and partisan goals by project directors and attorneys;

The nature and scope of the representation of organizations and associations;

The efficacy of involvement and participation in direct action, political activity, legislative advocacy, and lobbying;

The role of the State bar associations and State and local officials; and

The shape the new program will take within an autonomous and independent legal services corporation.

Surely, it is the responsibility and the duty of this body to resolve these and related issues before we create and set loose with the force of Federal statute a new corporation—independent of Federal authority—and subsequently fund that corporation with taxpayers dollars. Surely, we must act more wisely on this matter, or we will be inviting a repetition of the horror stories we hear today.

THE PRESIDENT'S VETO—1971

Senators have shown to us clearly that the proposed legislation, as reported by the committee, bears little resemblance, in form or in substance, to what was envisioned by the President. It is obvious that the National Legal Services Corporation, as provision for it is made in proposed title IX of the EOA, bears no resemblance to what the President has asked for—and to what is needed as a new program. If it is removed from OEO

it runs a substantial risk of once again being vetoed by the President, I, for one, will exercise every argument at my command to encourage him to do so if it passes as presently written.

Why?

In his veto message of December 9, 1971, the President spelled out very clearly the nature of his objections to the bill as passed by the Congress. In that veto message he said, in part:

The provision creating the National Legal Services Corporation differs crucially from the proposal originally put forth by this administration. Our intention was to create a legal services corporation, to aid the poor, that was independent and free of politics, yet contained built-in safeguards to assure its operation in a responsible manner. In the Congress, however, the legislation has been substantially altered, so that the quintessential principle of accountability has been lost.

In re-writing our original proposal, the door has been left wide open to those abuses which have cost one anti-poverty program after another its public enthusiasm and public support.

The restrictions which the Congress has imposed upon the President in the selection of directors of the Corporation is also an affront to the principle of accountability to the American people as a whole. Under congressional revisions, the President has full discretion to appoint only six of the seventeen directors; the balance must be chosen from lists provided by various professional, client and special interest groups, some of which are actual or potential grantees of the Corporation.

The sole interest to which each board member must be beholden is the public interest. The sole constituency he must represent is the whole American people. The best way to insure this in this case is the constitutional way—to provide a free hand in the appointive process to the one official accountable to, and answerable to, the whole American people—the President of the United States, and to trust to the Senate of the United States to exercise its advise and consent function.

To compound the problem of accountability, Congress has further proposed that during the crucial 90 day period—when the corporation is set into motion—its governance is to rest exclusively in the hands of designees of five private interest groups. That proposal should be dropped.

It would be better to have no legal services corporation that one so irresponsibly structured. I urge the Congress to rewrite this bill, to create a new National Legal Services Corporation, truly independent of political influences, containing strict safeguards against the kind of abuses certain to erode public support—a legal services corporation which places the needs of low-income clients first, before the political concerns of either legal service attorneys or elected officials.

I wish to stress one sentence above all others in this veto language:

It would be better to have no legal services corporation than one so irresponsibly structured.

The President would not have said that, unless he fully meant it—that is, that his support of a corporation structure was conditioned upon it meeting certain tests. I suggest that the new bill utterly fails, as did the one last year, to meet these tests.

A PRESIDENTIAL VETO—1972?

Mr. President, the ultimate question before us, obviously, is whether or not the proposed language will ever become the law of the land. Will it pass Congress? If it does, will it be signed by the President? I offer the following analysis for the consideration of this body:

With reference to political activities, the veto message said:

Our intention was to create a legal services corporation, to aid the poor, that was independent and free of politics, yet contained built-in safeguards to assure its operation in a responsible manner. In the Congress, however, the legislation has been substantially altered, so that the quintessential principle of accountability has been lost.

Now, this new legislation commits the same error.

Section 906(e) states as follows:

The Corporation shall insure (1) that all attorneys who are not representing a client or group of clients refrain, while engaged in activities carried on by legal services programs funded by the Corporation, from undertaking to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies by representations to such bodies, their members, or committees, unless such bodies, their members, or their committees request that the attorney makes representations to them. . . .

This language is identical to the language contained in the bill vetoed by the President.

This section does not, in reality, guard against what it fraudulently purports to guard against. Rather, it specifically authorizes legislative advocacy—lobbying—which by definition is a type of political activity—here, federally funded—when such is in furtherance of the interests of a client—if an attorney does not have one at the moment, he can secure one—or a group of clients—there would be little difficulty for a project attorney of getting concurrence from such groups, permitting him thereby to speak in their behalf. The prohibition, further, is applicable only while the attorney is "engaged in activities carried on by legal services programs funded by the Corporation." At all other times, such as during lunch hours, or while taking "afternoon leave," even those things apparently prohibited would be allowed.

Additionally, the language does not prohibit grassroots organization of legislative advocacy efforts through such client groups as the National Welfare Rights Organization, the National Tenants Union, and so forth.

Section 907(d) states as follows:

The Corporation shall insure that all employees of legal services programs assisted by the Corporation, while engaged in activities carried on by legal services programs, refrain (1) from any partisan or nonpartisan political activity associated with a candidate for public or party office. . . .

An improvement?—baloney.

This section fails to prohibit participation in campaigns associated with constitutional amendments and constitutional conventions, codes, statutes, and ordinances; referenda and bond issues; and so forth.

Despite the fact that project attorneys will be paid from Federal funds, it fails to limit their off-duty political activities at least to the extent that Federal employees activities are limited under the Hatch Act. At a minimum the same standards should apply.

While the section purports to cover in a small measure the working hour activities of employees, it does not restrict in any way the use of program funds, the provision of services, or the provision of facilities for such political efforts.

Section 907(d) further reads:

The Corporation shall insure that all employees of legal services programs assisted by the Corporation, while engaged in activities carried on by legal services programs, refrain . . . (2) from any voter registration activity *other than* legal representation or any activity to provide voters or prospective voters with transportation to the polls. (Emphasis added.)

This section specifically permits voter registration activity of a legal representation nature; therefore, under the terms of the bill, it would be permissible conduct to state, "I advise you of your legal rights as to voting. You have the right to vote at the next election, which is on November 7, 1972. Since you live at this address, you may vote in this precinct; the precinct polling place is at the school house. You have the right to register as a Democrat—or Republican—partisan. You have a right to exercise your franchise on behalf of candidates of that party on that date."

Furthermore, by the terms of this section, activity to provide voters or prospective voters with transportation to the polls is permissible. Note the word "from" is not found between the "or" and "any"; therefore, it becomes part of the exception to the prohibition, not part of the prohibition itself.

THOSE ABUSES WHICH COST PUBLIC ENTHUSIASM AND PUBLIC SUPPORT

VETO MESSAGE

In re-writing our original proposal, the door has been left wide open to those abuses which have cost one anti-poverty program after another its public enthusiasm and public support.

NEW LEGISLATION

The areas susceptible to abuse are many. First, there are the areas susceptible of abuse by virtue of political activity. Refer to the items detailed infra. Second, section 902(b) grants a tax-exempt status to the corporation despite its ability to engage in political activities. Third, the advisory councils which would be created by virtue of section 903 are comprised of those with direct interests in the programs, grants, funds, etc., admitting, thereby, of publicly visible conflicts—in short, a further extension of the poverty-industrial complex. Section 904(c) permit the chief administrative officer to serve at the pleasure of the board, not of the elected representatives in Congress, that is, he is appointed and serves at the pleasure of the board, with no advice and consent from the Senate and with no appointment by the President. Section 904(e) permits meetings of the board to be closed—not subject to public scrutiny. Section 906(a)(8) permits an establishment of eligibility without any guidelines from the Congress and does not require conformity with antipoverty guidelines, indices, and criteria of the Federal Government. While section 908

(a) permits public disclosure of all information and documents relevant to grants and contracts, section 908(b) does not permit full disclosure of evaluation, inspection, and monitoring reports.

The ultimate slam at public accountability is section 913, which reads as follows:

Nothing contained in this title shall be deemed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the Corporation or any of its grantees or contractees or employees, or over the charter or bylaws of the Corporation, or over the attorneys providing legal services pursuant to this title, or over the members of the client community receiving legal services pursuant to this title.

It is readily apparent that, upon the enactment of this legislation, there is to be no accountability to the public through their elected representatives or through appointed officials, despite the funding of the Corporation by the Government. It is complete immunity from legislative executive scrutiny.

RESTRICTIONS PLACED UPON THE PRESIDENT

VETO MESSAGE

The restrictions which the Congress has imposed upon the President in the selection of directors of the Corporation is also an affront to the principle of accountability to the American people as a whole. Under the Congressional revisions, the President has full discretion to appoint only six of the seventeen directors; the balance must be chosen from lists provided by various professional, client, or special interest groups, some of which are actual or potential grantees of the Corporation.

The sole interest to which each board member must be beholden is the public interest. The sole constituency he must represent is the whole American people. The best way to insure this in this case is the constitutional way—to provide a free hand in the appointive process to the one official accountable to, and answerable to, the whole American people—the President of the United States, and to trust to the Senate of the United States to exercise its advise and consent function.

NEW LEGISLATION

Provision with respect to the manner of selection of members of the Board of Directors can be found in section 904(a). Section 904(a) is an attempted compromise; it is a marginal one at best, more one of appearance than reality, and still falls within the criticism of the President voiced in the veto message.

The Board is to consist of 19 individuals "appointed by the President, by and with the consent of the Senate, one of whom shall be elected to serve as chairman annually by vote of an absolute majority of such board." The manner of appointment is as follows:

First. Ten members shall be appointed from among individuals in the general public, not less than six of whom shall be members of the bar of the highest court of a State;

Second. Nine members shall be appointed as follows:

Two members who are representatives of individuals eligible for assistance from recommendations made by the Clients Advisory Council;

Two members from among former legal services project attorneys, from recommendations made by the Project Attorneys Advisory Council; and

Five members, one of whom shall be from recommendations made by each of the following groups: American Bar Association, Association of American Law Schools, National Bar Association, National Legal Aid and Defender Association, and American Trial Lawyers Association.

The compromise is being phrased, "The President has a majority. He has 10 of the 19." In reality, therefore, every Presidential appointment would have to hold solid; in the give-and-take of making the appointments and in the give-and-take of decisionmaking, holding such a majority solid is questionable.

There is no Presidential appointment of the Chairman of the Board.

Additionally, the President still does not have appointment power over those who should be, in accordance with the language of the veto message, accountable to the public as a whole, not to a segment thereof. This cannot be true until the President has free appointive power over all, with the advice and consent of the Senate.

The executive committee shall consist of less than five and not more than seven members, which shall include the Chairman of the Board, at least one appointed pursuant to the President's public appointments, and one appointed pursuant to the specially named groups: Note: the Chairman of the Board is not necessarily the chairman of the executive committee; the Board could elect someone else to the chairmanship of the latter.

The new Corporation will function under the new title and under the District of Columbia Nonprofit Corporation Act. The latter gives exceedingly broad discretion to the executive committee, including discretion as to policy matters.

TRANSITIONAL PERIOD

VETO MESSAGE

To compound the problem of accountability, Congress has further proposed that during the crucial 90 day period—when the corporation is set into motion—its governance is to rest exclusively in the hands of designees of five private interest groups. That proposal should be dropped.

NEW LEGISLATION

The old proposal was dropped. Something almost equally offensive was added.

Section 903(b) directs that the Director of the Office of Economic Opportunity shall serve as the incorporating trustee; in and of itself, this would be acceptable. However, the section requires the exercise of his responsibilities to be carried out in consultation with the National Advisory Council, as constituted on April 15, 1972.

The National Advisory Council is composed overwhelmingly of members and representatives of the private interest groups that the President objected to in the veto message. All of the organizations represented as making recommendations to the President as to the appointment of members of the board pursuant to section 904(a)(2)(C) are represented on the National Advisory Council. In reality, the tensions which would have been inherent in the old approach remain in the new approach.

Few conclusions are left to the reasonable man except to conclude that the provisions of S. 3010, as reported, have failed to meet the objections raised by the President through the veto message. I need not remind my colleagues that the veto message was sustained last year.

WHAT SHOULD BE DONE?

I can speak only for myself, in commenting upon "What should be done?" but, aside from efforts that should be employed to clean up the bill, if it is not put into a significantly different substantive format than reported it should be roundly repudiated. We must restore the proper role of the Congress and the Executive. We must provide for full accountability for any expenditure of public funds. We must insure adequate safeguards against repetitions and acceleration within the new corporation of the horror stories we have heard.

For my own part, I am sufficiently concerned to say that if a motion to strike that title IX is offered during the debate on S. 3010, I shall support that motion; and if title IX remains in the bill, I shall oppose the bill. It is a disservice to the taxpayer and the public.

LITHUANIA

Mr. PERCY. Mr. President, today, the 15th of June, marks the anniversary of the forceful occupation of Lithuania by forces of the Soviet Union. For 32 years the people of Lithuania have labored under foreign rule. For 32 years Lithuanians have been unable to exercise one of their most basic rights—the right to worship without restriction.

Religious oppression in Lithuania was recently brought to the attention of the entire world by the dramatic self-immolation of a brave young Lithuanian Roman Catholic, Romas Talantas. The public outcry that has followed in the wake of this tragic event has not been confined to Lithuanians.

There are 2 million persons of Lithuanian descent in the United States. Today these citizens are pausing in their daily routines to mark a National Day of Mourning and Prayer to demonstrate their solidarity with the people of their homeland in the fight to establish religious and political freedom.

Let us join our Lithuanian-American countrymen in their prayers for the relief of their homeland and the restoration of the ability to worship freely in Lithuania without harassment. I call upon my colleagues in Congress to join with me in recommitting themselves to the cause of freedom—not only in Lithuania, but in Latvia and Estonia and in all nations where basic rights are repressed or denied.

PRESIDENTIAL SCHOLARS

Mr. GRAVEL. Mr. President, on June 13 the Nation's presidential scholars were recognized for their achievement in a ceremony at the White House, during which they were presented with medal-

lions from the President and addressed by Vice President AGNEW. An interesting sidelight of that ceremony was the presentation of a letter to President Nixon in protest of the war in Indochina, written by Miss Lynn Levitt, of New York, and signed by herself and 15 other presidential scholars.

The letter strongly expresses the idealism and commitment to peace of so many of our Nation's youth. In the hope that we may all learn from it, I ask unanimous consent that it be printed in the RECORD.

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

DEAR PRESIDENT NIXON: In a letter sent to all the Presidential Scholars we were told that "to be chosen is a tribute that carries the high personal responsibility to represent your state." We sincerely wish that we do represent the youth of the United States and the people of our state. Yet we are individuals. We must be responsible first to ourselves. And we believe that one of our major responsibilities is to work for peace. The destruction and disrespect of human life so evident in Viet Nam, completely violates our deepest-held moral convictions. Mr. President, you have always said that you want peace. Indeed, your speech in Russia with its beautiful and noble words attests to that. We want so much to believe that you want peace—what man does not?—but the ugly reality blatantly contradicts what you have said. Who does not want peace with honor? But the war still rages on and we have not gained any honor nor will we.

Mr. Nixon, we are terribly frustrated and confused. You speak of peace but your actions are far from peaceful in Vietnam. Please, please prove that you want peace just as much as we do. Look around you. Open your eyes, your mind, your heart. We all need to become more sensitive to the needs and problems of our fellow human beings. Let us look through the veil of politics and conflict and discover that we are all members of the Family of Man. We would never do any harm to members of our own family—would you?

Sincerely,

Lynn Levitt, New York; Summerlynne Solop, Oklahoma; Peter Hayes, New York; Jan Bush, Alabama; Doug Bedingferd, New Mexico; Pat Lupinetti, West Virginia; Karen Lease, Iowa; Andrew Porter, Alaska; Camera Jones, Michigan.

Teri Pettit, New Mexico; Charles J. Villa, Jr., New Hampshire; Shelley Olson, Montana; Michael R. White, New Jersey; Sharon McLaughlin, New Hampshire; Tom Schacht, Michigan; Aubay D. Washington, Michigan.

MARYLAND SCHOOL FOR THE BLIND

Mr. BEALL. Mr. President, I invite the attention of Senators to a most significant milestone that has been reached by the Maryland School for the Blind. On June 6, the Maryland Scholastic Association, by a near unanimous vote, admitted the school to its membership, thus becoming the first organized prep league in the Nation to include a school for the blind in its competition.

I commend MSA for its decision. Not only will it allow the student-athletes of the Maryland School for the Blind to engage in a full conference schedule with teams from throughout the Baltimore metropolitan area, but it will also permit competitors from these schools to young people who possess unique qualities in the face of unfortunate physical handicaps. Clearly, the goals of interscholastic athletics will be greatly served by the initiation of this competition.

This coming year the Maryland School for the Blind will compete in junior varsity track and soccer and varsity wrestling. Presently, the school has 67 boys eligible for activity in MSA with 36 totally blind and the remainder visually handicapped to some extent. I am sure the members of MSA will not take their new opponent lightly, for determination and desire can surely make up in large measure for physical deficiencies. I congratulate the Maryland School for the Blind, and wish them every success in the coming years.

THE PRICE OF HIDES AND SHOE IMPORTS

Mr. SYMINGTON. Mr. President, in March of this year, with hide prices rising steeply, Missouri shoe manufacturers urged, as a temporary matter, that export controls be imposed on hides so as to avoid consumer hardship; also to aid the domestic industry and the national economy during an emergency caused by the withdrawal of Argentine hides from the export market.

I spoke then with the Secretary of Commerce, thereupon wrote him presenting the situation as relayed by a major Missouri manufacturer who stated:

The situation we face is rather unique in that we are letting basic raw materials in temporary short supply leave our shores and return to us as a finished product, disrupting both the domestic tanning industry and the domestic shoe manufacturing industry, causing much higher prices to the consumers at retail, making our trade deficit worse and with the major recipient being the packers and hide brokers, not the farmer.

We believe this an untenable situation for our government to permit, and they have the mechanism to correct it.

In response to requests to invoke the Export Control Act, the Commerce Department announced that, preliminary to any such decision, a thorough investigation and study of hide prices was being initiated.

For some 2 months now that study has continued, and now apparently has moved into the analysis stage, but no relief has yet been provided. Meanwhile, only this week, hide prices hit a new high on Tuesday, with the composite price reaching 28.83 cents per pound. Heavy native steer hides were priced at 29.5 cents.

Those prices are just double those of a year ago.

With the cost of leather accounting for roughly 25 to 33 percent of the price of shoes at retail, shoe manufacturers continue to wait anxiously for this administration to take the corrective action available under the Export Control Act.

At the same time shoe manufacturers continue to be concerned about shoe imports and the lack of decision regarding the findings of the Tariff Commission on the impact of imports on the domestic shoe industry. It appears that the decision has been delayed for more than a year, while efforts have been made to obtain agreements with Spain to restrain their bulging shoe exports to the United States.

Some attribute lack of success in these negotiations with Spain as an additional cost of the already high price we are paying for the Spanish bases.

The administration has all the tools needed to take the necessary corrective action essential for relief to our domestic shoe manufacturers. Let me urge them to move ahead now with decisions that recognize the importance of preserving our domestic shoe industry as most important employers in the small towns of America.

TRIBUTE TO DR. FREDERIC B. IRVIN, PRESIDENT OF NEWBERRY COLLEGE, NEWBERRY, S.C.

Mr. THURMOND. Mr. President, on April 21, 1972, Dr. Frederic B. Irvin was inaugurated as the 12th president of Newberry College, Newberry, S.C.

The inaugural address was delivered by Dr. Frederic W. Ness, president of the American Association of Colleges. Dr. Ness' remarks were followed by a response from the new president, and the ceremony was concluded with the formal induction and oath of office administered to Dr. Irvin.

I am highly pleased that Newberry College was able to secure the services of a man of Dr. Irvin's high caliber. His background and experience afford him excellent qualifications to render a valuable service to that institution.

I wish to express my sincere best wishes to President Irvin as he undertakes this important responsibility.

Mr. President, I ask unanimous consent that the speeches by Dr. Ness and Dr. Irvin, and the program outlining the induction ceremony, be printed in the RECORD.

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

ADDRESS BY DR. FREDERIC W. NESS

The normal practice at such ceremonial occasions is for the visiting orator to devote his brief span of time to altering the new president (sometimes referred to as the sacrificial lamb) to the horrors that lie ahead and to warning him to make good his escape while there may still be time. When I sat down a few days ago to draw up these notes, however, I recalled a personal experience of many years back which seemed to have some relevance to my asignment today and which suggested modification of the standard procedures.

The joining of a president and a college, I would remind you, is not unlike the mating of man and wife. Now, when my bride and I were inducted into our present state of connubial bliss on the distant but enchanted isle of Martha's Vineyard we had both arrived at which might euphemistically be described as our mature years. Observing protocol, a night or two before the event we paid a visit to the officiating pastor in his book-lined study for the customary few words of last-minute advice. Looking us over quietly for a moment or two the good man opened the conversation by saying simply, "Well, if there is anything you two don't know about getting along together, it's too late for me to tell you now."

The analogy is obvious: When I first made

contact with Dr. Fred Irvin back in the 50s, he was already a seasoned and highly effective college president. In the intervening decade he has held a variety of responsible positions of national and international significance, positions which called for keen intelligence, unusual diplomacy, and no small measure of low animal cunning. Therefore if there is anything he doesn't know about the intricacies of managing so strange an organism as a college, it is too late for me to tell him now. Or possibly even too late for him at this stage to try to learn.

Therefore, and with your indulgence, I would instead like to consider with you an issue which I believe to have implications for this academic community and for all of higher education as well. I want to talk, in fact, about the cheerful possibility of the bankruptcy of the liberal arts college. Quickly to allay your fears, let me assure you that I am not today concerned about budgetary matters. Some independent liberal arts colleges, to be sure, are likely to slide into fiscal bankruptcy in the next few years and possibly even more will before the end of this decade if certain forms of relief do not become available, and soon. But since I am no longer a college president desperately trying to balance a budget, I have the leisure to be concerned at the moment with the more subtle bankruptcy of liberal learning as a concept, as a system, even as a way of life.

While Dr. Irvin was still president of Thiel College I had the honor to be invited to address an Honors Day convocation on his campus. Responding to slightly more than idle curiosity, I pulled the old speech out of my files the other day and reread it with a degree of modest interest. The title "The Perils of Lilliput"; and the general theme, that unless the small liberal arts college rethinks its objectives and develops a truly distinctive approach to the education of those individuals placing their futures in its tender custody, it will cease to exist as a viable educational entity.

(By way of digression, may I remind you, President Irvin, that on the day of this memorable address of mine at Thiel College you, Sir, deliberately absented yourself from the campus. Well, you can't get away this time!)

Although very few of the colleges which I had in mind on that earlier occasion have in fact ceased to be, I think my prediction has greater validity today than it did nearly two decades ago. I see it now, however, in somewhat different dimensions.

Perhaps it is overly dramatic for me to suggest that liberal learning is in danger of bankruptcy, and yet to me the elements are becoming all too evident. Of this much I am certain—we simply can no longer proceed in a business-as-usual fashion. The world around us in changing, has changed. The system—if it is right to call higher education a system—as we know it and promote it was designed for a quite different set of circumstances.

That we sense these changes and are uneasy about them is evidenced by the substantial number of experiments and innovations that are taking place on college campuses all the way from Bangor to San Diego. But examined closely, nine-tenths of these innovations turn out to be little more than tinkering with the status quo. All too often they seem to be designed essentially to preserve the traditional, however ingeniously disguised, rather than to make the hard effort to penetrate to the heart of the academic problem.

It is true that we are beginning to learn, perhaps the hard way, what we can no longer live with. For example, in administration the old pattern of the benevolent despot in the president's office has yielded to a system involving, among other things, much greater faculty participation. And this is, on the whole, a desirable development. Unfortunately in some instances it has simply replaced one irrationality with another, to the place where on a few campuses today so many are in the act that the essential role of leadership can no longer be exercised. Even such basic economies as are involved in securing increased faculty productivity have become next to impossible. Given a choice between benevolent despotism or participatory chaos. I'm afraid that I would have to side with Plato of old.

Related to this, we have learned, too, that the traditional concept of loco parentis is self defeating if what we are seeking to instill in our "junior scholars" is the desire for responsibility and maturity. Thus we are engaging our students actively both in self governance and self education. And this is indeed a salutory change. But here again we are caught in the uncertainties of just how far is far enough. Further, looking at this development purely legalistically, I wonder how many colleges at the moment have an idea of the full implications of the lowered age of majority. In certain states the 18 year-old is now recognized as a legel adult. What this means to many of our long-standing academic customs and practices is profound and but dimly understood.

We have learned, or are beginning to learn, that learning itself is far more important than teaching—though we certainly have little notion at the moment as to what this signifies in terms of the proper role for the instructor. Many of our senior faculty members are never likely to modify the conventional patterns of lecture and examination. Not a few of our younger instructors, on the other hand, feel that there is no difference between student and teacher and govern their relationships and academic praxes accordingly. Perhaps both are right. I suspect, however, that neither is on target.

We have learned, however imperfectly, that there are important ways in which the world around us can serve as the classroom and laboratory, that under proper guidance the student in absentia can function in part as his own experimental mentor. But we are none-the-less wise in approaching this new academic relaxation with a degree of caution. Again the quest is how far is far enough. Many of our current programs, both on campus and off, assume unrealistic levels of maturity and self determination. Thus they may offer quite the wrong regimen for a substantial percentage of our students. Can we really expect a man to run who is only learning to walk? Perhaps not, though on average I would still opt for giving it a try.

We have learned, or are beginning to learn, that a lot of the rituals which had operated as if sanctified are questionable if not downright dispensable. As one example, I recall reading correspondence dated in the early part of this century in which a distinguished American educator was questioning, to a distinguished European counterpart, the whole concept of academic grading. Yet it has been only in the past few years that the profession as a whole has taken up the issue. Some colleges, with an impetuous eagerness to "get with it," have thrown out the grading system entirely and others are pellmelling to get on the band wagon—this despite the absence of adequate evaluative substitutes or any hard data on possible impacts on the student's subsequent academic aspirations.

These are but a few of the things we have learned, or are beginning to learn. And although, as I have pointed out, each requires a word of caution, my reservations do not, singly or in combination, suggest any such dire consequence as academic bankruptcy. On the contrary I view them on the whole as offering favorable angry of a more effective climate for learning.

What I am really concerned about, however, is what we have *not* as yet learned. As the poet is thought to have warned us, a little knowledge may be a dangerous thing. (And, by the way, President Irvin, a little college may be a dangerous thing, too!)

What we need first and foremost, I would suggest, is to learn new and different ways of looking at knowledge. And it follows, as the night the day, that we need new and different ways of looking at college as well. We need to rethink our goals and our missions, to redesign the liberalizing functions of our institutional patterns of learning.

Before I elaborate, it might be worth asking why significant change seems to be so difficult, so slow in accomplishment. The simplest answer lies, of course, in the well-known fact that social systems are reformed, and reformable, from within only under the most extraordinary circumstances. Another way this has frequently been expressed is that moving a college is not dissimilar, in its complexity, to moving a cemetery. The living seem to assume some of the characteristics of the process.

The basic difficulty in reforming a college from within is that the potential reformers have generally been products of the system and any innate ability to step aside and look upon the system with a critical or creative eye is quickly dimmed by the necessities of academic survival. Wordsworth, in his "Intimations of Immortality," described the process as the all-too-rapid immolation of the sentient soul within the prison walls of maturity. To put the matter bluntly, the faculty member, brought up in, for, and by his particular academic discipline, is understandably more concerned with the survival under the rules of the game than with changing the rules and thereby re-forming the game.

(I'm all the more willing to level such charges in the sure knowledge that I'll be leaving town shortly after the termination of these ceremonies!)

By basic contention here is that we, all of us—faculty, administrators, students—have come to accept, largely uncritically, that human knowledge is properly and inevitably pigeonholed into the disciplinary categories of history, English literature, economics, physics, geology, and so forth. Characteristically when we cloak this division of knowledge in a learning system, we assume that it is sacrosanct, untouchable. Further, we identify learning with the thing learned and etch in concrete what should at the very least have remained quasi malleable. We thus become far more concerned with substance than method, with rigid verities rather than evolving truths, with standardized expectations rather than with individualized fulfillment.

Although we have not as yet learned how to reorder our traditional academic patterns, I suggest that it is quite possible to approach a college education in terms of modes of knowing rather than of isolated (or even interrelated) categories of knowledge. This may well be dreaming, but it is not just idle dreaming. Once, in fact, in a wild thrust of creative impulse, I came up with just such a design. My failure to carry it off has been one of the major disappointments of my career.

I won't describe it to you in detail, both because of time and because it has been partially immortalized in print. Expounded under the hucksterish rubric "The Sequential Seminar in Creative Development," it sought to undermine the current rote or nemonic system of learning by crossing the disciplines with linkages based on the ways in which the mind works and the man learns. Frankly it was a little too complicated even for its designer, but, to the extent I understand it, I still think it makes a great deal of sense.

We have not, I believe, learned as yet how to take students where they are, developmentally, and to design academic programs to meet developmental needs. Perhaps a system which aspires, at the post-secondary level, to educate a very high percentage of the total population is much too large and complex ever to do so. But even many of our small colleges are not demonstrably con-

cerned with such individualization, despite claims set forth in their annual bulletins.

I am beginning half to convince myself that we should seek means of deliberately suspending the educational progression of the individual at one or more of his growth stages in order to accommodate other priorities. For example, I find myself questioning that is ethically right for the majority of our young people to be virtually forced to remain in a dependent state through the late teens and early twenties—just at a period in life when they are feeling the greatest urge to test their wings. A few successful flights may be worth dozens of falls.

Or again, if it were easy to slip back into the educational scheme, wouldn't it be far healthier for the young man and woman to be introduced to the responsibilities of marriage at the time when the mating instinct reaches its physical and psychological apogee instead of continuing with a system in which so many of our youth who aspire to advanced degrees must pay such a heavy price in diminished personal involvement. But maybe I'd better focus my thoughts on more strictly academic matters.

We have not, I believe, learned enough about the inadequacies of the cognitive/rationalistic mode of knowing. How well I remember one occasion a few years back when a young militant student, earnest and deeply frustrated, cried out at me in exasperation, "I know you understand what I am saying, but can you feel what I am feeling?" This was no idle query, and I am afraid that the adequacy of my response left much to be desired. There is more to life than knowing. The E.Q. (emotional quotient) may be more important to individual and even societal well-being that the I.Q. Yet our educational system has given far too little care to this need.

Even as I say this I am reminded of the recent study conducted under the auspices of the Carnegie Commission which concluded that the college graduate, on average, is a happier individual than the non-graduate. Perhaps if we reordered the curriculum by introducing such courses as Happiness I, Contentment II, and Ecstasy III and IV, we could do even better, we could have an even more salubrious impact. But you will forgive me if I remain skeptical. I am equally skeptical, however, that the way we now combine, and the ways we now present, our smatterings of the humanities, the social sciences, the arts, and the sciences contribute much to intelectual liberation, let alone emotional maturity.

We have not as yet learned, in the collegiate setting, how to relate liberal learning creatively to the vocational needs of our students. I speak as a wary (as well as weary) father whose two youngest daughters are recent graduates of fine liberal-arts programs, one with a major in history, the other with a double concentration in art and English. Need I tell you, they both had a problem, as did the father who was anxious to get them off the pay roll. They simply had nothing to offer the job market. Somewhere in my notes I have a statement from a professor of liberal learning who declared that if he ever discovered in his teaching anything of immediate, practical value, he would resign at once. I am sorry that I was not there, in a position of authority, when he made the offer.

Our colleges of liberal arts and sciences were originally initiated as vocational institutions; and, though usually not acknowledging the fact, they have for years been involved in certain types and stages of vocational preparation. For example, many liberal-arts institutions are turning out graduates a high percentage of whom go directly into elementary or secondary school teaching. Others of our colleges achieve status through continuing to induct large numbers of their students into graduate and professional study. Yet both of these "markets," if I may be forgiven the term, have undergone a dramatic decline and are not likely to pick up again for a long time to come. What, then, is or should be our response?

I must pause for just a moment on this one and ask why it is that for the past seven hundred years or so the professoriate has been primarily interested—and I state this as an observable fact—in trying to turn out scholars, despite the absence of true scholarly interest or ability in all but a handful of their students. Is the answer simply that this is the easy thing to do? How can the professor of literature, for example, be expected to have any interest in, let alone knowledge of, the career expectations of the business man or the public servant? Yet are we meeting our obligation to our students when we don't at least make the effort?

Well, I do not propose that we immediately convert to vocational or technical schools. I would suggest, however, that we have a considerable obligation to concern ourselves with the vocational needs of our students. Further, I believe that, if we pay more attention to method, we could go a long way toward infusing vocational study with a true liberalization of the mind and spirit. As taught today vocational education is far from liberalizing and liberal education, for most students, is woefully far from "vocationalizing"—but for the sake of the individual as well as of the society we serve, it's high time for these twain to meet.

There are, I can assure you, other very important things we in higher education have not as yet learned; but, to avoid further trying your patience, let me mention only one more.

As a nation and as a society we are currently in the throes of a revolution of the spirit. Yesterday's verities are suffering in the hostile climate of the relative and the uncertain. This is having its impact on every phase of our lives, every hour of the day, every day of the week—including and particularly Sunday.

The liberal arts college was founded and has ostensibly been maintained to promulgate a set of values, for the most part in the Judeo-Christian tradition. But these values, at least as they are practiced, seem lately to be inadequate to meet the needs of our students. Perhaps—and I would underline the uncertainty—it has always been something of a fiction that a college can instill or strengthen values that were not previously held and strongly held. Yet there is some evidence that some colleges do make some difference. At the same time there is present in this college generation a desire, almost unique in my years of experience, to reassert the value of values, to put into practice what older generations were content merely to preach. There is, in short, a new spirituality. Our problem as custodians of society's most evolved institution, the nation's liberal arts college and university, is somehow or other to marshal this new creative spirituality and to focus it for the welfare of mankind.

To do this is perhaps the most important of the things we have not as yet learned. Not to do it, and soon, may well mean the ultimate thrust into bankruptcy of liberal learning and the liberal arts college.

And so, Dr. Irvin, if you think you have returned to the campus as a place of relative serenity after your hectic years in the arena of international conflict, I have done my best in the past few minutes to alert you that we have not resolved all of our problems in the years you've been away. There are still a few things left for you to do.

Thus, in congratulating you and this fine college on so auspicious a marriage, may I wish you Godspeed and enjoin you and your colleagues to think of these things.

RESPONSE BY DR. FREDRIC B. IRVIN

Mr. Kohn, Dr. Ness, Members of the Faculty, Members of the Student Association, and Distinguished Guests:

It is with great pleasure and a deep sense of humility that I accept the honor which the Board of Trustees of Newberry College have accorded me this day in inaugurating me as the 12th president of a college which is now in its 142nd year of service to the State of South Carolina and to the Lutheran Church in America. For it was actually in February, 1831, that the first classes of a Lutheran Academy began, which eventually resulted in the chartering of Newberry as a college of the liberal arts by the State of South Carolina in 1856. With my Scotch-Irish name, "Irvin," and my Pennsylvania Lutheranism, I feel right at home in the Dutch Fork of South Carolina. We have loved this state and its people, and the friendly town of Newberry, from the day of our arrival here nine months ago.

The names of all of the first eleven presidents of this college—whether Northener or Southerner, whether clergy or layman—are recorded in every issue of our catalog and in the history of our college. The names of at least seven of my predecessors are household words on this campus because of the buildings named in their honor—Smeltzer, Holland, Cromer, Derrick, Kinard, Kaufmann, and Wiles. On days like this, days of rededication and renewal, we think of their work and their service with thankfulness to God because they were men who knew what they believed in and who persevered. If they had not been men of both faith and perseverance, our country would never have developed its system of church colleges or its dual system of higher education, which have been of inestimable value in molding our ideals and history as a nation under God.

Today the church-related college seems to be less appreciated and valued than it was even 20 years ago. Twenty years ago we enrolled about half the students in our country. Today we enroll about 25 percent.

Granted that we could never have continued the same record of service during the mass enrollments of the past two decades, it is still ironic to note that one of the tax-supported universities of South Carolina has reported that it cannot accept more students for next year. Its facilities are crowded. The facilities of the private colleges, on the other hand, are not being used to capacity. Another newspaper article quoted an educator as saying that we have 7,000 vacancies in our private colleges. The public universities and colleges of South Carolina now have an enormous advantage over the private church-related colleges of our state in that inflation and other factors have forced our costs so high that thousands of students who want to study in our institutions can no longer do so because the state of South Carolina will foot the bill for their education in public institutions but cannot give tuition grants to students who wish to attend colleges like Newberry, Presbyterian, Erskine, Wofford, or our other neighboring colleges which are related to churches. I do not plead our cause because of our history of service to this state, or because of the debt which the state owes us for our work in the past, nor am I being a sentimentalist. I ask simply for fairness, for understanding, and for a judgment of our worth to this state and to American society in general.

I realize that in the present crisis of values in our American civilization many people are asking with greater insistence—how are you, as a church-related college, any different from the rapidly developing state institutions? As the technical institutes of the state develop, now laying plans to add what they call a "liberal arts component" to their two-year courses, others ask whether there is anything unique in our combination of religious values and the liberal arts. During the past academic semester I gave four chapel-lectures in this institution on the nature of the church-related college, trying to establish the nature and purpose of the church college within a conceptual framework of

a philosophy of education and philosophy of religion. Some faculty members—not all—appreciated my approach because this is the method in which we have been trained. Many students, on the other hand, often seem to be more interested today in how they feel about things than in intellectual discourse and reason. And I readily admit that feeling and emotional response are also important aspects of the educational process. We are thinking, feeling, and acting human beings. But on this day, on the occasion of my inauguration as the 12th president of Newberry College, I can at least express my conviction that the church-related college *is* different, for those who have eyes to see, that it *is* unique in the American society and experience, and that it will continue to be unique if it is permitted to survive and flourish in American life. The answer to the question of survival is in your hands as much as in mine. But I know that without my conviction the Board of Trustees would not have elected me to the presidency. And I know that without my conviction I would never have accepted the presidency of Newberry College.

I have now had intimate and direct experience with the educational systems of certain countries of Asia and certain countries of Europe over a period of 16 or 17 years, and my conviction is that our country needs the colleges of the church more than ever before in American history. In our present national mood of crisis, disillusionment, flux, anxiety, and even despair, the churches also need their colleges because it is through us that the church can perform its most important witness to society. Our church-related colleges also need the moral and financial assistance of the State of South Carolina and of the federal government; and the state and the country need us just as much as we need them if we are to recapture a sense of national purpose and values and a solution of national problems based on the worth and dignity of the human individual.

The most important things in life, Mr. Chairman, are often things which cannot be measured with any exactitude, and yet we know that they are real, that they are valuable, and of the very essence of life. In the midst of all the complexities of modern day society we ask in this college for the right and the privilege of teaching and learning as a Christian community so that we can emphasize the values inherent in the Christian faith and relate the context of this faith to the academic disciplines. We do not claim to be better than other men. We do not believe that our function is to protect young men and women from the changing mores of the society in which we live, except in so far as we can offer guidance freely and with their participation. We feel alarmed when people accuse us in our statements of purpose and practices of assuming a pharasaical attitude, or even a pietistic one, if I may use that word in a pejorative sense.

I myself accept the presidency of this college today, Mr. Chairman, because I believe that it is for me the path of Christian discipleship. I believe that in the face of every doubt and perplexity I can draw upon the sustaining power of Christ and the Church which He founded. I am a traditionalist in my belief that we Americans should preserve and strengthen those collegiate institutions which have enlivened the spirit of men and given them knowledge, skills, and hope as our nation developed. I am a Christian apologist in my belief that Newberry College with other church-related colleges has a unique role to fill in American higher education. From my training and education, which have been mainly in the humanities—literature, religion, languages, and the fine arts—I believe in the importance of an education suffused with the content and the method of the liberal arts. Institutions like Newberry *can* and have changed in the course of their history. I believe, however, not in change merely for the sake of change and innovation, but in that change which takes into account the human condition and man's relationship to God and his fellowmen. I believe, with Pestalozzi, that God is the nearest relation to man.

And so, I thank you, Mr. Chairman and the Board of Trustees of Newberry College, for your confidence in having elected me the 12th president of this institution of the Lutheran Church and of South Carolina, which I shall serve willingly. I call especially upon my colleagues, the members of the Faculty and of the Administration, and upon the members of the Newberry College Student Association, to work with me zealously as I shall work with them, to relaize the rich promises and potentialities of this institution. May God bless Newberry College.

THE OATH OF OFFICE FOR THE PRESIDENT OF NEWBERRY COLLEGE

The INDUCTOR. Mr. A. Hart Kohn, Jr. (president of the Board of Trustees).

By virtue of the authority vested in me by the South Carolina Synod, the Florida Synod, and the Southeastern Synod of the Lutheran Church in America, I have the honor to induct Frederic B. Irvin into the office of President of Newberry College.

(The Conductors escort the President to the Inductor).

Dr. Conrad B. Park, Academic Dean, and Mr. James H. Riddle, Jr., President of the Newberry College Student Government Association.

The CONDUCTOR. Mr. Kohn, it gives us pleasure to present for induction as twelfth President of Newberry College Dr. Frederic B. Irvin.

The INDUCTOR. Dr. Irvin, you are here to assume formally the responsibilities of the presidency of Newberry College. You will be the chief executive officer of the College and will act for the Board of Trustees in furnishing educational leadership and administrative direction for the whole life and activity of the College. You are enjoined to be ever mindful of the Christian motivation which originated and still impels this college.

I ask you, in the presence of God and of this company, whether you accept the responsibilities of this office and whether you pledge to perform faithfully the duties thereof. If so, repeat the following words after me:

(The President repeats after the Inductor):

I accept this office with full consciousness of its obligations and responsibilities. I solemnly pledge to perform the duties of the office to the best of my ability, to be true to the faith of the church, and to acquit myself as worthy of the confidence of the church, the board of trustees, the alumni, the faculty, the students, and all other friends and supporters of the college.

The INDUCTOR. I do now declare you to be the twelfth President of Newberry College, with all the rights, privileges, and obligations pertaining to that office. On behalf of the Church and the College, I extend sincere best wishes to you and pray that your labors may be fruitful, that God's Truth may be your truth; God's Light, your light; God's Power, your strength; and God's Grace, your peace. May God bless you.

DISTRICT OF COLUMBIA JAIL

Mr. PERCY. Mr. President, yesterday I engaged in a discussion with the distinguished Senator from Hawaii (Mr. INOUYE) concerning the failure of the Senate Subcommittee on District of Columbia Appropriations to provide funds for the construction of a new District of Columbia jail. I think that the discussion was very useful in putting into the RECORD not only the reasoning of the distinguished chairman of that subcommittee in denying the funds at this time, but also in describing the type of facility that would be replaced by a new detention facility. I was pleased to hear about the high priority he also assigned to this need.

As I pointed out yesterday, the District of Columbia jail is over a century old, and has a capacity for 663. However, it is now operating at 83 percent over capacity with an average daily population of 1,213, and a year from now the average population is estimated to be 1,351. I repeat today what I said then. The present jail is indeed a filthy example of man's inhumanity to man.

These overcrowded conditions can only deter any efforts toward rehabilitation. We have put these men into a situation worse than that to which animals in a zoo are subjected. As a result, our primary struggle is to try to keep these people from acting like the animals that we treat them like. You cannot treat men like beasts and expect them to behave like men. You cannot rob these human beings of any vestige of self-respect and expect them to respect the laws of society.

This point has been made time and time again by everyone connected with the prisons of this country. James Hoffa, who spent 58 months in the Federal penitentiary at Lewisburg, Pa., has been a very effective spokesman for the very pressing need for a new look at corrections. He has often described the incredibly barbaric conditions that result from overcrowding. In testimony before the Senate this week, he pointed out that the penitentiary at Lewisburg was built in 1932, and has a designed capacity for 950. Yet the average population is 1,794. This is very nearly the same percentage overcapacity as the District of Columbia jail, so the comments that Mr. Hoffa made concerning Lewisburg apply with equal force to the District of Columbia jail.

In every instance where we hear from those who have been confined in our antiquated penal institutions, the cry is in essence the same, "Don't treat me like an animal; I am a man, treat me like one." Yet by packing body after body into cramped cages, it is impossible to treat an inmate like a human being when he is placed in inhuman conditions.

The new D.C. jail that is being planned would be a great step forward in helping to provide an institution where a man could be treated like a man, where a person could maintain a sense of dignity and self-respect. The result would not just be the absence of bruised feelings to a couple of ex-offenders. The result would be measured in much larger terms, because by having provided facilities where these men's humanity and dignity were recognized and respected, they would hopefully emerge from behind bars with a heightened sense of respect for the rest of society. The end result would be a better chance for society to be truly protected by having provided the means for effective rehabilitation.

Mr. President, I am pleased that as a result of yesterday's colloquy with Senator INOUYE, we now have his public assurance to restore the funds for the District jail if the government of the District comes forward with a revised list of

priorities. It is hoped, as a result of this, that the construction of a new jail will no longer be delayed and that construction of the jail can proceed.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Tom Wicker, published in today's New York Times, concerning Mr. Hoffa and his remarks on the condition of our prisons. Since I think Mr. Hoffa's comments are relevant not only to the federal system, but also to our District jail, I think that all Senators would benefit from the article.

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

THE CAGE AND THE CLUB

(By Tom Wicker)

BOSTON.—James R. Hoffa apparently got respectful attention when he talked about prison life before a Senate subcommittee. If the Senators were paying as much attention to what he said as they were to his reputation, which is doubtful, they heard him make two of the most important points about the medieval penal institutions still tolerated in America.

Mr. Hoffa's credentials in this field are his 58 months in the Federal prison at Lewisburg, Pa. That is by no means the worst place of its kind, and since he was always a hard case himself, not easily pushed around, shocked or intimidated, it can be assumed that Mr. Hoffa was not exaggerating when he talked of crowded and inhumane conditions, men dying for lack of medical care, rampant sexual offenses and slave wages for work that taught the inmates nothing useful to them outside the walls.

The most telling point made by the former Teamster leader bears directly on the public interest in prison reform. That interest is not always apparent to those whose first impulse is to lock up offenders and throw away the key.

But "it is not for humanitarian reasons alone that we must reform the system," Mr. Hoffa pointed out. "It is for our own safety. We have never faced up to the fact that most convicts will someday be released from the hellholes we call correctional institutions. They come out more bitter, more disturbed, more antisocial, and more skilled in crime than when they went in."

He might have added that they also "come out" with more mental illness, more drug addiction, and less ability to get and keep an honest job. Thus, even the toughest law-and-order man, no matter how he may despise those he accuses of "coddling criminals," ought to be able to see that such prisons make the crime problem worse, not better; that sending men and women to such places makes life more dangerous, not less.

Mr. Hoffa put his finger on the main reason why this should be so. He pointed out that Lewisburg, with 1,800 inmates, was grossly overcrowded (as are virtually all prisons, state or Federal) and he recommended that none should have more than 350 inmates. If each were then provided with an individual cell, he said, "men may be able to retain some sort of dignity" even in prison.

"Dignity" is the key to it; time and again, the prisoners in revolt at Attica last year said that what they wanted above all was to be "treated like men." Instead, in most prisons, they are treated more like animals—caged behind bars, existing in inhumane conditions, without adequate facilities, separated almost totally from family and friends, deprived largely of the civil and personal rights most of us exercise, subject to sexual abuse, in many cases the objects of brutality or insensitivity by their keepers. When they get out, they are without training, have little hope of finding a decent job and face the lifelong stigma of being an "ex-con."

Mr. Hoffa pointed out that even one so powerful and influential as he (testimony that tacitly suggested another fact of prison life—the special privileges available to prisoners who can buy or otherwise command them) could not get a pair of prison shoes that fit, and that many other prisoners' clothing and shoes were the wrong size. What place does this kind of minor harassment—whether it results from carelessness, lack of funds, or deliberate efforts at humiliation and punishment, as Mr. Hoffa believes—have in a system that bills itself as correctional?

It is only one more senseless step in the process of reducing a man or a woman to an animal in a cage.

Mr. Hoffa did not draw the obvious conclusion that the prison as presently conceived and administered in the United States is all but incapable of preserving a person's "dignity," of treating him as a real human being. Such prisons, even if their living conditions are improved somewhat, will continue to turn out the embittered and angry "graduates" that he describes.

That is not to say that improvements—for instance, keeping the Lewisburg prison library open on weekends, as Mr. Hoffa recommended—should not be made. But in the long run the prison itself is the trouble, and the only real reform is to find some more sensible and effective means than the cage and the club for dealing with those who offend us.

HENRIETTA CHASE RETIRES

Mr. SPARKMAN. Mr. President, I wish to pay tribute to a very worthy member of the staff of the Committee on Banking, Housing and Urban Affairs, of which I am chairman.

On June 30, 1972, Miss Henrietta Chase who is chief clerk of the committee will retire after 24 years of outstanding service. Henrietta has served loyally and well. She has been tireless in her efforts to keep the committee functioning smoothly and efficiently. I am sure many of you over the years have had occasion to call upon Henrietta when things needed to be done, and I dare say there have been very few requests, if any, that have not been acted upon efficiently and promptly. Henrietta knows how to get things done. She will be missed.

As I recall, Henrietta was encouraged to come to Washington from Minnesota by former President Harry Truman at the time he was campaigning in Minneapolis for the vice presidency. Mr. Truman thought highly enough of her abilities to ask her to become part of his staff on the Senate War Investigating Committee. Henrietta worked on that committee for the year 1945. She left that staff to work in New York as secretary in the law office of the former chief counsel of the War Investigating Committee. In 1949, she returned to Washington to work on the Banking and Currency Committee, of which at that time Senator Maybank was chairman. Since that time, Henrietta has served under the chairmanships of Senators Capehart, FULBRIGHT, Robertson, and me, and I may add, with complete dedication to all of us. Senators might be interested to know, by the way, that there have been only three women who have held the position of chief clerk of a standing committee of the Senate, and Henrietta is one of them.

Henrietta is leaving us at a time when women are being recognized and placed in responsible positions in both government and private industry. I, for one, am proud and pleased that Henrietta's talent and ability were recognized and put to use by many of us long before this trend came about.

Too often, when everything is functioning smoothly, we fail to realize how much hard work and dedication has taken place behind the scenes. There is much involved in setting up committee hearings. We do not have to think or worry about many little details because, in the case of the Banking Committee, Henrietta has done her job. And, setting up committee hearings is just a very small part of her responsibilities. In addition, there are records to be kept, vouchers and bills to be paid, committee budgets to work up, payrolls to compute, and much, much more. All of these tasks demand complete attention and accuracy. The members of my committee have never had to worry about any of them because of the complete confidence we have placed in Henrietta. Her consistently efficient service has merited our confidence.

Henrietta has served the Senate and her country well. We, on the Banking Committee, have become a little spoiled because she took such good care of us. She will be difficult to replace. But we—and I believe I speak for all the members and staff of the committee—wish her much happiness and a good future in the years ahead.

QUORUM CALL

Mr. MANSFIELD. Mr. President, under the agreement entered into last night, the morning hour for the conduct of morning business was to be concluded at 12 noon today, at which time a quorum call was to be suggested.

Therefore, I suggest the absence of a quorum at this time.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED MEXICAN STATES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, pursuant to previous agreement, the Senate stand in recess until the conclusion of the joint meeting of the two Houses or 2 o'clock, whichever is earlier.

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

Thereupon, at 12:13 p.m., the Senate, preceded by the President pro tempore of the Senate, Mr. ELLENDER; William H. Wannall, Deputy Sergeant at Arms; and Darrell St. Claire, Assistant Secretary of the Senate, proceeded to the Hall of the House of Representatives to hear an address by His Excellency, Luis Echeverria, President of the United Mexican States.

The address delivered by President Echeverria appears in the proceedings of the House of Representatives in today's RECORD.

At 1:28 p.m., the Senate, having returned to its Chamber, reassembled, and was called to order by the Presiding Officer (Mr. BURDICK).

UNFINISHED BUSINESS (S. 3390) TEMPORARILY LAID ASIDE

The PRESIDING OFFICER (Mr. BURDICK). Under the previous order the unfinished business will be temporarily laid aside.

PAY SYSTEM FOR GOVERNMENT PREVAILING RATE EMPLOYEES

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to the consideration of H.R. 9092, the bill relating to the pay system for Government prevailing rate employees, which the clerk will state by title.

The bill was read by title as follows:

A bill (H.R. 9092) to provide an equitable system for fixing and adjusting the rate of pay for prevailing rate employees of the Government, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Post Office and Civil Service with amendments on page 4, line 24, after the word "section", strike out "5348" and insert "5347"; on page 7, line 15, after the word "each", strike out "two" and insert "2"; on page 12, line 2, after the figure "3", strike out "o'clock post-meridian" and insert "p.m."; in line 6, after the figure "11", strike out "o'clock post-meridian" and insert "p.m."; in line 7, after the figure "8", strike out "o'clock antemeridan" and insert "a.m."; on page 18, after line 9, strike out:

"§ 5347. Federal Prevailing Rate Advisory Committee

"(a) There is established a Federal Prevailing Rate Advisory Committee composed of—

"(1) the Chairman, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia, and who shall be appointed by the President for a 4-year term;

"(2) one member from the Office of the Secretary of Defense, designated by the Secretary of Defense;

"(3) two members from the military departments, designated by the Chairman of the Civil Service Commission;

"(4) one member, designated by the Chairman of the Civil Service Commission from time to time from an agency (other than the Department of Defense, a military department, and the Civil Service Commission);

"(5) an employee of the Civil Service Commission, designated by the Chairman of the Civil Service Commission; and

"(6) five members, designated by the Chairman of the Civil Service Commission, from among the employee organizations representing, under exclusive recognition of the Government of the United States, the largest numbers of prevailing rate employees.

"(b) In designating members from among employee organizations under subsection (a)(6) of this section, the Chairman of the Civil Service Commission shall designate, as nearly as practicable, a number of members from a particular employee organization in the same proportion to the total number of employee representatives appointed to the Committee under subsection (a)(6) of this section as the number of prevailing rate employees represented by such organization is to the total number of prevailing rate employees. However, there shall not be more than two members from any one employee organization nor more than four members from a single council, federation, alliance, association, or affiliation of employee organizations.

"(c) Every 2 years the Chairman of the Civil Service Commission shall review employee organization representation to determine adequate or proportional representation under the guidelines of subsection (b) of this section.

"(d) the members from the employee organizations serve at the pleasure of the Chairman of the Civil Service Commission.

"(e) The Committee shall study the prevailing rate system and other matters pertinent to the establishment of prevailing rates under this subchapter and, from time to time, advise the Civil Service Commission thereon. Conclusions and recommendations of the Committee shall be formulated by majority vote. The Chairman of the Committee may vote only to break a tie vote of the Committee. The Committee shall make an annual report to the Commission and the President for transmittal to Congress, including recommendations and other matters considered appropriate. Any member of the Committee may include in the annual report recommendations and other matters he considers appropriate.

"(f) The Committee shall meet at the call of the Chairman. However, a special meeting shall be called by the Chairman if 5 members make a written request to the Chairman to call a special meeting to consider matters within the purview of the Committee.

"(g) Members of the Committee described in paragraphs (2) (5) of subsection (a) of this section serve without additional pay. The Chairman is entitled to a rate of pay equal to the maximum rate currently paid, from time to time, under the General Schedule. Members who represent employee organizations are not entitled to pay from the Government of the United States for services rendered to the Committee.

"(h) The Civil Service Commission shall provide such clerical and professional personnel as the Chairman of the Committee considers appropriate and necessary to carry out its functions under this subchapter. Such personnel shall be responsible to the Chairman of the Committee.

On page 21, at the beginning of line 12, change the paragraph number from "5348" to "5347"; at the beginning of line 21, strike out "may" and insert "shall"; on page 22, at the beginning of line 3, change the paragraph number from "5349" to "5348"; on page 23, in the material following line 8, strike out "5347." Federal Prevailing Rate Advisory Committee."; after the amendment just above stated, strike out "5348" and insert "5347"; at the beginning of the line following the amendment just above stated, strike out "5349" and insert "5348"; on page 24, at the beginning of line 19, strike out "5349" and insert "5348"; on page 25, line 3, after the word "or", strike out "5349" and insert "5348"; on page 29, at the beginning of line 1, strike out "5349" and insert "5348"; and, on page 30, line 22, after the word "prescribe." insert "Notwithstanding the provisions of this subsection, section 5343(e)(1) (D) and (E) and (e)(2)(C), as enacted by the first section of this Act, shall not be effective until the first day of the first pay period commencing after (1) the date on which the President ceases to exercise his authority under the Economic Stabilization Act of 1970 to stabilize wages and salaries, or (2) April 30, 1973, whichever occurs first."

The PRESIDING OFFICER. Under the previous unanimous-consent agreement the time for debate on this bill is limited to 2 hours, equally divided between the Senator from Wyoming (Mr. MCGEE) and the Senator from Hawaii (Mr. FONG). Debate on amendments is limited to 30 minutes, equally divided between the mover of such and the manager of the bill, or the minority leader if the manager of the bill, or the minority leader if the manager of the bill is in favor of the amendment.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quroum, and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE ADDRESS TO THE JOINT MEETING OF THE TWO HOUSES BY PRESIDENT ECHEVERRIA OF MEXICO

Mr. MANSFIELD. Mr. President, the joint meeting of the Congress of the United States has just had a rare opportunity to listen to the President of the United Mexican States, Luis Echeverria, deliver an address in the Chamber of the House of Representatives. It was a frank speech. It was the kind of speech one would expect a good friend to make, because it laid bare some of the questions which confront both of us at the present time, but most especially the Mexican Republic.

It was a speech which I think was well taken by the Members of the Congress in session assembled. I think it is always good among friends to lay the cards on the table so that differences can be considered in the open, as well as behind closed doors, if need be, so that solutions can be achieved and so that questions raised can, if possible, be answered.

I want to commend the distinguished President of the United Mexican States for his frankness, his honesty, and his forthrightness in laying before the representatives of the people what I assume he will lay before the President of the United States, Mr. Nixon, in greater detail during the period of this state visit.

So again I want to say it was a pleasure and a privilege to have had the opportunity to hear President Echeverria; that the Senate and House were honored in extending the invitation to him to address a joint meeting; and that we look forward to solving, if at all possible, and at the earliest opportunity, as many of these problems as we can which confront our two great republics today.

President Echeverria and his people, who represent a great nation, are welcome to this Chamber, and we are delighted that he spoke with such candor and frankness, and we also appreciated

very much the philosophy which he expressed and which was interspersed through his remarks on the occasion of his speech today.

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

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

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on today, June 14, 1972 the President had approved and signed the act (S. 1140) to authorize the sale of certain lands of the Southern Ute Indian Tribe, and for other purposes.

PAY SYSTEM FOR GOVERNMENT PREVAILING RATE EMPLOYEES

The Senate continued with the consideration of the bill (H.R. 9092) to provide an equitable system for fixing and adjusting the rate of pay for prevailing rate employees of the Government, and for other purposes.

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

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

Mr. McGEE. Mr. President, the bill we are considering today, H.R. 9092, is the culmination of several years' study by the Congress on legislation to establish by law a system for the employment of tradesmen and craftsmen in the Federal service.

In 1967, the Senate Committee on Post Office and Civil Service recommended and the Senate passed S. 2303, the bill designed to establish a new blue-collar pay and classification system. It comes as a shock to many people to discover that there is no real regulation or system under statute for the compensation of these Federal employees, and thus when that bill (S. 2303) failed of enactment in the House of Representatives, we had to bide our time to try again. In 1970, both houses agreed upon a bill (H.R. 17809), but that time the bill was vetoed by President Nixon.

H.R. 9092 is a modification which I believe generally improves upon the provisions of the 1970 bill. It passed the House of Representatives on July 28, 1971.

To describe the background, Mr. President, it is well that we keep in mind that the blue-collar workers in the Federal Government are a small minority group. There are about 650,000 blue-collar workers in the Federal Government. Most of them are employed in the Department of Defense and work at military bases around the country. The remainder work in Veterans' Administration hospitals and the custodial force of the General Services Administration and the Department of Interior and in some other agencies scattered around the country. There is very little written law about their status as Federal employees. During the Civil War—and that means our own Civil War, in our country's history—when it was necessary to hire carpenters and steamfitters to work in the naval yards, Congress enacted the basic statute which has been on the books in one form or another for 110 years—that the rates of pay of tradesmen and skilled craftsmen should be established in accordance with the prevailing rates in the community where they are employed.

That machinery for the blue-collar system failed. Up until a few years ago, there were several hundred wage boards and geographic areas used in the executive branch for fixing pay. The system was acknowledged by practically everyone who new anything about it as being an unholy mess.

In 1965—quite literally one century, almost to the year, the terminal point of our Civil War—President Johnson signed an Executive order requiring the coordination by the Civil Service Commission of all agencies who have blue-collar employees. By July 1, 1968, the Coordinated Federal Wage Board System was established, and since that time it has worked reasonably well. The Chairman of the Civil Service Commission is the Chairman of the Board, and both agencies and employee unions are represented on the Board. The number of wage boards in the Nation has been reduced to a fairly manageable size, and the method of fixing rates of pay is better than it used to be. For example, we no longer have two different agencies in the same town paying widely varying rates for precisely the same kind of job—and that is making some headway—and there have been some other improvements.

But the system is not perfect and it is not established under statute as determined by the legislative power of the Government. The President may at his discretion revise the system, and the 650,000 employees in the system do not have the asurance of guidelines established by law. We often, in our rhetoric, brag about our being a nation under law, not under men. Yet, here would seem to be a flagrant denial of that somewhat sacred principle—at least, rhetorically. When we contrast the status in the Federal Government, in the inequity that now exists, with the circumstances in other segments of the Nation's business community, we can appreciate the change that is required. For example, if one is running a small shop on Main Street, the authority to change things around and issue new orders without legislative guidelines may be desirable. That is the way we run our offices, for example. We hire and fire as we please. We pay our employees what we think they are worth, based on individual judgments, or what our sense of compassion and humanitarianism inspires us to provide. But when you are running the biggest business in the world, which is the Government of the United States, you just cannot run a responsible store that way. We do not do it that way for any other Federal employees. There has been a classified system established by law for the civil service for 50 years. There was a classification system established by law for postal workers until the enactment of the Postal Reorganization Act, and that system of classification and pay was carried over into the new, semi-independent postal agency until superseded by collective bargaining. The wage board employees are the only group in the executive branch who do not have either a formal job classification and pay system established by law or collective bargaining options. The time is long overdue for establishing such an orderly statutory system.

In its simplest form, that is what H.R. 9092 does. It says that this is going to be the law when it comes to blue-collar workers. This is what the President and the Civil Service Commission and the various agencies in the executive branch are going to do. It is the function of Congress to declare what the policy of the Government shall be. It is the function of the executive branch to carry out that policy. Guidelines are established in this bill that shall direct the course of administrative action by the Civil Service Commission. The guidelines are not extensive. They will not bind the hands of the executive branch too firmly. But they will assure 650,000 blue-collar workers that—to borrow a phrase—yes, Virginia, there is a Congress of the United States, and there is a policy for the blue-collar employment system.

To my dismay, it is apparent that the executive branch does not favor the enactment of a law for these employees. I have never been able to understand exactly why the administration is opposed to establishing by law a system of employment for these people. The Wagner Act is 37 years old, other Federal employees have laws establishing their employment system, but for some curious reason it is the conviction of the Office of Management and Budget and the Civil Service Commission and the Department of Defense that carpenters and joiners and steamfitters and electricians and janitors and nursing assistants and charwomen need only the benevolence of the executive branch, and that if the Congress will just lie down and be quiet and not make waves, somehow the Commission or the Department of Defense or somebody else can solve all of the problems that need to be solved. That is as archaic as the mere rhetoric in it must sound. In the 5 years our committee has been studying this problem, very little evidence has been presented to the committee to substantiate any misgivings of a substantive sort that the administration may say it entertained.

It took 3 years for the Coordinated Federal Wage Board System even to get off the ground. It took 2 years for the Civil Service Commission to implement the one-time Monroney amendment at a single Air Force base in the United States, and I must say the Department of

Defense has to be dragged feet first, kicking and screaming, into recognizing that the law of the land applied to them.

The reaction of the Office of Management and Budget and the Department of Defense has been that if we pass this bill, there will be massive layoffs. I note that my distinguished colleague highlights this assertion in his upcoming remarks. This is one of the first cries we hear in the face of change, in the face of modernization, in the face of updating and upgrading a process that reflects that we do learn and that we are not stuck in the cement of the past. It reminds me, in a way, of the McKinley-Bryan election in 1896, when employers told their workers that if Bryan was elected they need not bother to show up for work the next day. There have already been cutbacks in the executive branch, mindless budget cutting to achieve some numerical magic unrelated to the needs of an agency. I am sure that there will be more probably equally mindless slashes at agency function.

But the wailing of the budget cutters should not deter us from recognizing the principles to be established by law.

I say to the Members of this body that it is important we establish that difference in our own minds. It is not fair that these workers do not have a statement of congressional policy governing their employment; it is as elementary as that. It is not fair that the workers do not have an effective voice in determining questions of ultimate importance regarding their job descriptions and the setting of their pay. It is not fair that all of the authority is vested only in management. That kind of labor-management program simply does not work in the United States of America any more. It flies in the face not only of the history of this country but of the events of even the past few years. We are entitled to the benefit of our own experience along this trail.

Now, Mr. President, there are two or three features of the bill which have raised considerable controversy which I now turn to for a few casual comments. The most significant sometimes suggested is the establishment of the fourth and fifth steps for blue-collar workers. Presently there are three steps in all of the wage grades. The agency establishes the prevailing rate for the job—I will go into that in a minute—and a new employee is placed in the first step of that grade. That step is 96 percent of the prevailing rate, something like an apprentice scale. After 6 months, if his service is satisfactory—I underscore that—he moves to the second step, which is 100 percent of the prevailing rate; and a year later, now a journeyman in his field, he moves to the third step, which is 104 percent of the prevailing rate in his field.

The bill would establish a fourth and fifth step at 108 percent and 112 percent of the prevailing rate, which is a considerable compromise itself in terms of the needs so dramatically developed in the course of the hearings on this measure.

The opponents of the bill will say that this is unfair to the local labor market, to provide for a salary raise somewhere down the road for individuals among the blue-collar workers who meet these requisites. But, do not lose the point, Mr. President, that this is the setting up by law of a predictable hope for progress, advancement, and promotion which is desperately important if the Federal employment system is to work and is to attract those with the best purposes in terms of service to their job.

The opponents will say that it is unfair to the businessman in the community to pay up to 12 percent above the prevailing rate.

That is another one of the assertions made by critics.

My answer to that is, it is also obviously unfair to business to have a minimum wage or maximum hours, or occupational safety laws, or labor unions, or any of the other laws of this Nation which give the working man a fair chance. They must be viewed as unfair to the businessman or to any other laws that this Nation has enacted in order to give the working man a fair chance in his relations with his employer. In the first place the prevailing rate as determined by the agency is an elusive concept in itself. It is the weighted average of all of the wages in all of the surveyed industries in the area for a particular job. Now that, right there, is a loaded sentence if there ever was one. The agency determines the weighted average. The agency determines what industries will be surveyed. The agency collects the statistical data. The agency does the whole thing. Now let us be realistic. The budget of the Government of the United States is several hundred billion dollars a year and one of our serious national problems is to hold down Federal spending. Surely no one in this Chamber is so naive as to think that the Office of Management and Budget and various departments and agencies in the executive branch will leave any stone unturned to save money. The economics of fixing wages is a science and an art that is as subject to political whims as any other. The result in this case is that the prevailing rate does not reflect the kind of wage policies which should be the policy of the Federal Government. One hundred and twelve percent of the prevailing rate in many cases will not be the rate necessary to recruit and retain the best qualified people in the labor market. Certainly 104 percent will not do that.

Opponents of a fourth and fifth step for wage board workers can, and I am sure will, cite pages of figures to show the percentage of increase for wage board workers over the past few years—the past 5, 10, or 20 and maybe even the past 110 years—back to the Civil War again. The argument seems to be that because these people have been treated reasonably fair we should not enact legislation to insure by law that they get the kind of pay that we want them to have. Equity cries out that we should set by law a procedure, a process, standards of direction, that do not rely on the changing whims of whoever may be in the White House at that moment. Once again we take pride in being a nation under law and not a nation under men.

I must inject here, Mr. President, that it has been somewhat amusing for me to observe that the percentage pay increases for wage board workers in Wyoming have improved considerably, curiously, since I became chairman of the committee in 1969, just as they have improved considerably in Hawaii, the home State of the ranking Republican member of the committee who presides over the august ranks of our committee endeavors; just as they improved considerably in Oklahoma when my predecessor Mike Monroney was chairman of the committee, which likewise increased. Perhaps we could solve many of these problems if we amended the Reorganization Act to put all Senators on the Post Office and Civil Service Committee.

I might suggest to my good friend from Hawaii that the way we can get the problem solved, forthrightly to adjust the inequities in the wage board system in this country, is to expand the size of the committee and under the Organization Act require every Member of the Senate to be on the Post Office and Civil Service Committee. It does seem to have a certain magic that applies to the areas directly represented by members of the committee itself.

White-collar civil service workers generally have 10 steps in their grades compared to three for blue-collar workers. The comparable wage is the fourth step of the grade, but an employee in the classified civil service stays in that fourth step only 2 years and then he moves on up. Among the postal workers in the lower levels, letter carriers and clerks and mailhandlers have 12 steps in their grade. Wage board supervisors—the management end and the blue-collar workers in that industry at that level—have 5 steps in their grade. The principle of longevity increases for long and faithful service is part and parcel of the Federal establishment. All we are doing here is saying to the blue-collar employee that you are going to be treated the same as your fellow workers in the clerical, administrative, technical, and professional occupations in the Federal service.

A second controversial point is the establishment of pay differential for evening and night work. The bill says that if one works the swing shift he gets a 7½-percent premium, and if he works the night shift he gets automatically a 10-percent premium. The only other Federal law on this subject is that which applies to all other Federal employees in the executive branch, and that is if one works at night he gets 10 percent.

That law that protects the white-collar workers in that way is only 27 years old, so that perhaps we are premature in determining that we have already had sufficient experience to judge this in that 27 years. So perhaps the policy of premium pay is not sufficiently mature for the opponents of this measure to consider that it should apply to wage-board workers. I would submit that the time is long past for us to have learned from that experience.

A provision that we have stricken from the House bill would establish a council made up of labor and employee representatives and chaired by an individual not otherwise employed in the Federal

Government. The Senate Post Office and Civil Service Committee has removed that provision from the bill, but I must say without prejudice. We support the concept of a pay council. Perhaps in conference with our colleagues in the House of Representatives we can work something out on that score. The pay council included in the House bill was an advisory group, exercised no actual power and possessed no actual authority other than to make recommendations and write memoranda. We on the committee are inclined to think that there is a sufficient number of blue-ribbon study groups. A truly representative council on wage-board pay with actual power would probably be far more beneficial to the Government and the employee than any advisory committee that might be established. There is presently a wage-board council with labor and management representation, and I think that until this problem can be thought through it would be adviseable to retain that portion of the present system.

For technical purposes I ask unanimous consent that the sectional analysis and the report of this bill be printed in the RECORD at this point. There are several features of the bill which I will not go into at this time but that should be put into the RECORD. By having the analysis of the report printed in the RECORD, it will be covered without taking the time of the Senate this afternoon.

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

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

SECTION ANALYSIS

The first section of the bill amends subchapter IV (Prevailing Rate Systems) of chapter 53 of title 5, United States Code by rewriting sections 5341–5345 and adding new sections 5346–5348.

POLICY

Section 1 provides a new section 5341 of title 5, United States Code, to declare the policy for the payment of wage board employees. The rates of pay will be based on principles that (1) there will be equal pay for substantially equal work; (2) there will be relative differences in pay within a local wage area when there exists recognizable differences in duties, responsibilities and qualification requirements among positions; (3) the level of rates of pay will be maintained in line with prevailing levels for comparable work within a local wage area; and (4) rates of pay will be maintained so as to attract and retain qualified prevailing rate employees.

DEFINITIONS

Section 5342 defines "agency" to exclude certain Government agencies which are generally excluded from laws relating to civil service.

Section 5342(a) also defines "prevailing rate employee" to include ordinary wage board employees plus employees of nonappropriated fund activities of the Armed Services and the Veterans' Canteen Service.

Section 5342(b) excludes certain employees from this legislation. The exclusion relates to employees who are not wage board employees.

Section 5342(c) requires U.S. citizenship for all wage board employees employed in the United States unless no U.S. citizen is available to fill the position.

Section 5343 establishes the wage determination system by which employees pay shall be fixed and adjusted from time to time as nearly as is consistent with the prevailing rates. The Civil Service Commission is vested with responsibility for determining boundaries of wage areas. Section 5343(a)(B)(i) limits wage areas for nonappropriated funds to the immediate locality of the activity.

LEAD AGENCY

The Civil Service Commission shall designate a lead agency from among agencies having prevailing rate employees in a wage area which shall put the designated wage rates into effect. The authority for setting rates for wage board employees outside the United States is vested with the Civil Service Commission.

WAGE AREAS

The Commission is required by section 5343 to schedule full-scale wage surveys every 2 years and shall schedule follow-up surveys to be conducted between this 2-year period. The Commission is empowered to issue regulations which prescribe practices and procedures for conducting wage surveys, analyzing data, and scheduling rates. This also includes regulations for administering the prevailing rate system. Regulations shall include surveys of private enterprise which are similar in work and job content.

Also, the section provides for employee union participation in planning surveys, collection and analysis of data, and issuance of recommendations relating to the prevailing rate system.

"MONRONEY AMENDMENT"

Section 5343(d)(1) makes the provision that the lead agency shall determine whether there are sufficient comparable jobs in the wage area to make a reasonable survey. If there is not a sufficient number of comparable jobs, a separate schedule shall be established by surveying the nearest wage area which does have a sufficient number of such jobs.

STEP INCREASES

Section 5343(e)(1) provides a five-step pay scale for each wage grade. These additional step increases will not take effect until the President lifts the wage stabilization freeze or expiration of the Economic Stabilization Act of 1970, whichever occurs first. When effective, the fourth step will be 108 percent of the prevailing rate and the fifth step will be 112 percent of the prevailing rate.

Section 5343(e)(2) enables an employee to receive automatic advancement to the next pay step after (a) 26 weeks of service in step 1; (b) 78 calendar weeks of service in step 2 and 104 weeks of service in steps 3 and 4.

Paragraph (3) requires preservation of step increases for employees called to military or essential civilian service during a period of war or national emergency.

Paragraph (4) requires that supervisory wage schedules and Monroney schedules shall follow local practices as to number of steps.

SHIFT DIFFERENTIAL

Section 5343(f) authorizes the payment of uniform shift differentials to prevailing rate employees assigned to the second or third shifts. A differential of 7.5 percent of the employee's scheduled rate will be paid for the entire shift when a majority of the employee's regularly scheduled nonovertime work hours are between 3 p.m. and midnight. A differential of 10 percent will be paid when a majority of the regularly scheduled nonovertime work hours are between 11 p.m. and 8 a.m. Section 5343(f) specifically provides that night shift differentials are to be considered a part of basic pay. Thus, such differentials will be included in rates of basic pay for purposes of computing overtime, Sunday, and holiday pay, and deductions for retirement and group life insurance. It is anticipated by the committee that the Civil Service Commission may issue regulations governing such matters as the treatment of night differential when a prevailing rate employee is excused from work on a holiday, traveling on official business, absent on leave, or temporarily assigned to a different tour of duty.

EFFECTIVE DATE

Section 5344 makes wage increases effective 45 working days after the survey is ordered. This currently is the practice.

RETROACTIVE PAY

Section 5344 is standard technical language for retroactive pay to employees.

SAVED PAY

Section 5345 provides "saved pay" for any career employee who has served 2 continuous years in his former position, and who was not demoted through any fault of his own or on account of lack of funds or work.

Paragraph (5) puts a maximum limit of 2 years on saved pay. The employee is entitled to this as long as he (*a*) continues in the same agency without a break in service of one work day or more; (*b*) is not entitled to a higher scheduled rate of pay by operation of this subchapter and is not demoted for cause.

REDUCTION IN GRADE

Section 5345(b) limits saved pay to not more than the new rate to which he was assigned plus the difference between his former rate and the minimum rate of a position three pay grades below his former rate.

Section 5345(b)(c) are powers of the Civil Service Commission dealing with saved pay under unusual circumstances not provided for in this legislation.

JOB GRADING SYSTEM

Section 5346 provides for a job grading system. This is a classification system for wage board jobs and is to be administered by the Civil Service Commission. The Commission will be required to monitor classification by agencies to insure compliance with uniform rules and procedures.

APPEALS

The section entitles an aggrieved employee with the right to petition the Commission for a review of his own job classification. The Commission shall investigate such a complaint and make a decision. This decision is binding on all parties.

CREWS OF VESSELS

Section 5347 is a restatement of existing law relating to crews of vessels of the United States who are paid in accordance with practices of the maritime industry. However section 5347(*b*) has been amended to make vessel employees of Panama Canal Company subject to wage practices of the maritime industry and not merely authorize such pay, as is the case under existing law.

LEGISLATIVE, JUDICIAL, BUREAU OF ENGRAVING AND GOVERNMENT OF DISTRICT OF COLUMBIA

Section 5348 provides that existing wage practices for Government agencies excluded from this legislation shall continue in effect, but that each agency is empowered to adopt for its policy the provisions of this act relating to retroactive pay and saved pay.

Section 5348(*b*) states this section does not modify existing law relating to employees of the Architect of the Capitol, certain employees in the Bureau of Engraving and Printing, and Government Printing Office employees.

Section 5348(*c*) amends the analysis of subchapter IV of chapter 53 of title 5, United States Code.

MISCELLANEOUS CONFORMING PROVISIONS

§ 5348, section 2 is a technical amendment clarifying the application of civil service laws to employees of nonappropriated fund activities.

Section 3 is a technical amendment concerning the applicability of saved pay protection. Sections 4 and 5 are technical amendments. Section 6 extends the basic workweek provisions of law, which now apply to employees under the Classification Act,

to wage board employees. This will require a regularly scheduled 5-day workweek, with 2 consecutive days off. Presently, agencies are not required by law to maintain such work schedules, although they generally do.

Section 7 of the bill repeals existing law on the workweek because section 6 brings wage board employees under the Classification Act workweek.

Section 8 is a technical amendment.

Section 9(*a*)(1) is a general rule for converting present wage board employees to the new schedule. Time-in-grade will be counted toward not more than one-step increase. Section 9(*a*)(2) is a savings clause to prevent a loss of pay for any wage board employee converted to the new pay schedule.

GUIDELINES FOR INITIAL CONVERSION

Section 9(*b*) is a savings clause to prevent disruption or modification of existing wage board bargaining agreements now in effect.

Section 10 extends Sunday premium pay and overtime pay to employees of nonappropriated fund activities.

Section 11 relates to the amount of life insurance on an employee. His new insurance coverage is effective on the latter of the date to the order setting the new pay scale or the effective date. Employees who die during such period receive the benefit of the increase.

Section 12 is a technical amendment authorizing the Civil Service Commission to issue regulations pursuant to this legislation.

Section 13 is a general repealer and section 14 corrects a technical error in the 1971 pay bill relating to the pay of employees of the House and Senate, to permit their pay adjustments to be effective at the first of each January rather than February. This is in accord with pay adjustments in the other agencies of the Government.

EFFECTIVE DATE OF COMPARABILITY ADJUSTMENTS

Section 5343(*e*)(1)(D) and (E) and (*e*)(2)(C) until the first day of the first pay period commencing after (1) the date on which the President ceases to exercise his authority under the Economic Stabilization Act of 1970 to stabilize wages and salaries or (2) April 30, 1973, whichever occurs first.

Section 18(b) is a savings clause for wage surveys in progress during the period after enactment but prior to the effective date.

COST

This legislation becomes effective either April 30, 1973, or the date on which the President ceases to exercise his authority under the Economic Stabilization Act, whichever occurs first. The cost is estimated to be $115 million for the first full fiscal year. This figure represents the cost of adding the fourth step. After 2 years from that date, $66 million will be required to implement the fifth step.

The amendment requiring maritime rates in the case of vessel employees of the Panama Canal Company is estimated to cost $345,000 per year. This sum would be paid out of fees for the use of the Canal, not out of Treasury funds.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law in which no change is proposed is shown in roman; existing law proposed to be omitted is enclosed in black brackets; new matter is shown in italic):

Mr. McGEE. Mr. President, I think we have worked out a good piece of legislation. It has been tightened up, and some of its rubber edges have been polished and are recommended to the consideration of the Senate. As a further precaution we have also included on the Senate side a provision to postpone the effective date of any pay increases under this bill until such time as the President lifts wage and price controls or until April 30, 1973, whichever occurs first. That in our judgment is a substantial compromise on our part.

It likewise reflects a general consideration of the bind the President himself is in when he seeks to cope with the many aspects of the price controls at this time.

With this in mind, Mr. President, I would certainly hope that wisdom would prevail downtown and that this bill could become law and that it would be sustained by the judgment of the Chief Executive. I think, looking backward for just a moment, that the veto of the bill about a year and a half ago, probably resulted from very poor advice. I think there is a wise consensus of that judgment. Had it been signed then, the disappointment and frustration of these employees would have been avoided. I hope that those disappointments and frustrations will not increase as a result of our recommendations on the pending bill this year.

The PRESIDING OFFICER (Mr. FANNIN). The Senator from Hawaii is recognized.

Mr. FONG. Mr. President, I rise to strongly oppose H.R. 9092, the Federal Prevailing Wage or Wage Board bill.

Although this bill ostensibly seeks to codify a system presently established by regulation, it actually goes far beyond the present wage system. If it were just confined to codifying the present system, I would not object to its enactment, although I think it is unnecessary because the Coordinated Federal Wage System which was only put into action about 3 years ago is working very well as stated by the distinguished chairman.

But, Mr. President, this legislation changes radically the rate of pay of Federal blue-collar workers. It raises Federal blue-collar workers' pay 12 percent above the prevailing wage for similar work in private industry. This 12-percent rate over the prevailing wage in industry would completely wreck and destroy the principle of comparability which has been in existence for over 100 years, since the end of the Civil War.

At the outset, Mr. President, coming from the State of Hawaii, where we have more than 12,000 blue-collar workers who would benefit tremendously from the passage of this bill, I really should be fighting for this bill rather than opposing it; but this bill will create such chaos and will so wreck the system now prevailing that I am constrained to oppose it.

As member of the Committee on Post Office and Civil Service for the past 12 years, I have had the privilege of working on every Federal pay bill presented to the Senate since 1960. I take great pride in the fact that I took an active part in helping write into law in 1962 the principle of pay comparability with private industry for Federal white-collar employees. That principle of equal pay for equal work was borrowed from the Federal blue-collar system which had been in existence for over 100 years. It had worked and has continued to work very well for Federal blue-collar employees. It has worked very well for Federal white-collar employees since its adoption in 1962.

My record of active support for equitable pay legislation for Federal employees with private industry speaks for itself, and I shall continue to fight for fair and equitable pay treatment for all Federal employees.

However, the bill before us does great violence to the comparability principle and in fact destroys it.

Its other harmful effects far outweigh whatever benefits it might have. I strongly opposed this legislation in committee, and I urge the Senate to defeat it today.

Essentially, H.R. 9092 would have the following adverse consequences:

First. It would destroy the equal pay for equal work principle governing Federal blue-collar pay by setting Federal pay 12 percent above that of private industry. This percentage would be 19½ percent higher than private industry for swing shift Federal blue-collar workers and 22 percent higher for those on night shift.

Second. This bill would allow the pay of the 510,000 Federal blue-collar workers—less than 1 percent of the national work force—to set the wage pace for the other 84 million American workers.

There is a dispute as to how many blue-collar workers there are in the system. My Chairman says the figure is approximately 670,000.

Mr. McGEE. 650,000.

Mr. FONG. 650,000. The latest figure I have from the Civil Service Commission is 510,000. This figure was about 900,000 approximately 10 years ago. It had dropped to about 700,000 and is now down to 510,000. So there has been a large decrease in the number of blue-collar workers in the last 10 years from 900,000 to 510,000 at present.

There are 84 million American workers in the United States, but 510,000 American workers will get 12 percent over and above the rate of pay of the other 84 million American workers—less than 1 percent, these 510,000 workers, will set the wage pace for the other 84 million American workers.

Third. It threatens the loss of jobs for 23,500 Federal employees, as the Federal Departments and agencies would probably have to absorb the full $178 million cost of this legislation.

Fourth. It threatens the reduction in pay and grade of another 170,000 other Federal employees because, as it worked before and will work again, for every reduction in force of one worker, there is usually an accompanying "bumping down" in pay and grade of five other workers. This would come on the heels of a 52,000-job cut of 5 percent in Federal employment estimated for fiscal year 1972.

The President has asked for a 5-percent reduction in the work force for fiscal year 1972, and this is estimated to be 52,000 jobs. The loss of 23,500 jobs would come on the heels of the cut of 52,000 jobs.

Fifth. The 12 percent above comparability pay with private industry will re-

sult in a continuous staircase escalation of wages, as private industry workers will seek equal pay with Federal workers, and Federal pay by law must rise 12 percent above private industry.

This is how it could work. These Federal workers would receive 12 percent over and above the man in private industry. This man seeing that the Federal worker is getting 12 percent more than he is getting would ask for more, so as soon as he rises the Federal worker rises, and this would be a continuous staircase escalation. It is obvious this will seriously aggravate the already critical problem of inflation.

BACKGROUND

The Federal prevailing wage or blue-collar system covers all Federal craftsmen, tradesmen, and laborers who number approximately 510,000 at the present time. This group makes up less than 1 percent of our national work force of about 84 million. The total Federal work force numbers approximately 1,300,000 white-collar employees, 510,000 blue-collar employees, paid on a wage area scale, and approximately 3 million military personnel. All Federal workers and military personnel make up approximately 5.7 percent of the national work force.

The Federal prevailing wage system has been modified and improved through the years, but for over 100 years, essentially the same principle of equal pay for equal work with private industry has been the guideline for this system.

Simply stated, the system requires annual surveys of private industry pay within the general area where the Federal facility concerned is located. The findings of these annual surveys dictate the pay for the Federal blue-collar employee within that particular wage area. Federal pay increases justified by the surveys are put into effect 45 days after the survey is ordered.

In other words, surveys will be going on in various parts of the country. There are 139 Federal wage areas. These area wage surveys would come up with the prevailing wage in the community. Within 45 days after the order is given to take the survey, that increase, if there is an increase, is implemented. So within 45 days of the order the Federal blue-collar workers get a wage increase, if a wage increase is justified.

Up until 1968 each Federal agency had its own "wage board" system and conducted its own area wage surveys. Proliferation of agency systems caused widespread problems among the different agency offices within wage areas and within the individual agencies nationwide. The problems caused by this proliferation of wage board systems resulted in a conversion beginning in 1968 to a coordinated Federal wage system.

The coordinated Federal wage system is close to being fully implemented throughout the United States and its overall effect has been most favorable. Even the chairman stated, just a little while ago, that its effects have been favorable.

Under this new system, uniform policies and procedures for conducting wage surveys and setting wage rates apply to all agencies. Uniform job grading systems and standards likewise have been developed and applied to all agencies so that jobs are placed in proper grades under standardized wage schedules.

As the coordinated Federal wage system was established only 3 years ago under President Lyndon Johnson, and as it has worked well so far, enactment of this bill is most premature and unwarranted. This system should be given more time to prove itself.

Wage areas have been uniformly established and defined. The boundaries of these wage areas are continuously being reviewed and appropriate changes being made where justified.

At the present time there are 139 Federal wage areas in the United States, with a few special schedules set aside because of unique situations. All Federal agencies employing wage board employees participate in their particular wage area survey. The Federal agency with the larger number of Federal wage board employees is designated the lead agency in these area wage surveys.

The surveys are conducted by local agency personnel with Federal employee organization representatives participating in all phases of the survey.

Under the new Coordinated Federal Wage System, all wage schedules are keyed to industry rate structures in the entire wage area. Previously, pay rates were based on limited wage surveys conducted in the immediate vicinity of the Federal facility. In many cases this resulted in lower pay rates for employees working at facilities located in rural areas.

Under the new system, surveys are keyed to industry-wide rate structures within the entire wage area. This has resulted in bringing higher pay rates to Federal wage board workers in the entire wage area, including the rural areas.

The pay rates these employees have received under the coordinated system have by and large been substantial.

In the 68 largest wage survey areas, covering 403,053 employees, or 79 percent of all Federal wage board employees, the average total pay increase for the period 1961 through 1971 was 65.18 percent. On the other hand, the total average pay increase granted by the Congress to the Federal statutory salaried or white collar employees for the same period was 55.26

I ask unanimous consent that a table period of 10 years.

I ask unanimous consent that a table showing the pay increases in these 68 largest Federal wage areas for the period 1961 through 1971 be printed in the RECORD at this point.

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

WAGE INCREASES FOR 68 MAJOR WAGE AREAS THROUGHOUT THE UNITED STATES FOR THE CALENDAR YEARS 1961, 1971

State and area	Average annual percentage increase											Overall average percentage increase 1961 through 1971
	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	
Alabama:												
Huntsville	3.1	3.1	1.3	1.8	1.7	1.5	2.8	4.2	5.6	[1] 9.0	[1] 7.7	65.0
Birmingham	3.4	2.6	2.1	2.3	1.3	3.0	2.7	3.7	4.8	[1] 7.1	[1] 6.7	50.2
Alaska: (Regular)	2.1	2.4	2.6	1.7	5.1	3.4	4.6	[1] 11.1	7.1	[1] 9.2	5.5	69.6
Arizona: Phoenix	3.3	4.1	1.8	2.1	2.9	2.5	3.8	4.0	[1] 10.4	[1] 4.2	[1] 12.3	69.4
Arkansas: Little Rock	2.5	2.4	1.8	3.5	4.6	3.5	4.4	7.1	12.1	[1] 8.1	5.5	72.4
California:												
San Francisco	3.2	1.4	2.4	3.3	2.8	2.8	4.4	[1] 9.5	[1] 6.0	[1] 9.3	----------	60.9
Sacramento	2.8	3.7	3.7	3.4	4.1	3.4	3.7	5.0	8.3	[2] 12.2	[1 2] 8.1	80.7
Los Angeles	3.2	3.1	2.5	2.7	3.3	4.1	4.2	6.9	8.8	[1] 6.1	----------	56.9
San Diego	3.5	3.6	2.5	3.3	4.1	4.0	4.5	[1] 7.8	[1] 5.8	[1] 7.0	----------	57.9
Colorado:												
Denver	3.0	3.0	3.0	1.9	2.6	3.6	3.1	3.6	[1] 11.3	[1] 6.2	10.9	69.1
Southern and western	3.2	2.5	2.2	1.2	1.4	4.3	2.0	4.4	[1] 10.7	[1] 4.5	[1] 6.2	54.2
Connecticut: New London	3.2	2.1	2.4	3.1	1.4	2.2	3.0	7.2	[1] 5.2	[1] 4.3	5.5	48.0
Delaware: Wilmington	3.5	2.5	2.3	2.1	2.4	2.9	3.7	5.7	[1] 9.0	[1 2] 5.7	[1 2] 10.3	64.3
District of Columbia: Washington, D.C.	2.2	4.2	2.5	3.1	3.3	4.4	4.8	6.9	[1] 5.3	[1] 8.4	5.5	67.8
Florida:												
Miami	2.8	1.9	1.8	2.6	2.8	2.1	3.7	3.8	4.9	[1] 16.4	[1] 7.8	62.4
Jacksonville	----------	1.9	2.9	2.0	3.6	1.9	3.8	7.5	5.3	[1 2] 16.2	[1 2] 7.7	68.1
Georgia:												
Atlanta	2.4	3.1	2.4	3.2	3.2	3.8	3.2	5.7	[1] 11.5	[1] 7.5	[1] 11.3	77.1
Macon	3.0	2.3	2.4	4.0	3.2	3.8	4.8	5.5	[1] 10.3	[1 2] 16.8	----------	88.6
Hawaii: Hawaii	----------	----------	4.2	4.8	4.7	4.3	5.5	7.3	8.0	[1] 12.5	[1] 11.9	109.0
Idaho: Boise	1.5	1.7	1.8	1.7	3.6	3.6	2.7	4.0	[1] 9.0	.8	5.5	60.0
Illinois:												
Chicago	4.1	2.4	2.4	3.1	2.6	2.9	3.8	4.8	6.3	[1] 6.1	[1] 8.6	61.3
Champaign-Urbana	2.0	3.9	2.6	2.0	4.3	4.8	5.1	[1] 18.6	[1] 7.1	[1] 13.2	----------	82.5

Footnotes at end of article.

WAGE INCREASES FOR 68 MAJOR WAGE AREAS THROUGHOUT THE UNITED STATES FOR THE CALENDAR YEARS 1961, 1971—Continued

State and area	Average annual percentage increase											Overall average percentage increase 1961 through 1971
	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	
Indiana: Indianapolis	3.0	2.5	2.7	1.9	3.6	----------	4.4	7.1	6.4	[1]3.7	[1]5.9	51.7
Iowa: Davenport-Rock Island	3.7	3.2	2.6	1.6	4.0	4.8	4.5	[1]9.2	[1]4.4	[1]4.9	[1]5.5	69.4
Kansas: Wichita	3.4	1.4	2.5	2.4	2.9	3.1	----------	4.3	[1]10.9	[1]5.9	[1]6.9	55.1
Kentucky: Louisville	3.6	2.8	3.0	2.2	2.6	3.8	3.1	5.2	[1]7.3	[1]5.2	[1]10.8	66.4
Louisiana: New Orleans	3.5	2.1	2.9	3.2	2.8	3.4	3.7	4.7	5.4	[1]5.8	[1]6.5	54.8
Maine: Portland	3.9	2.6	2.2	1.3	1.7	2.1	3.9	3.7	[1]7.2	[1]2.8	[1]9.4	61.0
Maryland: Baltimore	3.6	3.0	1.7	2.0	1.7	2.8	3.3	5.7	[1]8.7	[1]6.3	5.5	57.9
Massachusetts:												
Boston	2.9	2.1	2.2	1.4	2.7	3.8	2.7	4.9	[1]10.2	[1]6.2	5.5	55.8
Central and western	2.7	2.7	2.0	2.8	2.8	3.0	3.9	4.5	6.7	[1]6.1	5.5	51.0
Michigan: Detroit	3.3	2.4	2.9	2.8	1.6	3.7	3.9	7.1	6.4	[1]8.4	[1]10.1	71.3
Minnesota: Minneapolis	2.7	2.7	2.9	2.5	3.5	3 5	2.6	5.2	[1]12.7	[1]7.5	[1]12.5	77.4
Miississpi:												
Biloxi	2.7	2.1	2.1	2.5	3.1	2.1	6.1	[1]5.6	[1]2.8	[1]10.8	5.5	59.6
Jackson	2.5	1.5	2.9	3.2	3.4	3.3	3.9	5.4	6.7	[1]7.2	[1]5.1	59.4
Missouri:												
Kansas City	2.5	----------	4.6	3.4	3.9	----------	3.5	4.9	5.2	[1]15.4	[1]9.6	69.0
St. Louis	3.1	1.8	2.4	2.4	3.5	3.6	----------	5.2	4.5	[1]13.3	[1]8.2	61.1
Montana: Great Falls	1.6	2.5	3.0	3.3	3.6	2.7	3.0	5.9	[1]7.0	[1]5.3	5.5	53.2
Nebraska: Omah	1.7	3.3	2.8	2.6	3.4	3.3	4.2	5.1	[1]6.8	[1]9.2	5.5	59.4
Nevada: Las Vegas	2.7	4.4	2.4	5.6	3.3	4.2	4.6	4.9	[1]20.3	[1][2]4.7	5.5	85.5
New Hampshire: Portsmouth	5.9	2.3	1.4	1.1	2.4	3.9	6.0	7.1	7.8	[1]7.1	5.5	58.8
New Jersey: Central New Jersey-New York	4.4	2.8	2.7	2.9	2.4	3.3	3.9	4.5	[1]7.3	[1]4.7	[1]13.1	68.9
New Mexico: Albuquerque	3.7	2.4	2.1	2.9	3.2	3.1	2.9	3.5	[1]5.5	[1]5.2	7.7	55.2
New York:												
New York	2.9	2.8	2.9	2.4	2.9	3.0	3.1	4.7	[1]7.3	[1]4.7	[1]13.1	63.6
Albany	3.4	2.6	1.9	3.3	4.2	2.8	4.0	5.2	5.8	[1]11.6	9.0	72.6
North Carolina: Fayetteville	2.9	3.4	1.5	3.0	5.1	3.3	4.2	6.1	7.0	[1]12.7	[1]10.4	83.9
North Dakota: Fargo	3.9	1.9	3.0	1.9	2.5	3.2	3.7	5.6	[1]6.1	[1]6.3	[1]8.1	80.2
Ohio:												
Dayton	3.4	2.6	2.2	2.9	1.4	4.4	4.1	7.5	5.5	[1]9.0	[1]7.9	67.0
Columbus	3.2	3.3	2.7	2.8	2.1	2.1	3.9	5.9	5.9	[1]6.5	[1]7.2	60.7
Oklahoma: Oklahoma City	2.2	2.6	2.0	2.1	2.5	3.6	5.4	[1][2]16.5	[1][2]7.1	[1][2]6.8	5.5	69.1
Oregon: Portland	2.2	3.0	1.7	2.0	3.7	3.4	3.8	4.6	[1]13.2	[1]6.2	5.5	62.1
Pennsylvania:												
Philadelphia	2.6	2.4	2.5	2.3	2.9	3.3	4.0	[1]6.3	[1]4.5	[1]12.4	----------	55.8
Pittsburgh	3.6	3.4	2.2	1.3	1.1	3.4	2.1	3.9	9.5	[1]5.1	[1]5.8	51.7
Rhode Island: Narragansett Bay	2.8	2.7	1.7	3.8	2.1	3.2	4.1	4.9	[1][2]12.8	[1][2]7.9	[1]6.2	71.4
South Carolina:												
Charleston	2.5	2.7	2.2	2.6	3.0	3.2	4.4	[1]5.2	[1]3.3	[1]11.6	----------	50.2
Columbia	2.9	3.4	1.7	3.1	3.5	3.8	4.3	6.0	6.3	[1]12.1	[1]7.6	76.4
South Dakota: Sioux Falls	3.1	2.9	2.6	3.1	2.7	2.9	4.5	5.9	[1]6.7	[1]7.7	5.5	61.1
Tennessee: Nashville	4.2	2.6	3.7	3.1	1.2	3.1	3.8	4.6	[1]4.9	[1]4.9	[1]9.5	58.3
Texas:												
Dallas-Fort Worth	3.2	1.6	2.5	1.8	3.2	3.0	3.0	4.7	5.7	[1]12.7	[1]8.4	65.0
San Antonio	2.2	3.1	2.7	3.6	4.8	3.0	5.2	5.0	5.2	[1][2]13.7	5.5	77.7
Utah: Salt Lake City	3.9	2.8	2.9	2.4	2.9	3.6	3.3	3.8	[1]7.2	[1]4.3	[1]4.7	64.0
Vermont: Burlington	6.4	4.5	4.2	3.8	1.8	2.0	3.8	4.1	5.2	[1]21.6	[1]4.5	94.0
Virginia:												
Norfolk	3.0	3.6	3.0	2.5	1.2	2.9	3.2	3.4	6.7	[1][2]12.1	[1][2]5.1	57.0
Richmond	3.1	2.4	2.4	2.5	2.6	3.8	3.2	4.0	[1]6.8	[1]6.3	[1]5.5	55.0
Washington: Seattle	3.0	3.4	2.3	3.4	3.7	3.5	4.7	9.1	[1]9.5	[1]5.6	5.5	68.2
West Virginia: Charleston	2.5	1.1	1.3	1.7	2.6	2.8	2.6	2.9	[1]12.4	[1]5.8	[1]7.9	40.6
Wisconsin: Milwaukee	3.1	3.0	3.3	2.6	2.4	2.5	4.0	5.5	[1]7.1	[1]5.9	[1]6.1	58.0
Wyoming: Cheyenne	1.6	3.6	1.6	1.1	3.8	3.4	2.8	5.5	[1]10.4	[1]8.1	[1]7.8	63.0

[1] Percentage increases for the years of 1968, 1969, 1970, and 1971 reflect adjustments made under the coordinated Federal wage system. All other percentage increases were made under agency procedures.

[2] Includes Monroney amendment adjustment.

Mr. FONG. Mr. President, if you look at this pay schedule and look at the increases over the past 10 years, you will find some of these increases going as high as 109 percent. For example, in Huntsville, Ala., it is 65 percent. In Birmingham, Ala., it is 50.2 percent. In Alaska it is 69.6 percent. In Little Rock it is 72.4 percent. In San Francisco, 60.9 percent. In Sacramento, 80.7 percent. In Los Angeles, 56.9 percent. In San Diego, 57.9 percent. In Hawaii, 109 percent.

So within the past 10 years the Federal blue-collar workers have received increases averaging around 65.18 percent, or 9.82 percent more than the salaried white-collar workers.

It must be pointed out that all of the annual increases received by the Federal blue-collar employees brought their wages up to comparability with their counterparts in private industry.

When I first came to the Congress in 1959, the cry from the Federal blue-collar workers in Hawaii was that they were not having comparable wages. They said—

Give us comparable wages with those people who work in similar jobs in private industry in San Francisco, Los Angeles, and Seattle.

During the years we have worked for comparability in pay. Equal pay for equal work was the guiding light for all the Federal blue-collar workers. We have now attained the principle of comparability for all blue-collar workers. This bill seeks to destroy the principle of comparability by giving these blue-collar workers 12 percent more than their counterparts in private industry.

It must be pointed out that all of the annual increases received by the Federal blue-collar employees brought their wages up to comparability with their counterparts in private industry.

The timelag between the date when a survey is ordered to the date a pay increase is put into effect is 45 days—a minimal period considering all factors. By way of contrast, time timelag of Federal white collar pay being brought up to comparability with private industry has been a year and a half or more because Congress has to take affirmative action through legislation to implement white collar pay increases.

Under the present coordinated Federal wage system, all nonsupervisory wage board pay grades have three steps.

The first step is 96 percent of the average private industry wage for that particular skill. In other words, a man coming into employment with the Federal service comes in at a 96-percent rate, as related to the worker in private industry. The second step, is 100 percent of the private industry average; and this is attained at a half-year level. The third step is 104 percent of the private industry average. So it takes an employee, if his work is satisfactory, 6 months to move from the first to the second step and 1 year 6 months to move from the second to the third step, so that at the end of 2 years of satisfactory service, a Federal wage board employee is making 4 percent more than the average of his counterparts in private industry. This difference with the Federal employee making 4 percent more than his private industry counterpart is maintained throughout the employee's career.

However, this 4-percent difference at the top level, even though we do have a 4-percent overcomparability at this time, has not resulted in any great dis-

parity in wages between Federal and private industry pay.

H.R. 9092 would change the present wage board system drastically by adding to the present three-step wage schedule an additional fourth and fifth steps. The fourth step woull be 108 percent of the average prevailing private industry wage and the fifth step would be 112 percent of the average private industry wage.

This means that instead of 4 percent more than that of private industry, Federal blue-collar employees at the top step of their pay schedule would be making 12 percent more. It would put private industry 12 percent behind the Federal Government and would have the effect of causing private industry workers to press for wage increases bringing them up to the Federal employee level. The ultimate effect will be a continuous staircase escalation of wages as private industry workers will seek to equal Federal pay, and Federal pay by law must rise 12 percent above private industry.

This will aggravate the already serious problem of inflation under which all in our country are suffering.

Passage of this bill would mean that less than 1 percent of our national work force would be setting the pay pace for the remaining 95 percent. This excludes Federal white-collar employees and military personnel. Instead of Federal wages following private industry, as it should be, and as it has been for the past 100 years, the 1 percent will be leading the 95 percent in an unending spiral of pay increases. The result can only be utter chaos, increased unemployment, and greater inflation.

Although Federal blue-collar pay should not dictate the pay rates for private industry, neither should it unduly lag behind. The fact is that, under the existing system, pay for Federal blue-collar employees has not lagged behind that in private industry. In the case of Federal blue-collar employees with 2 or more years service, their pay already is 4 percent higher than the private industry average.

STEP INCREASES

Regarding the number of steps in each Federal blue-collar pay level as compared with private industry, U.S. Civil Service Commission surveys indicate that 64 percent of the private industry firms surveyed for Federal pay purposes have single step pay levels. The average step rate for all firms surveyed was 1.8 steps. The present Federal wage board system exceeds the average number of steps in private industry pay level by 1.2 steps. If this bill is enacted, it will exceed private industry pay steps by not 1.2 steps, but 3.2 steps.

Federal blue-collar superisors have 5-step pay levels. However, this is justified on the basis that surveys of private industry practice indicate a wide variance in the pay of supervisors. Therefore, 5-step pay levels were established for supervisors following the wide variance of pay for private industry supervisors. The same widespread variance is not present at the journeymen levels.

SWING AND NIGHT SHIFT DIFFERENTIALS

Another provision of H.R. 9092 which would do great violence to the existing pay comparability principle is that which establishes national swing and night shift differentials.

At the present time Federal blue-collar workers who work on swing and night shifts receive whatever shift differentials are being paid by private industry within their particular wage areas. The 7½-percent and 10-percent differentials required under this bill are substantially above the prevailing rate and would further aggravate the disparity between Government wages and those in private industry.

When H.R. 9092 is fully effective, Federal swing shift blue-collar employees, because of the 7½-percent shift differential and the 12-percent base pay increase, will be making 19½ percent above the average in private industry. Night shift Federal blue-collar employees will be making 22 percent above the average pay in private industry.

It must be pointed out that this would all be in addition to the pay hikes all Federal blue-collar employees would receive as a result of the yearly area wage surveys which will continue to be taken.

This increase would be over and above the annual wage increases that, for this year and for the past 10 years, have been given each year, and which I have alluded to as being approximately 65.8 percent over the level of 1960. This year it is expected that Federal blue-collar workers will receive an estimated 8- or 9-percent increase in their wages when the annual wage surveys are completed, and that is supposed to be implemented within 45 days of the order to take the survey. Therefore, if this goes into effect, we will have an increase of 8 or 9 percent on the annual wage survey increases, and then another 8 percent more under this bill.

LOSS OF 23,500 FEDERAL JOBS

This bill threatens to put approximately 23,500 Federal employees out of jobs within the next 2 years and will adversely affect approximately 117,000 other Federal employees.

The cost of this legislation is estimated at $178 million when fully effective in 2 years. The U.S. Civil Service Commission advises that with a representative mix of jobs, the $178 million represents approximately 23,500 jobs.

Because of the usual practice of requiring Federal agencies to absorb the costs of employee pay increases, if this bill is enacted, the agencies will have to make up the $178 million cost out of their operating budgets. This means that approximately 23,500 Federal jobs will have to be cut in order to obtain the money to pay for these wage increases.

In the past 10 years, Mr. President, we have been giving wage increases to the blue collar workers, and as the departments have been absorbing these costs, they have been consistently reducing the number of blue collar employees. As I stated earlier, when I first came to Congress, the number of blue collar workers was approximately 900,000. Today, because of the 5-percent cut in the work force ordered by the President and because of the various increases and because of other factors, the number has now been reduced to 510,000 Federal blue collar employees. And we are going to reduce that number by another 23,500 if we pass this bill.

Also, I am advised that for every reduction in force of one Federal worker, there is usually an accompanying "bumping down" in grade of five other workers. If we eliminate 23,500 Federal jobs, it will affect another 117,500 workers who will be bumped.

This means that if 23,500 Federal jobs are eliminated because of this bill, approximately 117,500 other Federal employees will suffer reductions in grade and pay through the exercise of bumping and retrenchment rights by those whose jobs are eliminated.

I know of one case that has been brought to my attention very forcibly by a young lady who was GS–11, receiving a salary of approximately $14,000 annually. Because of the RIF of 52,000 jobs, she was bumped from GS–11 to GS–5, and her pay is now approximately $7,000. When I talk about "bumping down," this is what I mean—bumping down the 117,000 other Federal workers because 23,500 Federal jobs have been eliminated.

In many, many cases bumping and retrenchment reach down to the lowest grade levels available in an agency. This is particularly true during times like these when Federal jobs are very, very scarce. One need only talk to an employee who has been RIF'd or bumped to see that when a RIF order is issued employees not only lose their jobs, but many more suffer cuts in pay and grade. Pay losses can cut an employee's salary in half or more. For this to happen to the breadwinner in the family can be particularly disastrous.

In some bumping cases, employees can take advantage of the "saved pay" provision of the law which keeps them at the same rate of pay they received prior to being bumped for 2 years. For 2 years they could be safeguarded in the pay they were receiving. However, "saved pay" cannot apply in cases where an employee loses his or her job because of a reduction in force due to lack of funds or curtailment of work, or where the employee is bumped three grades or more. In other words, the employee who was bumped from GS–11 to a GS–5 was bumped more than three grades, and she does not receive "saved pay." She goes right down to the level of $7,000.

It is obvious, then, that passage of this bill can work almost an immediate hardship on approximately 140,000 Federal employees and their families.

Many of us in Congress were hoping that the 5-percent reduction-in-force order now in effect would end on June 30, 1972, and that we could look for a stabilizing of Federal employment in fiscal year 1973. This 5-percent reduction in force is estimated to reduce Federal employment by 52,000 workers by June 30, 1972.

By the passage of this bill, the Government would have to reduce its work force further—23,500 jobs over and above the 52,000 jobs lost by the 5-percent reduction-in-force order. This means a reduction of 23,500 plus 52,000 jobs, or a total reduction of 75,500 jobs.

Many Federal blue-collar employees have written to me expressing their

gravest concern regarding Federal job cutbacks that have been ordered for this fiscal year. Those who have written to me and others who have contacted me in my home State of Hawaii are not complaining about their pay rates but, instead, are concerned about jobs. They all urge that the RIF's be held at a minimum and, if at all possible, stopped. One of the employees at the Pearl Harbor Naval Shipyard has written to me volunteering to take a reduction in pay if it will mean keeping some of his coworkers at the shipyard at work.

Employees in private industry have taken affirmative steps to halt job cutbacks at their factories.

In Dayton, Ohio, workers at the Frigidaire Division of General Motors voted to forgo a 3-percent pay increase scheduled for November 23, 1971, and another 3 percent scheduled for a year later, in order to stop layoffs and to have 850 former employees called back to work.

In Batavia, N.Y., the employees of the Sylvania Division of General Telephone and Electronics gave up a cost-of-living increase of 8 cents an hour to keep their plant in operation.

Congress would be derelict in its duty if it did not listen to and heed this counsel. Congress must do all it can to reduce unemployment. Passage of this bill would do exactly the opposite—add to unemployment.

As I pointed out earlier, Federal blue-collar employees have been receiving pay increases every year. In many areas these increases have been as high as 80 percent, 90 percent, and some even over 100 percent, for the past 10 years. The average pay increase for the 68 largest wage areas in the United States covering 79 percent of all Federal blue-collar workers over the past 10 years is 65.18 percent.

They are now scheduled to receive another pay increase this year, based on 1972 area wage surveys. The Civil Service Commission estimates that this increase will average around 8 or 9 percent. Already, Federal blue-collar employees are making 4 percent more than the average pay of their counterparts in private industry. These employees, under the present wage board system, have been treated very well so far as pay is concerned.

Yesterday, I sent letters to all Senators calling to their attention the serious, adverse consequences of this legislation.

I reiterate the points I made in that letter to summarize my statements here.

The bill would do the following:

First. Would destroy the Federal prevailing wage pay system which has worked well for over 100 years.

Second. Would destroy the "comparability of pay" principle by setting Federal blue-collar workers' pay 12 percent above private industry workers.

Third. Would allow the pay of 510,000 Federal blue-collar workers—less than 1 percent of the national work force—to set the wage pace for 84 million other American workers.

Fourth. Threatens the loss of jobs for 23,500 Federal employees as the Federal departments and agencies would have to absorb the $178 million cost of this legislation following previous precedents.

Fifth. Threatens the reduction of pay and grade of about 117,000 other Federal employees because for every reduction-in-force of one worker, usually there is an accompanying "bumping down" in grade and pay of five other workers. This adverse effect on over 140,000 Federal employees will come on the heels of a 52,000 job cut of 5 percent in Federal employment estimated for fiscal 1972.

Sixth. The 12-percent above comparability pay rate for Federal blue-collar employees over their counterparts in private industry will bring about a continuous staircase escalation of wages as private industry workers will seek to equal Federal pay, and Federal pay by law must rise 12 percent above private industry. This will aggravate the already serious problem of inflation from which all Americans are now suffering.

In concluding, I wish to remind my colleagues that in the 91st Congress—3 years ago—a bill, H.R. 17809, similar in purpose but only raising Federal blue-collar workers from 104 percent to 108 percent over prevailing private wages was vetoed by President Nixon on January 1, 1971. The present bill goes far beyond the vetoed bill, in that it raises Federal blue-collar workers from 104 percent to 108 percent and then to 112 percent over prevailing private wages. Besides, this bill gives an additional 7.5 percent and 10-percent differential for swing and night shift work, respectively, over and above the 112 percent.

Surely this bill, if passed, will be vetoed by the President. I have been advised that this bill, if passed, will be vetoed by the President.

I read now the veto message of the President to H.R. 17809:

To the House of Representatives:

I am returning, without my approval, H.R. 17809, a bill which would fix in law the pay practices applied to Federal "blue collar" employees.

A uniform government-wide wage system for these employees already exists. The Coordinated Federal Wage System which is now in effect is flexible and can respond to changing labor market conditions. The responsiveness of the present method has been demonstrated recently as it provided average wage increases of 9.5 percent during Fiscal Year 1969 and 8.1 percent in Fiscal Year 1970.

H.R. 17809 would also have adverse economic implications. At a time when the Administration is most concerned about inflationary wage settlements in the private sector, this bill would mean that many Federal Employees in a given locality would be paid at much higher rates than those prevailing in the private sector of the same locality. Under the present system, most Federal blue collar workers are already paid four percent more than prevailing rates. This bill would mean that about two-thirds of these workers would be paid at rates eight percent above prevailing rates.

The costly and unwarranted pay features of H.R. 17809 would add still further to a $4 billion blue collar Federal payroll. Since the majority of the employees covered by the proposed bill are employed by the Department of Defense, the only way in which the substantial added costs of the enrolled bill could be met would be through further reductions in employment levels. The Department of Defense has been undergoing substantial employee reductions in the past two years and further reductions would not be acceptable at this time.

Finally, it should be noted that when the wages of Federal employees go up, even greater pressures are placed on private employers to raise their own wages—and thus the fires of inflation are fueled.

In order to keep the administrative wage structure flexible, to fight inflation, and to maintain sufficient employment levels, I must disapprove this bill.

RICHARD NIXON.

THE WHITE HOUSE, *January 1, 1971.*

Therefore, I urge that the Senate look at the broad and long-range consequences of this legislation. This is not the time to approve this type of legislation. We all should be joining in the fight against unemployment; against inflation; and against inequitable disparities between Federal and private industry wages.

This bill does just the opposite. It threatens to increase unemployment; threatens to increase inflation; and, increase the disparity between Federal and private industry wages.

Therefore, Mr. President, I urge the Senate to defeat this legislation.

Mr. President, I ask unanimous consent that the minority views of H.R. 9092 be printed in the RECORD.

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

MINORITY VIEWS

(To accompany H.R. 9092)

H.R. 9092 would adversely overhaul the Federal prevailing wage pay system covering the 510,000 Federal wage board or blue collar employees.

1. It threatens the jobs of 23,500 Federal workers and threatens reduction in pay and grade for many thousands of others because of the reduction in force orders it would generate and the exercising of bumping and retrenchment rights that would follow.

2. It would destroy the principle of salary comparability of Federal blue collar employees with their counterparts in private industry and completely negate the equal pay for equal work concept now followed in setting federal blue collar pay.

3. It would overturn a Federal blue collar system which has existed for over 100 years—a system which has worked satisfactorily in practice. This system of comparability with industry worked so well that it was adopted in the Federal Pay Comparability Act of 1962, as the guiding principle in setting the pay for the 1.3 million white collar employees in the Federal service.

4. It would establish and maintain the wages of Federal blue collar employees who have 2 or more years Federal service 12 percent above the average pay of workers with the same skills in private industry.

5. It would give an additional 8 percent base pay increase to Federal blue collar employees over and above the annual pay increases they have been receiving. These increases averaged approximately 65.18 percent over the past 10 years. This compares very favorably with the 55.26 percent average pay increase received by Federal white collar employees for the same period of time.

6. It would establish for Federal blue collar employees national swing and night shift differentials of 7.5 percent and 10 percent respectively hiking the pay of Federal workers on those shifts 3.5 percent and 5 percent more above their counterparts in private industry.

7. It would mean that out of the approximately 84,000,000 national workforce less than 1 percent (the 510,000 Federal blue collar workers) would be dictating the pay rates for the 95 percent in private industry (approximately 4 percent are in other types

of Federal employment, i.e. white collar and military).

Background

The Federal prevailing wage or blue collar system covers all Federal craftsmen, tradesmen and laborers and has been in existence for over 100 years. Presently it covers approximately 510,000 employees who make up less than 1 percent of our national workforce of about 84,000,000. (The total Federal workforce numbers approximately 3,000,000 military personnel. All Federal workers and military personnel make up approximately 5.7 percent of the national workforce.)

The Federal prevailing wage system has been modified and improved through the years but essentially the same principle of equal pay for equal work with private industry as the base has been the guideline for this system.

Simply stated the system requires annual surveys of private industry pay within the general area where the Federal facility concerned is located. The findings of these annual surveys dictate the pay for the Federal blue collar employees within that particular wage area. Federal pay increases justified by the surveys are put into effect 45 days after the survey is ordered.

Prior to 1968, each Federal agency had its own "wage board" system and conducted its own area wage surveys. Proliferation of agency systems caused widespread problems among the different agency offices within wage areas and within the individual agencies nationwide.

After several years of intensive study by the U.S. Civil Service Commission, conversion to a Coordinated Federal Wage System began in October 1968.

Coordinated Federal wage system

Under this new Coordinated Federal Wage System, uniform policies and procedures for conducting wage surveys and setting wage rates were established for all agencies. Uniform job grading systems and standards were developed so that jobs would be placed in proper grades under standardized wage schedules. Wage areas were uniformly established and defined. These wage areas are continuously being reviewed and appropriate changes being made where justified. At the present time there are 139 Federal wage areas in the United States, with a few special schedules set aside because of unique situations. All Federal agencies employing wage board employees participate in their particular wage area surveys annually. The Federal agency located in each of the areas which has the largest number of wage board employees is designated the lead agency for that particular area.

It is important to note that representatives of Federal employee unions participate in collecting and processing the data gathered in these local wage surveys.

Under the new Coordinated Federal Wage System, all wage schedules are keyed to industry rate structures in the entire wage area.

Previously, under the agency systems, pay rates were based on limited wage surveys conducted in the immediate vicinity of the Federal facility. In many cases data was obtainable only from a few firms causing lower pay rates in the rural wage areas.

By keying the surveys to industrywide rate structures within the entire wage survey area, the lower rural rate data is mixed with rate data in metropolitan areas. This has resulted in bringing higher pay rates to Federal wage board workers in rural areas.

Although pay increases of Federal wage board employees vary from area to area, depending on wage settlements in the private sector, on the average, pay adjustments under the coordinated system have been substantial.

In the 68 largest wage survey areas, covering 403,053 employees or 79 percent of all Federal wage board employees, the average total pay increase for the period 1961 through 1971 was 65.18 percent. On the other hand, the total average pay increase granted by the Congress to the Federal statutory salaries or white collar employees for the same period was 55.26 percent or 9.82 percent less. As a rule, Federal wage board employees have received an increase in wages annually for many years.

The following table shows the actual increases granted in each of the 68 largest wage survey areas during each of the 10 years from 1961 through 1971. Some of the rates in 1971 were held to the 5.5 percent guideline figure established by the President's pay board. It should be noted that the total increases for the past 10 years ranged from 50 percent to 109 percent, in all but two areas. (48 percent in the New London, Conn. and 40 percent in the Charleston, W. Va. wage areas.)

Step increase

Under the present Coordinated Federal Wage System, all non-supervisory wage board pay grades have three steps.

WAGE INCREASES FOR 68 MAJOR WAGE AREAS THROUGHOUT THE UNITED STATES FOR THE CALENDAR YEARS 1961 THROUGH AUG. 8, 1971

State and area	Average annual percentage increase											Overall average percentage increase 1961 through 1971
	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	
Alabama:												
Huntsville	3.1	3.1	1.3	1.8	1.7	1.5	2.8	4.2	5.6	[1][2]9.0	[1]7.7	65.0
Birmingham	3.4	2.6	2.1	2.3	1.3	3.0	2.7	3.7	4.8	[1]7.1	[1]6.7	50.2
Alaska: (regular)	2.1	2.4	2.6	1.7	5.1	3.4	4.6	[1]11.1	[1]7.1	[1]9.2	5.5	69.6
Arizona: Phoenix	3.3	4.1	1.8	2.1	2.9	2.5	3.8	4.0	[1]10.4	[1]4.2	[1]12.3	69.4
Arkansas: Little Rock	2.5	2.4	1.8	3.5	4.6	3.5	4.4	7.1	[1]12.1	[1]8.1	5.5	72.4
California:												
San Francisco	3.2	1.4	2.4	3.3	2.8	2.8	4.4	[1]9.5	[1]6.0	[1]9.3	----------	60.9
Sacramento	2.8	3.7	3.7	3.4	4.1	3.4	3.7	5.0	8.3	[1][2]12.2	[1][2]8.1	80.7
Los Angeles	3.2	3.1	2.5	2.7	3.3	4.1	4.2	6.9	8.8	[1]6.1	----------	56.9
San Diego	3.5	3.6	2.5	3.3	4.1	4.0	4.5	[1]7.8	[1]5.8	[1]7.0	----------	57.9
Colorado:												
Denver	3.0	3.0	3.0	1.9	2.6	3.6	3.1	3.6	[1]11.3	[1]6.2	[1]10.9	69.1
Southern and western	3.2	2.5	2.2	1.2	1.4	4.3	2.0	4.4	[1]10.7	[1]4.5	[1]6.2	54.2
Connecticut: New London	3.2	2.1	2.4	3.1	1.4	2.2	3.0	7.2	[1]5.2	[1]4.3	5.5	48.0
Delaware: Wilmington	3.5	2.5	2.3	2.1	2.4	2.9	3.7	5.7	[1]9.0	[1]5.7	[1][2]10.3	64.3
District of Columbia	2.2	4.2	2.5	3.1	3.3	4.4	4.8	[1]6.9	[1]5.3	[1]8.4	5.5	67.8
Florida:												
Miami	2.8	1.9	1.8	2.6	2.8	2.1	3.7	3.8	4.9	[1]16.4	[1]7.8	62.4
Jacksonville	----------	1.9	2.9	3.6	3.6	1.9	3.8	7.5	5.3	[1][2]16.2	[1][2]7.7	68.1
Georgia:												
Atlanta	2.4	3.1	2.4	3.2	3.2	3.8	3.2	5.7	[1]11.5	[1]7.5	[1]11.3	77.1
Macon	3.0	2.3	2.4	4.0	3.2	3.8	4.8	5.5	[1]10.3	[1][2]16.8	6.9	95.5
Hawaii: Hawaii	----------	----------	4.2	4.8	4.7	4.3	5.5	7.3	8.0	[1]12.5	[1]11.9	109.0
Idaho: Boise	1.5	1.7	1.8	1.7	3.6	3.6	2.7	4.0	[1]9.0	9.8	5.5	60.0
Illinois:												
Chicago	4.1	2.4	2.4	3.1	2.6	2.9	3.8	4.8	6.3	[1]6.1	[1]8.6	61.3
Champaign-Urbana	2.0	3.9	2.6	2.0	4.3	4.8	5.1	[1]18.6	[1]7.1	[1]13.2	----------	32.5
Indiana: Indianapolis	3.0	2.5	2.7	1.9	3.6	----------	4.4	7.1	6.4	[1]3.7	[1]5.9	51.7
Iowa: Davenport-Rock Island	3.7	3.2	2.6	1.6	4.0	4.8	4.5	[1]9.2	[1]4.4	[1]4.9	[1]5.5	69.4
Kansas: Wichita	3.4	1.4	2.5	2.4	2.9	3.1	----------	4.3	[1]10.9	[1]5.9	[1]6.9	55.1
Kentucky: Louisville	3.6	2.8	3.0	2.2	2.6	3.8	3.1	5.2	[1]7.3	[1]5.2	[1]10.8	66.4
Louisiana: New Orleans	3.5	2.1	2.9	3.2	2.8	3.4	3.7	4.7	5.4	[1]5.8	[1]6.5	54.8
Maine: Portland	3.9	2.6	2.2	1.3	1.7	2.1	3.9	3.7	[1]7.2	[1]2.8	[1]9.4	61.0
Maryland: Baltimore	3.6	3.0	1.7	2.0	1.7	2.8	3.3	5.7	[1]8.7	[1]6.3	5.5	57.9
Massachusetts:												
Boston	2.9	2.1	2.2	1.4	2.7	3.8	2.7	4.9	[1]10.2	[1]6.2	5.5	55.8
Central and western	2.7	2.7	2.0	2.8	2.8	3.0	3.9	4.5	6.7	6.1	5.5	51.0
Michigan: Detroit	3.3	2.4	2.9	2.8	1.6	3.7	3.9	7.1	6.4	[1]8.4	[1]10.1	71.3
Minnesota: Minneapolis	2.7	2.7	2.9	2.5	3.5	3.5	2.6	5.2	[1]12.7	[1]7.5	[1]12.5	77.4
Mississippi:												
Biloxi	2.7	2.1	2.1	2.5	3.1	2.1	6.1	[1]5.6	[1]2.8	[1]10.8	5.5	59.6
Jackson	2.5	1.5	2.9	3.2	3.4	3.3	3.9	5.4	6.7	[1]7.2	[1]5.1	59.4
Missouri:												
Kansas City	2.5	----------	4.6	3.4	3.9	----------	3.5	4.9	5.2	[1]15.4	[1]9.6	69.0
St. Louis	3.1	1.8	2.4	2.4	3.5	3.6	----------	5.2	4.5	[1]13.3	8.2	61.1
Montana: Great Falls	1.6	2.5	3.0	3.3	3.6	2.7	3.0	5.9	[1]7.0	[1]5.3	5.5	53.2
Nebraska: Omaha	1.7	3.3	2.8	2.6	3.4	3.3	4.2	5.1	[1]6.8	[1]9.2	.5	59.4
Nevada: Las Vegas	2.7	4.4	2.4	5.6	3.3	4.2	4.6	4.9	[1][2]20.3	[1][2]4.7	.5	85.4

Footnotes at end of table.

WAGE INCREASES FOR 68 MAJOR WAGE AREAS THROUGHOUT THE UNITED STATES FOR THE CALENDAR YEARS 1961 THROUGH AUG. 8, 1971—Continued

State and area	Average annual percentage increase											Overall average percentage increase 1961 through 1971
	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	
New Hampshire: Portsmouth	5.9	2.3	1.4	1.1	2.4	3.9	6.0	7.1	7.8	[1]7.1	5.5	58.8
New Jersey: Central New Jersey-New York	4.4	2.8	2.7	2.9	2.4	3.3	3.9	4.5	[1]7.3	[1]4.7	[1]13.1	68.9
New Mexico: Albuquerque	3.7	2.4	2.1	2.9	3.2	3.1	2.9	3.5	[1]5.5	[1]5.2	7.7	55.2
New York:												
New York	2.9	2.8	2.9	2.4	2.9	3.0	3.1	4.7	[1]7.3	[1]4.7	[1]13.1	63.6
Albany	3.4	2.6	1.9	3.3	4.2	2.8	4.0	5.2	5.8	[1]11.6	[1]9.0	72.6
North Carolina: Fayetteville	2.9	3.4	1.5	3.0	5.1	3.3	4.2	6.1	7.0	[1]12.7	[1]10.4	83.9
North Dakota: Fargo	2.9	1.9	3.0	1.9	2.5	3.2	3.7	5.6	[1]6.1	[1]6.3	[1]8.1	80.2
Ohio:												
Dayton	3.4	2.6	2.2	2.9	1.4	4.4	4.1	7.5	5.5	[1]9.0	[1]7.9	67.0
Columbus	3.2	3.3	2.7	2.8	2.1	2.1	3.9	5.9	5.9	[1]6.5	[1]7.2	60.6
Oklahoma: Oklahoma City	2.2	2.6	2.0	2.1	2.5	3.6	5.4	[2]16.5	[2]7.1	[2]6.8	5.5	69.1
Oregon: Portland	2.2	3.0	1.7	2.0	3.7	3.4	3.8	4.6	[1]13.2	[1]6.2	5.5	62.1
Pennsylvania:												
Philadelphia	2.6	2.4	2.5	2.3	2.9	3.3	4.0	[1]6.3	[1]4.5	[1]12.4	----------	55.8
Pittsburgh	3.6	3.4	2.2	1.3	1.1	3.4	2.1	3.9	9.5	[1]5.1	[1]5.8	51.6
Rhode Island: Narragansett Bay	2.8	2.7	1.7	3.8	2.1	3.2	4.1	4.9	[2]12.8	[2]7.9	[1]6.2	71.4
South Carolina:												
Charleston	2.5	2.7	2.2	2.6	3.0	3.2	4.4	[1]5.2	[1]3.3	[1]11.6	----------	50.2
Columbia	2.9	3.4	1.7	3.1	3.5	3.8	4.3	6.0	6.3	[1]12.1	[1]766	76.4
South Dakota: Sioux Falls	3.1	2.9	2.6	3.1	2.7	2.9	4.5	5.9	[1]6.7	[1]7.7	5.5	61.1
Tennessee: Nashville	4.2	2.6	3.7	3.1	1.2	3.1	3.8	4.6	[1]4.9	[1]4.9	[1]9.5	58.3
Texas:												
Dallas-Fort Worth	3.2	1.6	2.5	1.8	3.2	3.0	3.0	4.7	5.7	[1]12.7	[1]8.4	65.0
San Antonio	2.2	3.1	2.7	3.6	4.8	3.0	5.2	5.0	5.2	[2]13.7	5.5	77.1
Utah: Salt Lake City	3.9	2.8	2.9	2.4	2.9	3.6	3.3	3.8	[1]7.2	[1]4.3	[1]4.7	64.7
Vermont: Burlington	6.4	4.5	4.2	3.8	1.8	2.0	3.8	4.1	5.2	[1]21.6	[1]4.5	94.8
Virginia:												
Norfolk	3.0	3.6	3.0	2.5	1.2	2.9	3.2	3.4	6.7	[2]12.1	[2]5.1	57.0
Richmond	3.1	2.4	2.4	2.5	2.6	3.8	3.2	4.0	[1]6.8	[1]6.3	[1]5.5	55.1
Washington: Seattle	3.0	3.4	2.3	3.4	3.7	3.5	4.7	9.1	[1]9.5	[1]5.6	5.5	68.2
West Virginia: Charleston	2.5	1.1	1.3	1.7	2.6	2.8	2.6	2.9	[1]12.4	[1]5.8	[1]7.9	40.0
Wisconsin: Milwaukee	3.1	3.0	3.3	2.6	2.4	2.5	4.0	5.5	[1]7.1	[1]6.1	[1]5.9	58.6
Wyoming: Cheyenne	1.6	3.6	1.6	1.1	3.8	3.4	2.8	5.5	[1]10.4	[1]8.1	[1]7.8	63.1

[1] Percentage increases for the years of 1968, 1969, 1970, and 1971 reflect adjustments made under the Coordinated Federal Wage System. All other percentage increases not marked with an asterisk were made under agency procedures.

[2] Includes Monroney amendment adjustment.

The first step is 96 percent of the average private industry wage for that particular skill; the second step is 100 percent of the private industry average; and, the third step is 104 percent of the private industry average. It takes an employee, if his work is satisfactory, 6 months to move from the first to the second step and 1 year, 6 months to move from the second to the third step, so that at the end of 2 years of satisfactory service, a Federal wage board employee is making 4 percent more than the average of his counterparts in private industry.

H.R. 9092 would increase the number of steps in each grade level from the present three to five. The first step would continue to be 96 percent of the average pay in private industry; the second step would continue to be 100 percent; the third step would continue to be 104 percent but the fourth step would be at 108 percent; and, the fifth step at 112 percent of the average private industry pay level.

The present 3-step system has not resulted in any great disparity in wages between Federal and private industry pay. However, should the five-step 112 percent above average rate schedule be adopted, it would change the present pay picture drastically. Federal blue collar employees would be making 12 percent more than the average pay in private industry.

This new 5-step system with its 12 percent above private industry rates would destroy the equal pay for equal work concept.

It would put private industry workers 12 percent behind the Federal workers and would have the effect of causing private industry workers to press for wage increases to equal or exceed that of Federal workers. If such increases were granted, it would in turn push Federal workers another 12 percent or more higher. This step by step escalation could be unending.

Passage of this bill would mean that less than 1 percent of our national workforce would be setting the pay rates for the remaining 95 percent. (Excludes Federal white collar employees and military personnel). This should not be.

Although Federal blue collar pay should not dictate the pay rates for private industry; neither should it unduly lag behind. The fact is that, under the existing system, pay for Federal blue collar employees has not lagged behind private industry and in the case of Federal blue collar employees with 2 or more years' service, their pay already runs 4 percent higher than the private industry average.

Under the principle of wage comparability, Federal wage board employees have followed the prevailing private industry wage in their communities. This is proper as the Federal blue collar workers constitute approximately less than 1 percent of our total national workforce of approximately 84 million. It is reasonable that the pattern of wages be set by the other 95 percent (4 percent of workforce is Federal white collar and military).

Regarding the number of steps in each Federal pay level as compared with private industry, Civil Service Commission surveys indicate that 64 percent of the private industry firms surveyed for Federal pay purposes have single step pay levels. The average step rate for all firms surveyed was 1.8 steps. The present Federal wage board system exceeds the average number of steps in private industry pay levels by 2.2 steps.

It must be pointed out that supervisors in the Federal wage board field have 5-step pay levels. However, this is justified on the basis that surveys of private industry practice indicate a wide variance in the pay of supervisors. Therefore, 5-step pay levels were established for supervisors following the private industry practice. The same wide-spread variance is not present at the journeyman levels.

It should also be noted that Chairman Robert E. Hampton of the U.S. Civil Service Commission has stated time and time again that the Federal system shall continue to follow private industry. If private industry moves to five steps for its journeymen, the Federal service would follow this lead. This would be keeping with the basic philosophy of the Federal pay system of equal pay for equal work.

Swing and night shift differentials

As with base pay, the bill would increase the swing and night shift differentials for Federal blue collar employees substantially above private industry.

The bill would cancel the present practice of paying Federal blue collar employees the same swing and night shift differentials that are paid by private industry in each particular wage area. Instead, it establishes a national rate of pay for swing and night shift work. This pay would be 7½ percent for swing shift and 10 percent for night shift work.

The U.S. Civil Service Commission advises that its Coordinated Federal Wage System surveys show that the 7½ and 10 percent differentials are substantial above what is paid in private industry. The differences in such pay varies from wage area to wage area, but the private industry rates are approximately 3.5 percent and 5 percent of base pay for swing and night shift work, respectively.

Using the private industry average pay as the base of 100 percent, Federal swing shift blue collar employees with 2 or more years service are presently at the 107.5 percent pay level; those on night shift are at the 109 percent level.

When H.R. 9092 is fully effective—in 2 years—the same Federal swing shift blue collar employees because of the 7½ percent shift differential and the 12 percent base pay increases will be receiving 119½ percent of the average private industry pay and those on the night-shift will be receiving 122 percent of the average pay of private industry. Stated another way the swing shift Federal blue collar employee will be making 16 percent more than the average of his counterparts in private industry and the night shift employee will be making 17 percent more than the average of his counterparts in private industry.

These increases do not include the annual pay hikes all Federal blue collar employees would receive from the 1972, 1973 and 1974 area wage surveys.

Loss of 23,500 Federal jobs

This bill threatens to put approximately 23,500 Federal employees out of jobs within the next 2 years. The cost of this legislation is estimated at $178,000,000 when fully effective in 2 years. The U.S. Civil Service Commission has translated this cost figure into 23,500 Federal jobs.

Because of the common practice of requiring Federal agencies to absorb the costs of pay increases for their employees, if this bill is enacted, the agencies will have to make up the $178,000,000 cost figure out of their operating budgets. This means that approximately 23,500 Federal jobs will have to be cut by the end of fiscal year 1974.

Already in fiscal year 1972 alone it is estimated that Federal employment will be cut by over 52,000 employees. The Defense Department alone will lose 52,000 positions and this is approximately 90 percent of the entire Federal employee cutback for fiscal 1972.

Many of us in the Congress were hoping that the reduction in force orders now being issued would end on June 30, 1972, and we could look for a stabilizing of Federal employment in fiscal year 1973.

However, passage of this bill would destroy all such hopes. Instead the Government would have to continue cutting jobs and the Congress will have to take the blame for these reductions.

Many Federal blue collar employees have written to me expressing their gravest concern regarding these Federal cutbacks. Those with whom I have spoken in Hawaii are not complaining about their pay rates and also understand the reasons for the cutbacks in Federal jobs. However, they urge that the number of RIF orders issued be held to a minimum or even halted as soon as possible. One of the employees at the Pearl Harbor Naval Shipyard has written to me volunteering to take a reduction in pay if it will mean keeping some of his co-workers at the shipyard on board.

It is obvious that the overriding concern among these employees is keeping their jobs, not pay increases. If getting paid 12 percent more than their counterparts in private industry means that some of them will lose their jobs I am confident, given a choice, they will forego the increases and keep their jobs. I share their views and will not support legislation which threatens to cut 23,500 Federal jobs within the next 2 years.

This same urgent feeling for retaining jobs prevails in the private industry.

In Dayton, Ohio, workers at the Frigidaire Division of General Motors voted to forgo a 3 percent pay increase scheduled for November 23, 1971, and another 3 percent scheduled for a year later, in order to stop further layoffs and to have 850 former employees called back to work.

In Batavia, N.Y., the employees of the Sylvania Division of General Telephone & Electronics gave up a cost-of-living increase of 8 cents an hour to keep their plant in operation.

The Congress would be derelict in its duty if it did not listen to and heed this counsel. Congress must do all it can to reduce unemployment. Passage of this bill would do exactly the opposite; add to unemployment.

It must also be pointed out that the reduction in force orders in the Federal Government adversely affect many, many more employees than those who actually lose their jobs.

When a RIF order is issued it calls into operation a whole series of personnel moves not only within the agency involved but even extending to other agencies.

First, the agency must describe the limits within which employees will compete with each other for jobs not being cut. It involves defining by organization and geography competitive areas.

Then, within each competitive area, competitive levels by grade and occupation must be defined. Grades and occupations which are so similar to each other in all important respects that the people who occupy them are interchangeable with one another must be established.

Following these steps, registers listing all employees in each competitive level must be drawn up and the relative standings of the employees based on tenure, military preference, length of service and performance ratings established.

After all these procedural steps are accomplished, then the actual bumping and exercising of retrenchment rights by all affected employees begins.

In many, many cases bumping and retrenchment reach down to the lowest grade levels available in an agency. This is particularly true during times like these when federal jobs are very, very scarce. One need only talk to an employee who has been RIF'd or bumped to see that when a RIF order is issued employees not only lose their jobs, but many more are reduced in pay and grade. Pay losses can cut an employee's salary in half or more. For this to happen to the breadwinner in the family can be disastrous.

There is a provision in law allowing an employee who is bumped to continue receiving his original pay for 2 years following the adverse action. This "save pay" law blunts some of the financial setbacks imposed on these employees; however, the "save pay" provision is poor consolation when the reduction in grade and pay need never have been instigated by Congress.

Also, an employee who is bumped will probably have to work many additional years in order to recoup the losses suffered, all during that time realizing that should another RIF occur, he may very well be out of a job entirely.

The Congress has the most serious responsibility of taking a long, hard look at the consequences of passage of this bill before acting. Passage will most certainly threaten 23,500 Federal employees with the loss of their jobs and many, many thousands more with reductions in grade and pay.

The fact that the bill delays implementation of the fourth step hike for 1 year does not soften the ultimate effects of this legislation. The fifth step increase will still go into effect in 2 years, and the national shift differentials will become effective 90 days after enactment.

As I pointed out earlier in this report, Federal blue collar employees have been receiving pay increases every year. In many areas these increases have been as high as 80 percent, 90 percent and some over 100 percent for the past 10 years. The average pay increase for the 68 largest wage areas in the United States covering 79 percent of all Federal blue collar workers over the past 10 years is 65.18 percent.

They are now scheduled to receive another pay increase this year, based on 1972 area wage surveys. Blue collar employees who have worked for the Federal Government for over 2 years are already making 4 percent above the average pay of their counterparts in private industry. These employees have not been treated poorly as far as pay is concerned.

Nonappropriated fund employees

No valid argument can be made against bringing the approximately 140,000 nonappropriated fund employees of the military departments and the Veterans' Administration into the Federal prevailing wage system. I endorse such a move and believe they should be made part of the Federal prevailing wage workforce. However, attempting to do it through this legislation, with all of its deficiencies, is doing this group of loyal and outstanding employees a great desservice.

Summary

Federal prevailing wage of blue collar employees have been receiving annual pay increases for many, many years always bringing them up to comparability with their counterparts in private industry. These pay increases over the past 10 years have averaged approximately 65.18 percent and in many wage areas around the country the increases have been in excess of 80, 90, and even 100 percent. All Federal blue collar employees who have worked for the Federal Government over 2 years and have done satisfactory work are now making 4 percent above the average pay of their counterparts in private industry.

Passage of this bill would raise Federal blue collar base pay to 12 percent above private industry. Swing and night shift differentials would add 7½ and 10 percent more to base pay for each of those shifts respectively, putting Federal pay way above what is being paid for comparable work in private industry.

Passage of this bill with its $178,000,000 price tag threatens to put 23,500 Federal employees out of work. Already the Federal Government is cutting an estimated 52,000 Federal jobs this year. Efforts to halt Federal reduction in force orders by the end of fiscal year 1972 would be futile if this bill is passed.

In addition, if this bill is passed and the estimated 23,500 Federal employees lose their jobs, thousands more who are retained on the Federal employment rolls will suffer cuts in pay and grade through the exercise of bumping and retrenchment rights by all adversely affected employees.

Federal as well as private industry employees would appreciate receiving higher pay. But faced with the choice of getting higher pay or possibly losing their jobs, it is commonsense that they would choose to keep their jobs and their present pay.

In many areas around the country employees in private industry have voted to take pay cuts in order to keep their plants in operation and reduce the loss of jobs.

It would be unconsiconable on the part of the Senate to approve this bill at this time when instead we should be joining the rest of the country in doing all we can to help in the fight against unemployment and inflation.

Federal blue collar workers have been receiving substantial pay increases for many years and these increases have been coming every year. Many improvements have been made in the prevailing wage system, particularly since the Coordinated Federal Wage System was established in 1968.

The present pay system has retained good pay stability and linkage in all local wage areas between the Federal Government and private industry. Federal wages have rightfully followed the lead of private industry because Federal blue collar workers comprise less than 1 percent of our national workforce and the majority should set the pay pace.

This bill would destroy the pay stability that now exists between private industry and Government. It would put Federal blue collar pay 12 percent and more above the pay for similar work in private industry.

This situation would trigger an unending cycle of leapfrogging pay with private industry trying to catch up with Government. The result would be utter chaos and runaway inflation, which could cause many employees to lose their jobs and aggravate unemployment.

The Senate should defeat this legislation because it jeopardizes Federal jobs, Federal pay and pay stability throughout the country among all blue collar workers, Federal and non-Federal.

HIRAM L. FONG,
U.S. Senator.

Mr. McGEE. Mr. President, before I yield to my colleagues who asked to address themselves to this question briefly, I want to say a word or two about the remarks of my distinguished compatriot on the committee and particularly to focus on the main thrust of his argument.

As I listened very carefully to the distinguished Senator from Hawaii (Mr. FONG), what he is in effect asking this body to agree to is the conclusion, first of all, that blue-collar workers in this country are overpaid, that they are getting too much money.

I believe that the blue-collar workers in Wyoming and Hawaii should weigh that statement and ask themselves if they think they are getting overpaid.

He cites again and again the percentages which have been increased over recent years. It is true. But, Mr. President, they started at the very bottom. If we start at the very bottom and increase it a slight amount, we will double or treble it percentage-wise.

Let us not downgrade the blue-collar worker. Equity requires that he knows where he stands. This is not a pay raise for anyone. This is a set of guidelines to place the blue-collar workers under the same kinds of procedures that establish a higher grade of performance, the same thing that is now accorded white-collar workers in the Federal service.

We are only saying that the time is past to consider blue-collar workers still down at the Navy Yard as being in the American Civil War. Times have changed. It is time that we bring them up into the 20th century.

Likewise, Mr. President, it is incredible to believe, but what my distinguished friend, the Senator from Hawaii, has asserted here this afternoon is that because of this bill we are going to throw some 50,000 or 75,000 Federal employees out of work.

That is a pretty serious charge. I can say to the Senate as I stand here this afternoon that I have yet to hear the first cry of protest from the Federal employees about this bill. And if it is going to knock them out of work, surely they would be the first to register that protest.

I wait now in silence to hear that first protest. And I say to my friend, the Senator from Hawaii, that there is no voice that cries out now in the same vein of the specter that the Senator from Hawaii has painted for us here this afternoon.

The Federal employees are united in wanting this bill. They believe that it raises the level of performance, that it raises a measure of hope for some incentive to dedicate themselves in the blue collar group to the Federal service.

So I say, Mr. President, that it is time we strip the rhetoric away from the colloquy in this measure and come to grips with the whole thrust of this bill, that it simply seeks to dignify the laboring endeavors of the several hundreds of thousands of blue-collar workers in the Federal service of the United States.

We are only asking that we place them under the law, not under the vagaries or the whims of one man or any man, be it Nixon or Johnson or Kennedy or whomever. We are asking that we remember our faith and that we are indeed a Nation under law and not under men.

So, Mr. President, I beseech the Members of this body to take this step ahead and upward from the depths in which we have imprisoned until now the blue-collar workers. They are not only not overpaid and they are not only not languishing in great wealth, but they have also long since been suffering from the sting of second-class citizenship among Federal employees.

We have reserved in this bill, Mr. President, the further specific mandate to the President of the United States that none of these incentive adjustments in their promotion opportunities should take effect while the price freeze is on, while the present emergency attains.

We are not trying to row anybody's boat. We are simply trying to wake up some of those who have been rowing a boat in the wrong century. We are simply trying to say that these employees at the bottom of the Federal scale of our many Federal employees be given equal treatment under law, which is all this measure does, and that the dignity of a charwoman, of a nursing assistant, or of a worker in one of the various kinds of janitorial services cries out for recognition.

That is the essence of the measure pending here.

Mr. President, I ask unanimous consent to have printed in the RECORD a couple of additional statements by Members of the Senate who are necessarily absent.

First I ask unanimous consent that there be printed in the RECORD a statement prepared by the Senator from Virginia (Mr. SPONG). I would personally care to mention that the Senator from Virginia has been one of the leaders in the drive to achieve a correcting of the inequities of the years that are bygone. His leadership led him to introduce a measure that was very much the same as the House bill that was passed. There have been a few modest adjustments to his measure as the committee reported its recommended measure.

The distinguished Senator from Virginia should be applauded and recognized for his farsightedness in leading in the Senate toward a new wage board law.

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

STATEMENT BY SENATOR SPONG

I compliment the distinguished Chairman of the Post Office and Civil Service Committee and the members of that Committee for reporting this legislation. In March of 1971, I introduced S. 1086 which was identical to this bill as it was initially introduced in the House.

No single item with which I have dealt within the last five and a half years has received as much attention as the problems affecting federal employees who are paid under the Wage Board or the Prevailing Rate System. In 1965, President Johnson instructed the Civil Service Commission to establish a Coordinated Federal Wage System for prevailing rate employees in order that all such employees in a local wage area would be paid the same rates. This was a commendable instruction. About three and one half years later, in December of 1968, the Civil Service Commission finally announced its Federal Coordinated Wage System. However, it set aside a large number of employees for further study. It wasn't until April of 1972, this year, that the Commission announced that those who were set aside in December of 1968, would be considered "wage positions when responsible management organizes the work so that the paramount requirement of the positions is trade or craft knowledge and experience and employees must utilize such knowledge and experience in the performance of assigned duties." Mr. President, that is exactly the position which applied to those same employees in 1968. Even though that announcement was made two months ago, its implementation has still not occurred so we have another two to four months delay. In addition to the time which this and related problems have required during the last five and one half years, nothing has been more frustrating than the repeated delays of arriving at decisions with respect to these employees.

The Civil Service Commission will contend that this legislation is not needed. I submit to you that it is needed and that it is essential if the system for establishing wage rates is not to be arbitrarily treated by the Civil Service Commission.

The system of comparability was adopted for classified employees under the Federal Pay Comparability Act of 1962. Comparability for classified employees is established by law. Classified employees under that system have ten in-grade pay steps. This legislation which establishes by statute a comparability system for Wage Board employees provides five in-grade steps. It is not unfair—it is equitable legislation and it should be enacted.

The Committee has very wisely precluded the argument that this legislation is inflationary. The third and fourth in-grade steps will not become effective until April 30, 1973, unless the President ends controls prior to that time. I commend the Committee for including the saved pay provisions of the bill and for including coverage of approximately 100,000 employees of non-appropriated fund activities, such as post exchanges, commissaries of the armed services and veteran's canteen services within the prevailing rate system.

Mr. President, this legislation covers the trained and skilled craftsmen and mechanics—the journeymen and many of their supervisors—the men who are responsible for the maintenance and repair of naval vessels. With the condition of our fleet, their skills are important to our defense and to the readiness of our fleet. These are the men who are responsible for the maintenance and repair of our aircraft.

There are over one half million of these Wage Board employees in the Federal Government. There are 32,000 of them in Virginia. 89.8% of those in Virginia do not meet the national average for an intermediate level of budget for a family of four.

Mr. President, this legislation will establish the basic law for the protection of these Wage Board employees. Similar legislation was vetoed by the President. I think this legislation is fair and equitable both to the employees and to the taxpayer.

I hope the Senate will enact this bill by an overwhelming vote.

Mr. McGEE. Mr. President, I also ask unanimous consent to have printed in the RECORD a statement by the Senator from Utah (Mr. Moss), a member of the Post Office and Civil Service Committee. He is indeed the newest member of the committee.

The Senator from Utah (Mr. Moss) is unable to be here today because of the illness of his wife in Salt Lake City. He, too, has been very strong in his support of meritorious legislation for Federal

workers. His absence today is only explained by the illness in his family. We hope that his wife Phyllis will enjoy a speedy recovery and release from the hospital.

The distinguished Senator from Utah (Mr. Moss) stands tall among the Members of the Senate who are concerned about justice and equity for Federal employees.

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

STATEMENT BY SENATOR MOSS

As a member of the Post Office and Civil Service Committee which has deliberated long and hard over this legislation, I am personally aware of the issues which concern wage grade employees. For this reason, I am glad to support H.R. 9092.

This is not the first time this legislation has been considered by Congress. A similar bill was passed by both Houses late in 1970. Unfortunately it was vetoed by the President.

As a sponsor of S. 231, one of several Wage Board bills which have been considered by the Committee, I am enthusiastic about this early action on H.R. 9092.

In short, I have heard all the arguments for this measure and all the arguments against it. I assure you that H.R. 9092 is a sorely needed step to bring equity to more than 800,000 Federal "blue collar" workers.

My acquaintance with the problem of wage grade employees is not limited to my role on the Post Office and Civil Service Committee. In my own state there are today 14,600 wage grade employees. I am, therefore, well aware of their problems, their needs and their standard of living.

Even after passage of this legislation, a large proportion of these Federal employees will be below the intermediate level.

My other great concern for these employees is that they are suffering discrimination. I have been pleased to see the Congress eliminate discrimination because of sex, race, color, creed, age and national origin. Why does the Administration want to continue discrimination because of pay system? White collar employees have a career system of ten steps. They move up in grade, step by step, as they demonstrate their continued loyal service to the Federal government. Wage grade employees have only three steps.

This bill, in fact, does not go far enough to bring them full equality with white collar workers. It, however, narrows the great gap by providing for five steps.

In my opinion, taking action on legislation to provide an equitable system for fixing and adjusting the rates of Wage Board and non-appropriated fund employees is one of the top priority jobs before Congress. We cannot move too decisively or too soon.

The Wage Board and non-appropriated fund workers, who number some 800,000 and represent nearly one-fourth of the non-military Federal employees, have far too long been the forgotten members of our official family of workers.

They were forgotten when the Pendleton Act was passed in 1883 setting up a compensation system regulated by civil service law for the white collar worker.

They were forgotten in 1907 when salaries of postal clerks and letter carriers were set and again in 1924 when the Roberts Act governing the compensation of Foreign Service personnel was passed.

And finally, they could only look on quietly when a statutory pay system for the Department of Medicine and Surgery of the Veterans Administration became law in 1946.

During the past twenty years they have watched on the sidelines while these basic laws for other government employees have been strengthened and improved and salaries periodically raised.

They have had to muddle along without any status—any Federal law—which established a systematic and fair manner in which their wages should be computed and their problems handled.

They have simply been by-passed, forgotten, left out.

Well, they must be left out no longer. Positive action on H.R. 9092 is essential if we are to remove the frustration which has long been felt by Federal blue collar workers. We have it in our hands to offer hope to a group in our society which has waited all too patiently for a sign of national concern, a sign that they have not been ignored.

Three years ago this week I introduced S. 2371, a bill which was similar to the measure we have before us today. Other Senators have introduced Wage Board bills as long as five years ago.

Last session the Congress responded to the pleas of blue collar workers for a decent system of wages and advancement opportunities. Had the bill passed it would have at least begun to modernize the prevailing rate pay system. It was a disappointment to many, and a source of frustration to over 800,000 Federal employees when the President vetoed it.

Throughout all the discussion and debate on Wage Board reform, one underlying thread remains clear: those Federal employees who have so long stood "outside the law" can no longer be ignored. We can no longer permit blue collar wages to be governed in the absence of a Federal statute.

We have before us today a bill which is by no means perfect. It is not all that many of us had hoped it would be. It, however, is a beginning, a long-overdue beginning, and a necessary step on behalf of Federal employees. I am sure the distinguished members of the Senate will give it their overwhelming support, and that the President will sign the bill into law at the earliest opportunity.

Mr. BOGGS. Mr. President, I have long been aware of the problems of Federal blue-collar employees. I have heard from many of the more than 1,100 Federal prevailing rate employees in my own State of Delaware, and I feel I have an understanding of their concern with the present blue-collar wage system of the Federal Government. H.R. 9092 would go far toward providing these employees with a structured and equitable wage system, one I believe will bring them into line with other Federal employees as well as employees of private industry.

It has been a longstanding concern of mine that wage grade employees do not receive treatment equal to their fellow Federal employees. Nowhere is this more evident than in the structure of their step system within grades. Wage grade employees currently have three steps within grades. By contrast, white-collar employees of the Federal Government have 10 steps.

Such a restriction on the number of increments has the effect of reducing incentives for advancement because it takes so long to pass through the steps. Wage grade employees perform valuable and essential services and I believe they merit the same dignity and the same incentives for advancement given white-collar employees. H.R. 9092 moves in this direction by replacing the three-step system with five steps.

In addition, the bill would establish statutory shift differentials for wage grade employees of the Federal Government. It would also include for the first time employees of nonappropriated fund activities of the Armed Forces in the prevailing rate system and make provision for "saved pay" for blue-collar workers who are reduced in grade through no fault of their own.

The question of pay for Federal wage grade employees is one that has concerned me for some time. In Delaware, for instance, 997 out of 1,115 Federal blue-collar workers in the State earn less than the Department of Labor's national average intermediate level of income for a family of four. H.R. 9092 would require the Civil Service Commission to conduct full-scale area wage surveys every 2 years in order to insure comparability of Federal blue-collar pay with that of pay for similar work in private industry.

The reforms contained in this legislation are overdue. I support H.R. 9092 and I urge Senators to approve this measure.

Mr. McGEE. Mr. President. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 22 minutes remaining.

Mr. PELL. Mr. President, will the Senator yield me 5 minutes?

Mr. McGEE. I yield 5 minutes to the distinguished junior Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. Mr. President, the prevailing wage, or blue-collar employees of the Federal Government are a work force of immense value to the Government and to the people of this country. Our blue-collar workers do important work, often requiring advanced skills, technical training, and substantial experience. And through the years, the blue-collar workers have proven to be a dedicated and deeply loyal work force.

In return for their productive and dedicated services, the blue-collar workers deserve and should be given fair treatment by their employer, the Federal Government. Unfortunately, fair treatment has not always been the rule, and all too often fair treatment has been the exception.

All too often, the interests of the Government's blue-collar workers have been sacrificed in pursuit of other goals of the Government. Although the stated goal may be fair treatment, there is in the executive branch an understandable, but nonetheless regrettable, temptation to view blue-collar wages as a weapon in efforts to balance a budget, or to combat inflation. When this happens, equity suffers and the blue-collar worker bears a burden not shared by his fellow workers in private industry.

Since I have been in the Senate, I have maintained close contact with the thousands of prevailing wage employees in the State of Rhode Island and with their elected spokesmen. I have become intimately familiar with their problems and their grievances. On their behalf, and in the interest of fairness, I have worked and tried to correct some of these inequities—for example, wage survey areas that are defined too narrowly to encompass a true labor market, and result in the payment of substandard wages as a "prevailing" wage. Or, as another example, the arbitrary freezing of blue-collar

wages to combat inflation while workers in nongovernment jobs were permitted wage increases.

I think experience has proven that if these inequities are to be corrected, the Congress will have to do it.

The bill before us, H.R. 9092, represents a step toward equity for blue-collar workers, and I intend to support it. The provisions for payment of stipulated night differential, for the ultimate addition of two new pay steps, for "saved pay" for employees required to accept positions in lower classifications under certain circumstances, and the extension of coverage to employees of nonappropriated fund activities of the armed service represent commendable advances toward fair treatment of blue-collar workers.

The bill unfortunately falls short of providing fully equitable treatment. Most importantly, the legislation, I believe, fails to provide sufficient congressional guidelines for establishment of wage survey areas. The Civil Service Commission will remain free, as it has in the past, to establish unrealistically small survey areas, arbitrarily ignoring the influence of large, adjacent metropolitan areas on wages.

The Narragansett Bay wage survey area in my own State is such an area, which has been arbitrarily isolated from the very real influence of wages paid in the nearby Boston and New London areas.

I would like to mention here also another matter of grave concern to blue-collar workers—the current practice of reducing the force of blue-collar workers through contracts with private firms for work previously done by prevailing wage employees.

This so-called contracting-out policy might be defensible, I believe, if it could be demonstrated that the same work can be done at less cost to the taxpayer. But there are indications in my own State that contracting-out is being done primarily to meet personnel ceilings imposed by the Department of Defense, without any prior study indicating that the Government will save any of the taxpayers' money. Indeed, it seems quite possible, lacking prior studies, that in many cases contracting-out will cost more than the wages saved by cutting back the number of blue-collar jobs.

Because of the substantial increase in contracting-out at naval installations in Rhode Island, at the expense of blue-collar workers, I have asked the General Accounting Office to investigate this practice in Rhode Island.

In addition, I and my colleagues of the Rhode Island congressional delegation recently conducted a hearing on contracting-out at naval installations in the State. At that hearing we heard convincing testimony that contracting-out was costing the taxpayer more money and costing blue-collar workers their jobs.

Indeed some of the testimony was shocking—testimony that private contractors were hiring military personnel in off-duty hours to perform work formerly done by Wage Board workers; and testimony of "forced attrition" in which workers were coerced into early retirement, presumably to save the jobs of their fellow workers, only to see their fellow workers laid off because of contracting-out.

There are other serious questions raised by contracting-out procedures—questions of the effects on base security in sensitive areas, and of the reliability and quality of the work performed under contracts.

And I hope very much that the Post Office and Civil Service Committee, with its proven regard for high standards of Government service, will consider looking into this matter because of the very severe impact it has on the blue-collar work force of the Government, as well as its potential impact on the Nation's taxpayers.

Mr. President, I believe it would be a great injustice if the President were to veto this bill. And I believe that if he did so, I would look forward to voting in support of overriding such a veto, a vote which I hope would prevail.

Mr. McGEE. Mr. President, I say to the Senator from Rhode Island that the committee gave some thought even to adding a provision to this measure, a provision that was sponsored by the Senator from Rhode Island.

However, his alerting the committee to this matter is sufficient to guarantee that we will plunge into the contracting-out practice. It is a very mixed bag. It would take more probing, I suspect, to do than the convenience of an amendment here would permit. We do guarantee that will be gone into at great length.

I thank the Senator for his remarks.

Mr. PELL. Mr. President, I thank the Senator from Wyoming.

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

Mr. McGEE. Mr. President, how much time remains to the Senator from Rhode Island?

The PRESIDING OFFICER. Two minutes remain to the junior Senator from Rhode Island.

Mr. PELL. Mr. President, I yield my 2 minutes to the senior Senator from Rhode Island.

The PRESIDING OFFICER. The senior Senator from Rhode Island is recognized for 2 minutes.

Mr. PASTORE. Mr. President, I associate myself with everything my colleague has said, particularly with this practice of contracting out work that in the past has been done by government workers in the blue-collar class.

Fortunately for us, in times of emergency we have been able to call upon these various people who have been trained to do this work for their government. We have installations in Rhode Island where the quality of the work is second to none in the entire land. Those workers are ready, willing, and able.

I think it is a regrettable state of affairs that, after these people have been trained and performed admirably, have incurred obligations as homeowners with family responsibilities, all of a sudden the policy of the government has been changed and the government begins to contract out this work and thereby deprives these people of their jobs, jobs that are covered by this particular bill.

I feel the bill deserves the support of the Senate. Frankly, up until this time, the Federal blue-collar workers have been second-class citizens insofar as Government employment is concerned. And this whole system of regulating their pay scale has been rather lopsided. In our State of Rhode Island one does not have to travel very far to find people who do the same work for their government and are paid on a different classification and wage.

The junior Senator from Rhode Island and I have been working at this for some time. I am very happy that we have reached the moment now that we can do something about this.

Mr. McGEE. Mr. President, before recognizing the Senator from Alaska I wish to reiterate that this whole mishmash of so-called threats to employment of Federal workers should be laid bare. If, indeed, that is a primary concern of my colleague from Hawaii let me say that the next logical step would be let us pay them one-half of what they are worth and then increase the employment. We are trying to measure the work of a man who does his job so that it is predictable, and so that he has some incentive to advance. It is nothing more than that.

In those simple terms I think the expressions already shared by our colleagues cry out to us that this is long overdue and that, indeed, we support the pending measure from the Committee on Post Office and Civil Service.

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

Mr. McGEE. I yield.

Mr. PELL. Along the same line, another indefensible practice has been brought to my attention. That is the practice of using military personnel on their off-duty time for blue-collar jobs. This can involve a question of national security when, for example off-duty military personnel are used for refueling operations.

In a time of national emergency, the military personnel with their regular missions to perform would not be available for this vital work—and there would be no blue-collar workers to do the job.

I hope this is looked into by the committee.

Mr. SCHWEIKER. Mr. President, I ask that justice be done to a group of dedicated, capable citizens who are presently denied less than their full due. They are the wage grade or blue-collar employees of the Federal Government. White-collar workers in the Federal Government have a system with 10 steps within grade; blue-collar employees have three. This places very narrow limits on career incentive and is an apparent devaluation of the dignity of their professions. This is compounded by further discrimination in pay.

According to figures gathered by the Bureau of Labor Statistics, it takes $10,971 for a family of four to meet the fiscal requirements of an intermediate level budget.

In the State of Pennsylvania, 28,188 wage grade employees are on the Federal payroll. Of these, 25,903, or 91.8 percent, earn less than $10,971 and, therefore, fall short of being able to support an intermediate level of living. These are skilled, loyal citizens who make a valuable contribution to our country through their work. They are entitled to this intermediate standard of living at least.

H.R. 9092 would alleviate these deprivations both in pay and in career incentive. It would replace the present three-step system with a five-step one, giving the wage grade system more career orientation. These employees have been denied the full recognition of their value in the Federal labor force for too long already. I urge the passage of this measure.

Mr. McGEE. Mr. President, I yield next to the distinguished Senator from Alaska. I wish to mention that the Senator from Alaska has been one of the most articulate members of the committee in trying to understand the problems of the Federal employee and I suspect that in the State of Alaska that is even disproportionately a real problem one has to live with, more so than some of the older States of the Union. The sharpness and depth of study of the Senator from Alaska on this question have always exceeded the requirements of his office.

How much time would the Senator from Alaska like to have yielded to him?

Mr. STEVENS. Five minutes.

Mr. McGEE. I yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I thank the chairman of the committee. I regret that I do disagree with the ranking minority member of our committee. Our disagreement has been explored in committee. I am sure it is not any surprise that I do support the bill. I am grateful to the chairman of the committee for accepting the suggestion I made that led to the concept that the increase in the fourth and fifth rates would not be effective until the first pay period has ceased or the authority has expired.

That concept was not an original one of mine. It is a suggestion that came from the Organization of Government Employees through a conversation I had with them concerning the problem of the wage board and blue collar employees in my State.

I think my good friend from Hawaii misses one point. We are talking about rates that are 96 percent to 112 percent through the five steps of the prevailing rate. Nowhere is it demonstrated as well as it is in Alaska that the prevailing rate is just slightly above the average rate in private employment. The survey, I think, is defective to begin with, but the results lead to the prevailing rate. In no instance I know of would the person entitled to the fifth rate under this bill of 112 percent of the prevailing rate be able to make as much money doing the same thing in a blue collar capacity, as he would if he worked for one of the dynamic contractors who pays his people for the jobs they do, which reflect the talent, capability, and experience of the employee.

The present system under which the wages of the blue-collar employees of the Federal Government are set is haphazard and inequitable. H.R. 9092 would establish a uniform procedure for establishing and revising regulations regarding pay and conducting wage surveys.

In that regard we should note it not only covers two new steps but changes the concept of a 7.5 percent pay differential nationwide for the normal overtime work in the second shift and 10 percent for the third shift. This is due to the differences blue-collar employees receive under the present law in terms of shift differentials, which are not uniform.

It would retain the concept of the prevailing rate while bringing some measure of justice and equity to the pay system on which these neglected Federal employees must rely.

I say neglected because these employees have been left out in the cold while so many of their fellow Federal workers have had their pay systems set statutorily and revised to the tune of the changing demands of time.

There is little incentive for men and women to go into or remain in the occupations of the wage grade system of the Federal Government. They are underpaid.

Even under this bill they would be underpaid in comparison with those who have longevity and who are doing the same job in private enterprise in the same locality.

They reach the top of the pay ladder all too quickly. Where Federal employees in the classified service have 10 steps within grades, wage board employees have only three.

The reason that white-collar, General Schedule employees have 10 steps is to both retain them in the Federal service by holding out the prospect of increased wages for loyalty and to reward them for loyalty. Both the executive branch and the Congress have accepted the fact that it is in the best interests of the United States to reward employees for choosing Federal service as a career. We find this concept not only in the 10-step system for white-collar pay; we find it in the way Federal employee retirement annuities are computed. We find this in the way the Veterans Preference Act determines retention on the rosters in the event of reductions in force.

We find this philosophy present in every area where there has been legislation. And it is absent in the blue collar, wage-grade system principally because there has been no legislation.

There is considerable misunderstanding about the step system. The executive branch, which has denied these employees compensation for career commitment, is the main source of this misunderstanding. The executive branch asserts that this bill would result in Federal wage grade employees eventually being paid 12 percent above the prevailing rate.

In my opinion, the people earning the rate do not know what they have when they are finished; they are just slightly over the wage rate in each area.

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

Mr. STEVENS. Mr. President, will the Senator yield to me for 1 additional minute?

Mr. McGEE. I yield 1 minute to the Senator from Alaska.

Mr. STEVENS. Actually, I believe that we should all clearly understand that the term "prevailing rate" in this legislation is a term of art. It has a technical, expert meaning which is not identical with the general meaning most people assign that term. When most people talk of paying wage grade employees a prevailing rate, they assume that the term means the rate going in the area at the time. They assume it is a genuinely free rate.

But we all know that the term has rigid definitions. Data is collected; it is weighted, then the rates paid the top wage-grade employees and the rates paid the lowest level are integrated into a straight-line system based on the formula of least squares. This system often produces absurd situations, because all graph straight lines using such a formula revolve around a central point or fulcrum. In one instance, even though all private enterprise blue-collar employees in a survey area received wage increases, the "teeter totter" effect of this formula produced a line where the lower levels would have had pay decreases and the higher levels would have had increases even greater than those in private enterprise. Fortunately, the coordinate wage system mechanism contains people of good sense and this aberration was corrected.

We have also other types of misinformation or misinterpretation from the executive branch. You may have seen figures showing what great percentage increases have been given blue-collar employees. The use of percentages is dangerous, as we all know. But in this case, the percentages are even more suspect because the executive branch has included in the increases not merely normal wage increments, but also the corrections for past distortions resulting from the preceding uncoordinated wage grade system. Consequently, the base from which the percentages is calculated is like a sand floor instead of the solid ground used for computing percentages for white collar employees.

I do not believe that cost or economics is the real issue. Besides statistics, there is also a philosophical issue involved. I believe that there are forces at work which do not want this area, where legislation does not exist, to be encompassed by law and statute. These forces do not wish the blue-collar employees and their union representatives to be able to deal with management from the strong platform of law and statute, a platform which they could invoke whenever they felt they might have to go to court or assert or protect their rights.

I am a great believer in good law, which is clear in its provisions. I find H.R. 9092 to qualify as good, comprehensive law. For this reason, I shall vote for it, as it is before us, and urge all Senators to join me in its enactment.

Mr. President, I would like to ask one question of my colleague, the Senator from Hawaii, who has notified us that the President would again veto this con-

cept. My question is a sincere one, which I am sure he realizes.

Does the Senator from Hawaii disagree with me that the prevailing rate is the wrong word to be used in this concept?

Mr. FONG. No, I do not.

Mr. STEVENS. Had we used——

Mr. FONG. On whose time is this?

Mr. STEVENS. My time. I only have one-half of a minute left.

Had we used a concept of average wage rate, would the Senator from Hawaii have felt the same way about the prevailing rate in view of the fact that it is in fact slightly over the average wage rate for the area of my constituency?

Mr. FONG. The prevailing rate is similar to the average rate. This is the definition given in the bill because you have to strike an average somewhere. You cannot get the top or the bottom so it was a prevailing rate.

Mr. STEVENS. I thank the Senator for his candor and fairness. I think I made my point. We are not talking about 108 percent of the amount these employees get paid in private enterprise.

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

Mr. STEVENS. Mr. President, will the Senator yield to me 1 additional minute?

Mr. McGEE. I yield.

Mr. STEVENS. We are talking about 108 percent of the average or 112 percent of the average.

In my State that means that the average pay of blue-collar employees is approximately 70 percent of what is being paid people who do the same work in private enterprise or under the Davis-Bacon Act. We legislated that act. They get the same pay as the prevailing union rates under the Davis-Bacon Act. If we had put that in the law and stated that it should be the prevailing union rates, it would make some sense. This percent system is still inequitable, even if we pass the bill. I regret the President announced he would again veto this small step toward equity for blue-collar employees of the Federal Government.

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

To answer the Senator from Wyoming, who said I am downgrading the blue-collar workers, I want to say I have the greatest respect for the Federal blue-collar workers. There are approximately 10,000 blue-collar workers in my State. They were neglected workers 10 years ago, but since then they have had an approximately 109-percent increase in their salaries, and at the present time they are getting 4 percent above the average prevailing rate.

There is no misunderstanding about this bill. The bill is very clear. Let me read it to my colleagues. What this bill states in the first and second pages under the title "Policy" is as follows:

It is the policy of Congress that rates of pay of prevailing rate employees be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and be based on principles that—

I am reading from the bill, now—

(1) there will be equal pay for substantially equal work for all prevailing rate employees who are working under similar conditions of employment in all agencies within the same local wage area.

Subparagraph (3) of that policy statement reads:

the level of rates of pay will be maintained in line with prevailing levels for comparable work within a local wage area.

What does that mean? That means that we are going to give to the Federal employee comparable wages to those of his counterpart in private industry. We have followed that principle for over 100 years. That principle had worked so well that in 1962 Congress adopted the principle of comparability for the salaries of Federal white-collar workers, and that principle of comparability is written into the statutes for all classified Federal employees. That principle was so good that it was copied by the Congress for the Federal classified employees.

Mr. President, as I have stated, the number of blue-collar workers was approximately 900,000 when I came to Congress 12 years ago. That number now has dropped to 510,000. The President is urging a 5-percent cut. I know the Federal worker in every one of my colleagues' States here have been affected by this RIF in jobs.

In my State of Hawaii, just in the Naval Shipyard facility at Pearl Harbor, 500 positions were cut. This RIF, which will end on June 30, 1972, will cut 52,000 Federal jobs throughout the United States.

This bill, if passed, will cost $178 million. The Civil Service Commission has put this into the computer and has come out with a picture that shows 23,500 jobs will be affected. Following the precedent we have used, every time we give a pay raise, the Federal departments have had to absorb the costs of the pay raise. That is why the number of jobs has been cut down. We have followed that procedure. Twenty-three thousand and five hundred jobs are going to be RIF'ed. Twenty-three thousand and five hundred people are going to lose their jobs.

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

Mr. FONG. I yield myself 3 more minutes.

With every loss of a job in the Federal Government, there is a bumping of five other employees. In other words, if I lose my job, it affects five others of my fellow employees. They will be bumped to a lower grade. As I have said, a woman was bumped $7,000 because there was a RIF'ing in her department. So in the RIF'ing of 23,500 jobs, we will be affecting another 117,000 people. In other words, if the bill is passed, it will affect the lives of 140,000 of our Federal employees.

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

Mr. FONG. I yield.

Mr. PASTORE. Is there anything in the bill which compels the department to absorb that?

Mr. FONG. This is what has been done with past pay increases and this one will follow those precedents.

Mr. PASTORE. I know it has been done because that is the choice of the administration, but if we appropriate the money, there will be no bumping.

Mr. FONG. It will have to because of the stringent financial condition in the Federal Government. The administration has followed that course.

Mr. PASTORE. I know. This financial stringency has been overdramatized. We just got through spending $5 billion for the latest bombing in North Vietnam, and now we are crying over $75 million to pay an honest, reasonable day's wage to a man who works for his Government. I do not think that parsimony with the blue-collar workers naturally follows.

Mr. FONG. We are not talking about an honest day's wages for the men. They are receiving, on the average, 4 percent more than the average wage paid in the community. We are going to give them another 8 percent, which is 12 percent more than the average wage in the community. As of now, the Government is cutting out 52,000 jobs.

Mr. PASTORE. Why?

Mr. FONG. Because there was a 5 percent reduction in force.

Mr. PASTORE. Who dictated that?

Mr. FONG. The administration did.

Mr. PASTORE. Whose fault was that?

Mr. FONG. It was because we did not have the money.

Mr. PASTORE. All we have to do is appropriate.

Mr. FONG. Yes, but where is the money coming from?

Mr. PASTORE. The Treasury of the United States, like we find money for Vietnam.

Mr. FONG. Congress has never appropriated the money. In all these instances, Congress has not appropriated the money. That is the resaon why they have taken it out of the hide of these agencies, and in taking it out of the hide of the agencies we have cut the work force from 900,000 to 510,000.

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

Mr. FONG. I yield.

Mr. COOPER. In the event the bill is passed, what wage rate will these employees receive under the existing procedures?

Mr. FONG. Under the existing procedures which will be carried on this year, it is estimated by the Civil Service Commission that these people will get a wage increase of 8 to 9 percent. This is over and above the 8 or 9 percent they have been getting. They have been getting that for the past 8 or 10 years. As I have stated, the average increase in all these areas has been 65.18 percent, and the average wage increase of the white-collar workers has been 55 percent. There is approximately a 10-percent difference between the wage increases of the classified workers and that of the blue-collar workers. In other words, the blue-collar workers have fared better than the white-collar workers.

We are not downgrading the blue-collar workers. We are not saying, "You are not giving good service to the Federal Government." We are not saying, "You should not get the pay you are getting." We have already given them 4 percent more than the average paid in the community in which they are working. They are getting 4 percent more now. This bill will wreak havoc with the comparability

system which we inaugurated in 1962 for the white-collar workers, which principle has been prevailing for the past 100 years in the Federal blue-collar pay system.

Mr. McGEE. Mr. President, may I ask how much time remains?

The PRESIDING OFFICER. The Senator from Wyoming has 6 minutes remaining. The Senator from Hawaii has 2 minutes remaining.

Mr. McGEE. Mr. President, in the interests of the fairness doctrine, I yield myself 4 minutes, so that it will come out about the same and the time will be balanced, and then I am prepared to proceed with the agreed-upon process of a tabling motion by the Senator from Hawaii.

Mr. FONG. Mr. President, I am prepared to move to lay the bill on the table, and if that motion should fail, we will proceed to a vote up or down, and this will give us the necessary time within the agreed upon time limitation to carry out the votes.

The PRESIDING OFFICER. Such a motion would be in order at the expiration of all the time. There is no need for a unanimous-consent agreement.

The Senator from Wyoming is recognized for 4 minutes.

Mr. McGEE. Mr. President, I just want to make sure that the full record is spread before us, in the light of the comments that have been made, particularly about the prevailing wage and determining what is the prevailing wage, and by comparison with whom.

That is good as far as it goes, but it does not go to the point. Left out of the prevailing wage summary in any community is the construction workers' group. Left out of the arrival at a prevailing wage are the job shops. Those are the highest salaried groups in a community. Therefore, the prevailing wage approach, under the existing system, still leaves a gross inequity.

Mr. President, as we have all crusaded for comparability in employment for Federal workers, we have come to understand that comparability does not achieve equality, equity, or justice among the blue-collar workers, for one reason. We gave comparability to all the white-collar workers, but we also gave the white-collar workers a 10-step promotion system as an incentive to be inspired in their Federal employment. We have confined the blue-collar workers to three steps. We likewise gave to all of the Federal employees above the blue-collar level a 10 percent dividend for night employment, and we are only saying that the time has come that, for their level of work, for their devotion to duty, the blue-collar workers are entitled under law to the same expectations in their careers as those in the white-collar service.

I have listened to the arguments by Senator FONG and would like to answer them individually. Some of these have already been answered in my floor opening statement and I will not dwell on those points.

The distinguished Senator has stated that if H.R. 9092 is enacted into law, 23,500 employees will be threatened with loss of jobs. He apparently arrives at that figure in this manner; it is customary for agencies to make up the cost of salary increases from within their operating budgets. Implementation of the fourth and fifth steps would cost approximately $178 million. Three things come to mind after analyzing the figures. First, the fourth and fifth steps most likely not take effect until April 30, 1973, or the date on which the President ceases to exercise his authority under the Economic Stabilization Act, whichever occurs first. Assuming the fourth and fifth steps do not take effect until April 1973, and there is no indication they will not, then the cost of the fourth and fifth steps for fiscal year 1973 would only be $19 million and not $178 million. The balance could and should be budgeted for fiscal 1974 now and, as I see it, no problems would insure. Few jobs, if any, would be sacrificed.

Second, the Senator has stated that the comparability of Federal blue-collar employees with their counterparts in private industry would be damaged by passage of this bill. Again, let me say that the 112 percent of the prevailing wage as proposed by the fifth step in H.R. 9092 is definitely misleading. Economics of fixing wages is never absolute and I would venture to say that if four surveys were taken within 1 month's period, it is likely that four diverse sets of figures would be obtained.

Our goal also is to obtain the finest possible employees and in order to do this, we must be at least on parity with private industry. This requires a recruitment program containing some incentives. H.R. 9092 supplies some of this incentive to work for the Federal Government, with the implementation of the fourth and fifth steps. We are not asking for 10 steps which our white-collar employees receive. We just feel at this time that two more steps are necessary to make these employees full citizens. Pay comparability will not be destroyed but improved upon. By passage of H.R. 9092, a more objective survey possibly will be taken. The agency will now look a bit closer at the agencies to be surveyed. I would say with the additional two steps that, if anything, salary comparability will be strengthened.

Another issue is the Federal blue-collar pay system would be overturned by passage of this bill, a system he says has existed for over 100 years. We are not overturning the pay system, we are improving it.

The fourth and fifth arguments advanced by Senator FONG can be treated as one. The statistical increase of 11 percent the past 10 years of blue-collar workers over white-collar workers in the Federal Government is correct. However, until very recently the blue-collar worker was one of the lowest paid in any industry. Yes, they have made progress, but not as much as they should or we want them to make.

The distinguished Senator from Hawaii has also raised objection for raising to 10 percent the pay differential for evening and night work. Private industry has certain incentives which the Senator is well aware of to induce the workers to labor on the least desirable shifts. Again, I repeat that the law giving 10 percent differential to all other Federal employees has been on the books since 1945. The U.S. Government has been working hard to bring all Federal employees to a level of parity with private industry. The 10-percent pay differential is just one more small way to do this.

Mr. President, the bill before us today is substantially the same bill that has passed this body last year and the House of Representatives the past 2 years. The time is ripe. We have denied for too long the plight of the blue-collar worker. As chairman of the Post Office and Civil Service Committee, I am proud the majority agrees that this legislation is ready for a vote and ultimate passage by this distinguished body.

I conclude, Mr. President, by saying again that this has to be bogeyman stuff that we have here about all the people who are going to lose their jobs. If that in fact is true, it is strange that those people about to lose their jobs have not risen by the 52,000 or the 75,000 or whatever number you want to grab out of the air and said, "Don't do this, because I need my job." Instead, the blue-collar Government employees of this country have petitioned again and again for this legislation. There is the answer to the legitimacy of equity in this bill.

Mr. President, I am prepared to yield back my 2 minutes.

Mr. FONG. Mr. President, I want only 1 minute to answer the Senator from Wyoming. The reason we have so many steps in the classified white-collar system is that industry has that, and we are following industry. That is the rule of comparability: We are following industry, and the reason we have only three steps here is to follow industry as closely as possible and industry has only 1.8 steps in the classified white-collar system steps. We have provided three steps. But that is the rule of comparability, following industry, and we have done that in all these cases.

I yield back the remainder of my time.

Mr. McGEE. Mr. President, in the interest of comparability and fairness, I yield back my 2 minutes.

Mr. FONG. Mr. President, I move that the bill (H.R. 9092) be laid on the table.

The PRESIDING OFFICER. Does the Senator request the yeas and nays on his motion?

Mr. FONG. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BEALL). The question is on agreeing to the motion of the Senator from Hawaii that the bill (H.R. 9092) be laid on the table. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Sena-

tor from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF), are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), and the Senator from New Jersey (Mr. WILLIAMS), are absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Oklahoma (Mr. HARRIS), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from New York (Mr. BUCKLEY) are absent on official business.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER), and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The result was announced—yeas 19, nays 56, as follows:

[No. 213 Leg.]

YEAS—19

Allott	Dominick	Miller
Bennett	Fannin	Roth
Brock	Fong	Taft
Cooper	Griffin	Thurmond
Cotton	Hansen	Young
Curtis	Hruska	
Dole	Jordan, Idaho	

NAYS—56

Aiken	Eastland	Packwood
Allen	Ervin	Pastore
Anderson	Gravel	Pearson
Bayh	Gurney	Pell
Beall	Hart	Percy
Bentsen	Hartke	Proxmire
Bible	Hatfield	Randolph
Boggs	Hollings	Schweiker
Brooke	Inouye	Smith
Burdick	Jackson	Sparkman
Byrd, Harry F., Jr.	Javits	Spong
Byrd, Robert C.	Jordan, N.C.	Stafford
Cannon	Kennedy	Stennis
Case	Magnuson	Stevens
Chiles	Mansfield	Stevenson
Cook	McGee	Symington
Cranston	Mondale	Talmadge
Eagleton	Montoya	Tower
	Nelson	Tunney

NOT VOTING—25

Baker	Hughes	Mundt
Bellmon	Humphrey	Muskie
Buckley	Long	Ribicoff
Church	Mathias	Saxbe
Ellender	McClellan	Scott
Fulbright	McGovern	Weicker
Gambrell	McIntyre	Williams
Goldwater	Metcalf	
Harris	Moss	

So the motion to table was rejected.

Mr. BURDICK. Mr. President, I rise in support of the measure presently before the Senate, H.R. 9092. These amendments to the Federal prevailing rate system represent a long overdue first step toward the goal of providing equity and justice for the Federal blue-collar worker.

Many of us recall the disappointment of last year when the President vetoed the wage grade reform bill. Those of us on the Post Office and Civil Service Committee were especially discouraged at this setback as it represented another delay for the Federal blue-collar worker who had made a convincing case before the committee.

However, as a result of the leadership of our able committee chairman, Senator MCGEE, the best of several new bills—one of which was my own—were incorporated into the Senate version of a bill already passed by the House of Representatives, H.R. 9092.

If this measure is finally adopted by Congress we will be bringing justice to more than 800,000 blue-collar workers.

The PRESIDING OFFICER (Mr. BEALL). 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. 9092) was read the third time.

Mr. MCGEE. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas, (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Oklahoma (Mr. HARRIS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from New York (Mr. BUCKLEY) are absent on official business.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

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

The result was announced—yeas 56, nays 19, as follows:

[No. 214 Leg.]

YEAS—56

Aiken	Eastland	Packwood
Allen	Ervin	Pastore
Anderson	Gravel	Pearson
Bayh	Gurney	Pell
Beall	Hart	Percy
Bentsen	Hartke	Proxmire
Bible	Hatfield	Randolph
Boggs	Hollings	Schweiker
Brooke	Inouye	Smith
Burdick	Jackson	Sparkman
Byrd, Harry F., Jr.	Javits	Spong
Byrd, Robert C.	Jordan, N.C.	Stafford
Cannon	Kennedy	Stennis
Case	Magnuson	Stevens
Chiles	Mansfield	Stevenson
Cook	McGee	Symington
Cranston	Mondale	Talmadge
Eagleton	Montoya	Tower
	Nelson	Tunney

NAYS—19

Allott	Dominick	Miller
Bennett	Fannin	Roth
Brock	Fong	Taft
Cooper	Griffin	Thurmond
Cotton	Hansen	Young
Curtis	Hruska	
Dole	Jordan, Idaho	

NOT VOTING—25

Baker	Hughes	Mundt
Bellmon	Humphrey	Muskie
Buckley	Long	Ribicoff
Church	Mathias	Saxbe
Ellender	McClellan	Scott
Fulbright	McGovern	Weicker
Gambrell	McIntyre	Williams
Goldwater	Metcalf	
Harris	Moss	

So the bill (H.R. 9092) was passed.

Mr. MCGEE. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 15, 1972, he presented to the President of the United States the enrolled bill (S. 3166) to amend the Small Business Act.

MESSAGES FROM THE PRESIDENT

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 15093) mak-

ing appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, corporations, and offices for the fiscal year ending June 30, 1973, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. BOLAND, Mr. EVINS of Tennessee, Mr. SHIPLEY, Mr. GIAIMO, Mr. PRYOR of Arkansas, Mr. ROUSH, Mr. MAHON, Mr. JONAS, Mr. TALCOTT, Mr. MCDADE, Mr. DEL CLAWSON, and Mr. BOW were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 15259) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1973, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. NATCHER, Mr. GIAIMO, Mr. PRYOR of Arkansas, Mr. OBEY, Mr. STOKES, Mr. MCKAY, Mr. MAHON, Mr. DAVIS of Wisconsin, Mr. SCHERLE, Mr. MCEWEN, Mr. MYERS, and Mr. BOW were appointed managers on the part of the House at the conference.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1973

The PRESIDING OFFICER (Mr. BEALL). Under the previous order, the Senate will now proceed to the consideration of H.R. 14989, the appropriations bill for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 14989) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments.

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the time for debate on this bill is limited to 4 hours, to be equally divided between the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Maine (Mrs. SMITH). Debate on amendments in the first degree will be limited to 1 hour, to be equally divided between the mover of the amendment and the manager of the bill, or the minority leader if the manager of the bill is in favor of the amendment. There will be one-half hour on amendments in the second degree, to be equally divided between the mover and the manager of the bill, or the minority leader if the manager of the bill is in favor of the amendment.

The Senator from South Carolina is recognized.

PRIVILEGE OF THE FLOOR

Mr. HOLLINGS. Mr. President, I ask unanimous consent that, in addition to staff counsel, a member of my staff, Mrs. Mary Jo Manning, be permitted access to the floor during the consideration and final vote on the bill.

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

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point or order shall be considered to have been waived by reason of the agreement.

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

The amendments agreed to en bloc are as follows:

On page 3, line 6, after the word "aids", strike out "$260,500,000" and insert "$261,200,000".

On page 5, line 18, after the word "Congress", strike out "$152,120,250" and insert "$184,808,169"; and, after the amendment just above stated strike out the colon and *"Provided,* That no payment shall be made herefrom to the United Nations or any affiliated agency in excess of 25 per centum of the total annual assessment of such organization except that this proviso shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization." and insert a colon and *"Provided,* That effective January 1, 1973, and thereafter no appropriation is authorized and no payment shall be made to the United Nations or any affiliated agency in excess of 25 per centum of the total annual assessment of such organization except that this proviso shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization."

On page 11, line 17, after the word "Congress", strike out "$3,234,500" and insert "$3,327,000".

On page 12, line 12, after "(31 U.S.C. 529)", strike out "$40,816,000" and insert "$52,860,000"; and, in line 13, after the word "than", strike out "$4,500,000" and insert "$4,000,000".

On page 12, at the beginning of line 25, strike out "$6,000,000" and insert "$6,320,000".

On page 13, after line 23, insert a new section, as follows:

SEC. 105. None of the funds appropriated in this title shall be available for obligation, except on the enactment into law of authorizing legislation.

On page 17, after line 9, insert:

The funds provided for Salaries and Expenses, Federal Bureau of Investigation, may be used, in addition to those uses authorized thereunder, for the exchange of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination at that provided for under the aforementioned appropriation.

On page 21, line 3, after the word "expended", insert a colon and *"Provided,* That $15,000,000 of the funds available for planning grants to States under section 205 of such Act may be allocated without regard to the population formula set forth in that section."

On page 23, line 20, after the word "equipment", strike out "$34,300,000" and insert "$35,872,000".

On page 24, at the beginning of line 5, strike out "$10,500,000" and insert "$11,857,000".

On page 24, line 22, after "85 Stat. 166)", strike out "$160,000,000" and insert "$190,000,000".

On page 25, line 23, after the word "amended", strike out "$39,072,000" and insert "$62,472,000".

On page 27, line 24, after the word "program", insert a colon and *"Provided,* That none of the funds appropriated in this paragraph shall be available for obligation after August 1, 1972, except upon the enactment into law of authorizing legislation.".

On page 28, line 6, after "January 1, 1968,", strike out "$2,300,000" and insert "$2,600,000, of which $300,000 shall be derived by transfer from the appropriation for "Financial and technical assistance, Trade Adjustment Assistance", fiscal year 1972.".

On page 29, line 19, after the word "year", strike out "$197,000,000" and insert "$221,265,000, of which $6,000,000 shall be derived by transfer from the appropriation for "Financial and technical assistance, Trade Adjustment Assistance", fiscal year 1972".

On page 30, line 8, after the word "facilities", strike out "$127,000,000" and insert "$197,612,000, of which $13,000,000 shall be derived by transfer from the appropriation for "Financial and technical assistance, Trade Adjustment Assistance", fiscal year 1972,"; and, in line 12, after the word "expended", insert a colon and *"Provided,* That none of the funds appropriated in this paragraph shall be available to carry out the provision of Public Law 89–701 (approved November 2, 1966), as amended, by Public Law 90–549 (approved October 4, 1968) except upon enactment into law of authorizing legislation."

On page 30, line 22, after the word "forecasting," strike out "$30,000,000" and insert "$43,036,000".

On page 31, line 5, after "(80 Stat. 1091–1099)", strike out "$3,232,000" and insert "$3,432,000".

On page 31, line 17, after the word "expended", insert a colon and *"Provided,* That of the sum appropriated in this paragraph, $21,000 shall not be available for obligation except upon enactment into law of authorizing legislation.".

On page 31, line 25, after the word "Patents", strike out "$67,000,000" and insert "$68,000,000".

On page 32, line 9, after "(15 U.S.C. 278d)", strike out "$62,100,000" and insert "$76,100,000"; at the beginning of line 10, strike out "$1,960,000" and insert

"$3,750,000"; in line 12, after the word "exceed", strike out "$7,200,000" and insert "$14,424,000"; and, in line 15, after the word "expended", insert a colon and *"Provided,* That none of the funds appropriated in this paragraph shall be available to carry on the Standard Reference Data Program, the Fire Research and Safety Program, nor the Flammable Fabrics Program, except upon enactment into law of authorizing legislation."

On page 33, line 18, after "(13)", strike out "$5,800,000" and insert "$7,705,000, of which $700,000 shall be derived by transfer from the appropriation for "Financial and technical assistance, Trade Adjustment Assistance", fiscal year 1972,".

On page 34, line 8, after the word "modern", strike out "break-bulk" and insert "or reconstructed".

On page 38, after line 18, insert a new section, as follows:

SEC. 305. None of the funds appropriated in this title for the Maritime Administration shall be available for obligation for ship construction, operating-differential subsidies, research and development, salaries and expenses, maritime training, nor State marine schools, except upon enactment into law of authorizing legislation.

On page 39, line 8, after the word "Court," strike out "$3,770,000" and insert "$3,784,000".

On page 40, line 9, after "$1,000,000", insert a colon and *"Provided,* That not to exceed $95,000 of the unobligated balance of the appropriation under this head for the fiscal year 1972 is hereby continued available until June 30, 1972.".

On page 41, line 1, after the word "court", strike out "$2,241,000" and insert "$2,341,000".

On page 41, line 23, after the word "for", strike out "$75,663,000" and insert "$78,518,000"; on page 42, line 12, after the word "exceed", strike out "$41,326" and insert "$52,372"; and, in line 16, after the word "exceed", strike out "$53,477" and insert "$64,523".

On page 42, line 25, after "October 14, 1970", strike out "$13,500,000" and insert "$15,083,000"; and, in the same line, after the amendment just above stated, strike out the colon *"Provided,* That none of the funds contained in this title shall be available for the compensation and reimbursement of expenses of attorneys appointed by judges of the District of Columbia Court of Appeals or by judges of the Superior Court of the District of Columbia".

On page 43, line 13, after the word "Columbia", strike out "$10,506,000" and insert "$10,959,000".

On page 44, at the beginning of line 4, strike out "$6,991,000" and insert "$6,656,000".

On page 45, line 1, after "(84 Stat. 468)", strike out "$350,000" and insert "$426,000".

On page 46, line 25, after "(22 U.S.C. 2551 et seq.)", strike out "$10,000,000" and insert "$10,253,000: *Provided,* That none of the funds appropriated in this paragraph shall be available for obligation except upon enactment into law of authorizing legislation.".

On page 47, line 14, after "$4,820,000", insert a colon and *"Provided,* That of the sum appropriated in this paragraph, $820,000 shall not be available for obligation except upon enactment into law of authorizing legislation".

On page 47, line 22, after "$38,795,000", insert a colon and *"Provided,* That none of the funds appropriated in this paragraph shall be available for obligation except upon the enactment into law of authorizing legislation.".

On page 48, line 7, after the word "exceed", strike out "$1,500,000" and insert "$3,100,000"; and, in line 9, after the word "Act,", strike out "$25,110,000" and insert "$42,896,000".

On page 52, line 25, after "5 U.S.C. 3109", strike out "$5,800,000" and insert "$6,160,000."

On page 57, line 5, after "(75 Stat. 527)", strike out "$3,394,000" and insert "$4,946,000".

On page 60, after line 20, strike out:

SEC. 706. No part of the funds appropriated by this Act shall be used to furnish Government-purchased or leased limousines or luxury sedans or chauffeurs for any employee of the United States other than those defined in 5 U.S.C. 5312.

And, in lieu thereof, insert:

SEC. 706. No part of the funds appropriated by this Act shall be available to the Department of Justice or the Subversive Activities Control Board to carry out, execute or implement the provisions of Executive Order 11605 of July 2, 1971.

On page 61, after line 5, insert a new section, as follows:

SEC. 707. None of the funds appropriated in this Act for the United States Information Agency shall be available for obligation except upon the enactment into law of authorizing legislation.

Mr. HOLLINGS. Mr. President, I shall make only a few brief remarks concerning the 1973 appropriation bill for the Departments of State, Justice, and Commerce, the judiciary, and related agencies, that is now before the Senate, and then I shall yield to the ranking minority member of the committee, Senator MARGARET CHASE SMITH, who has been of enormous help in this matter.

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. HOLLINGS. So much time as may be necessary to make my opening statement.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, as the report indicates the total amount recommended is $4,819,292,769 in new obligational authority. This sum is $232,188,419 over the sum allowed by the House, is $529,302,659 over the total appropriations for 1972, and $114,966,169 over the total revised estimates for fiscal year 1973.

With respect to the sum added to the House bill, I wish to point out some of the major items:

For the Department of State, the committee recommended a total of $570,670,169, an increase of $45,844,419 over the House allowance. This additional sum would provide $700,000 for salaries and expenses to help defray increased pay costs and overseas operating expenses such as wage and price increases and added support to security, communications, and passport and visa operations; $32,687,919 for contributions to international organizations to provide $24,070,500, the sum requested restored to permit full payment of the U.S. assessment for calendar year 1972 at the going rate for the United Nations and affiliated agencies that had been limited to the 25 percent restriction under the House provision, and the balance, $8,617,419, the sum needed to cover our contribution to the International Labor Organization through the calendar year 1972—fiscal year 1973; $92,500 for the International Fisheries Commission, to provide $80,500 to the Inter-American Tropical Tuna Commission to permit salary increases of personnel and improvement of the Commission's basic data system, and the balance, $12,000 for U.S. membership in the International Council for the Exploration of the Sea; $12,044,000 for the mutual educational and cultural exchange activities, which together with the House allowance of $40,816,000 would provide the full budget request of $52,860,000, and $320,000 additional for the Center for Cultural and Technical Interchange in Hawaii to permit expansion of existing programs, including mandatory cost increases of Center operations.

The committee also recommended that the House provision on restriction of assessments to U.N. and affiliates exceeding the 25 percent maximum become effective on January 1, 1973.

For the Department of Justice, the committee agreed with the House allowance of $1,765,578,000 in new obligational authority for the fiscal year 1973. The Department advised that they were satisfied with this allowance which includes the full budget requests of $850,597,000 for the Law Enforcement Assistance Administration; $351,675,000 for the Federal Bureau of Investigation; $135,084,000 for the Immigration and Naturalization Service; and $74,053,000 for the Bureau of Narcotics and Dangerous Drugs. The allowance also includes the funds necessary to cope with the increased caseload of the U.S. Attorney's and Marshals Offices and for which 165 additional positions were provided—135 for U.S. Attorneys and 30 for deputy marshals; 205 additional positions for the Legal Divisions, including 107 for the Criminal Division, 36 for the Civil Rights Division, 27 for the Civil Division, 13 for the Tax Division, and 191 additional positions essential for the care, custody and treatment of inmates and the expansion of the narcotic addict treatment program, of the Bureau of Prisons.

Language has been added to the text of the House bill to provide for the use of Federal Bureau of Investigation funds in the exchange of identification records with nationally charted and federally insured institutions and officials of State and local government for purposes of employment and licensing, also to permit the Law Enforcement Assistance Administration to allocate $15,000,000 of the $50,000,000 available for planning grants to states without regard to the population formula set forth under section 205 of the Act.

For the Department of Commerce, the committee recommends a total of $1,470,721,000 in new obligational authority for the fiscal year 1973. This sum is $137,-

796,000 over the total budget request and $161,647,000 above the sum provided in the House bill. Also allowed by transfer authority was $20,000,000 from the 1972 appropriation for Trade adjustment assistance. These increases, reflected in several appropriation items, were considered by the committee to be essential for the Department to adequately finance the various programs recommended as high priority items and of extreme importance to the livelihood and welfare of this country.

Although the report, beginning at page 18, will provide a detail of the committee's recommendation for each Commerce appropriation item, it appears worthy to comment on the significant increases over the House allowances, namely $30,000,000 for the Economic Development Administration, development facilities and of which 25 to 35 percent will be available for public works impact projects. This sum, together with the House allowance of $160,000,000, will provide $190,000,000, the sum available for grants and loans in fiscal 1972; $23,400,000 for the Regional Action Planning Commissions to provide: $600,000 for administrative expenses, Ozark Commission; $800,000 for planning funds, Upper Missouri Commission; $1,000,000 for administrative and planning funds, Pacific Northwest Commission, and $21,000,000 to provide $3,000,000 to each of the seven regions to further fund airport safety projects at existing airports, and $108,113,000 for the National Oceanic and Atmospheric Administration. This sum, together with the House allowance of $357,293,000 will provide a total of $465,406,000 that the committee determined to be the minimum required in fiscal 1973 for the administration to accelerate a well balanced operations and development program, including high-priority projects involving the weather, ocean, earth, and solar systems. In this connection, attention is invited to page 24 of the report which indicates, by activity and amount, the committee's recommendation as to distribution of $76,046,000 which was included in the overall recommendation of $108,113,000, and which had not been included in the President's budget submission for NOAA. Of special importance is the addition of $14,000,000 for Research and Technical Services, National Bureau of Standards. This increase covers high-priority items requested by the Secretary of Commerce and provides the full request for the experimental technology incentives program, pollution measurement methods and standards, fire research and safety and the equipment modernization program. The committee earmarked funds to initiate an expanded fiber, textile and apparel flammability research program as it was considered to be of the very highest priority in order to reduce, if not eliminate, the tragic loss of life and serious injury to children and the aged.

For the Maritime Administration, the committee approved the House allowance of $342,222,000 in new obligational authority, and $233,312,000 for liquidation of contracts. The allowance provides $280,000,000 for the ship construction program. Included in this sum is $250,000,000 for the construction subsidy to fund up to 17 vessels, and $30,000,000 for the purchase of modern or reconstructed United States-flag vessels for lay-up in the National Defense Reserve Fleet.

For the judiciary branch the committee recommended a total of $191,499,600, which is an increase of $4,746,000 over the sum allowed in the House bill. Included in the increase is $14,000 for a secretarial position to the Administrative Assistant to the Chief Justice; $100,000 for the Customs Court to finance 8 of the 12 full-time positions needed to cope with the increased caseload in the clerk's and marshal's offices; $2,855,000 for Salaries of Supporting Personnel to provide 204 additional personnel—136 probation officers and 68 clerk-stenographers essential to the probation system in assisting the courts with their programs of expediting their caseload; $620,000 for 61 secretarial positions for circuit judges of which 15 are for the Fifth Circuit Court of Appeals, and $235,000 for related benefits; and, $453,000 for travel and miscellaneous expenses of the additional personnel provided for district and circuit courts under the appropriation for salaries of supporting personnel.

For representation of court appointed counsel and operation of defender organizations, the committee recommended the full budget estimate of $15,083,000, an increase of $1,583,000 over the House allowance. The committee disagreed with the contention of the House that such funds cannot be used to pay attorneys and experts appointed in the District of Columbia Superior Court and Court of Appeals and accordingly deleted the restrictive proviso relating thereto. Furthermore, the Comptroller General of the United States, in his decision of May 26, 1972, held that the provisions of the Criminal Justice Act of 1964, as amended, were applicable in criminal and related proceedings brought by, and in the name of the United States in the District of Columbia Superior Court and the District of Columbia Court of Appeals.

For salaries of referees, a special fund, the Committee proposed a reduction of $335,000 which, together with the $71,000 reduced by the House, was requested to adjust the salaries of full-time referees from $30,000 to $32,000 per annum. It was the committee's opinion that this proposed salary adjustment should be deferred until such time as pending legislation is enacted to provide for salary adjustments of the U.S. magistrates.

For the Commission on Bankruptcy Laws of the United States, the committee recommended the budget estimate of $426,000, which is an increase of $76,000 over the House allowance and was considered necessary to cover the costs for completion of the study and report during the fiscal year 1973.

For Related Agencies, the committee recommended a total of $820,824,000, which is an increase of $9,951,000 over the House allowance. This increase includes $253,000 for the Arms Control and Disarmament Agency; $17,786,000 for the Equal Employment Opportunity Commission, and which includes $14,786,000, the budget estimate that was not considered by the House but was requested to finance the budget estimate that was not considered by the House but was requested to finance the recently enacted authorization, Public Law 92-261, approved March 24, 1972; $360,000 for the Tariff Commission to provide for about 50 additional employees to cope with the increased workload; and $1,552,000 for special international exhibitions of the U.S. Information Agency and relating to a new budget estimate not considered by the House but needed to cover expenses of the U.S. exhibition, "Outdoor Recreation, USA," to be shown in six cities of the U.S.S.R. in accordance with U.S. and Soviet agreement signed April 11, 1972.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. President, I wish to take special note of the committee's recommendation for fiscal year 1973 for the Law Enforcement Assistance Administration in the amount of $850,597,000.

I believe these funds will be used by States and local units of government to make needed improvements in all phases of the criminal justice system. Under the LEAA program, the States submit comprehensive plans which contain projects for the police, courts and corrections, with a special emphasis on community-based corrections.

Mr. President, I am aware, as most of my collegues are, that there has been some criticism of the LEAA program. Although some funds were misspent in the early years of LEAA's existance, the Appropriations Committee has been satisfied by the LEAA Administrator, Jerris Leonard, that his agency is taking corrective action to see that this program functions in the way Congress intended. I am confident that the dollars we are appropriating today will be used to wage a vigorous attack on crime in our nation.

Also, I am pleased to note the LEAA program has been successful in South Carolina and has received widespread support. At this time, I would like to congratulate all those who have made this program work in my State.

Mr. President, I ask unanimous consent that the report which was submitted by Mr. Carl Reasonover, executive director of the South Carolina law enforcement assistance program, for LEAA's third annual report, be printed in the RECORD.

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

SOUTH CAROLINA REPORT

Following is the FY 1971 report of the South Carolina Law Enforcement Assistance Program (LEAP).

GREATEST NEEDS

According to the 1968 population estimates, South Carolina ranks 26th in U.S. population with approximately 2,664,000 residents. Of these inhabitants, over 55 percent are located in the rural areas. Adequate crime prevention and control programs, however, must also be developed for South Carolina cities anticipating the greatest population growth. Because of this, a significant amount of program resources has to be directed towards smaller criminal justice agencies. Regional programs which will serve a number of these smaller agencies would be ideal.

38 percent of the population is under 18 years of age and 34.8 percent of the inhabitants are non-white; it is necessary that the criminal justice problems of these groups receive special attention.

A LEAP survey of the needs and problems

in the criminal justice system, has made possible—for the first time in South Carolina—a framework for systematic analysis of arrests, judicial processes, incarceration, release on probation or parole, rehabilitation and reintegration of the offender back into society.

The survey revealed breakdowns in communication between state agencies and local agencies, and between state and local agencies and the general public. We found overlapping jurisdictions, manpower duplication and waste, marked deficiencies in training, wide variances in hiring standards, a lack of research, and inadequate criminal records keeping, reporting and data collection. These deficiencies extend throughout the criminal justice system. Adult and juvenile penal facilities are inadequate and overcrowded. Courts operate in a variety of unsatisfactory physical settings. Sentencing procedures vary widely for the same offense; indeterminate sentences are not applied to adult offenders. Local police and sheriffs departments have insufficient or outmoded equipment. Training facilities and academies are inadequate, under-staffed and deficient in training hardware, mock-ups, and film, journals and textbook libraries. There was little training where different disciplines trained together.

SOUTH CAROLINA STATISTICS

Population: 2,590,516.

Planning grant: $355,000.

Action grant: $4,223,000.

Programs: upgrading personnel, $554,800; prevention of crime, $25,500; juvenile delinquency, $482,730; detection and apprehension of criminals, $678,850; prosecution, court and law reform, $460,250; correction and rehabilitation, $204,300; organized crime, $37,500; community relations, $42,000; riots and civil disorders, $174,950; construction, $1,198,100; and research and development, $364,020.

State correctional officers and local police officers often are uniformed and placed on line duty with little orientation to their duties and responsibilities. Career ladders are dismal, hiring standards vary widely and turnover rates are unacceptably high.

Juvenile educational and rehabilitation activities are substandard; there are shortages of teachers in the school system capable of diagnosing potential juvenile delinquents. There are not alternatives, such as halfway houses, to incarceration of juveniles. There are only 19 Family Courts, inadequately equipped to handle the numbers of juvenile cases in the state. Juvenile probation and parole is understaffed, underfunded and undertrained.

Criminal laws are not collected in a single volume of the Code of Laws of South Carolina. They are not up to date. They do not take cognizance of modern day crimes. These laws are in such a condition that it is mandatory that they be gathered in one central part of the Code of Laws of South Carolina. Fragmentary reports indicate a general, perceptible rise in index crimes over the past five years. Reliable crime statistics, owing to deficiencies in criminal record data collection, are lacking. South Carolina law does not require recording and collection of criminal statistics by the law enforcement agencies. Rather, statistics are maintained, if at all, on a voluntary basis. Crime statistics in the FBI's Uniform Crime Reports are the only available statistics at present.

At the state level, the LEAP set the following priorities for developing programs during FY 1971: training, construction and renovation of facilities, personnel, equipment and research.

At the local level, the priorities were: personnel training, equipment, personnel and salary improvements, records improvement, public education and management improvements.

MAJOR ACTION PROGRAMS

South Carolina's major action programs focus on establishing an information and communications system, a training academy and educational television training program and a volunteer corps to aid youth on parole.

Information and communications

The Criminal Justice Information and Communications System aims at collecting and disseminating criminal data from and to all state and local law enforcement agencies. Presently, it is possible for local law enforcement agencies to receive criminal data from the National Criminal Information Center only via State Law Enforcement Division. LEAA awarded $237,027 in FY 1971 funds to Law Enforcement Division to design and implement the needed system.

There are three phases to implementing the system:

Administrative

This phase will permit local law enforcement agencies to communicate with each other on an individual basis. Previously, intra-state communications were transmitted to all terminals. This phase adds 11 circuits and 10 terminals, increasing the number of circuits to 15 and number of terminals to 67.

Data collection and dissemination

After completion of phase one, all law enforcement agencies will be asked to report criminal activity information to the Division, where it will be compiled and coordinated for future use by the agencies. Also, local agencies will become capable of receiving data directly from the NCIC. It will also be possible for the agencies to obtain information concerning vehicles, drivers licenses, and so on, directly from the State Highway Department.

Criminal records

The final phase will give the courts, the corrections departments and probation, pardon and parole agencies access to the systems. Complete pre-sentencing information will be available and reporting requirements to the Attorney General will be simplified. The criminal history records are planned to be open-ended; health, welfare and education information about the criminal can be added, providing baseline research and statistical data to develop criminal profiles.

Training academy

At the direction of the Governor, a study of personnel agencies training needs and problems was made. Based on the results of the study, the State Legislature created a Criminal Justice Training Academy.

The Governor's Committee on Criminal Administration and Juvenile Delinquency allocated $500,000 from the FY 1970 LEAA grant and $149,800 from the FY 1971 state funds level to establish the Academy. A South Carolina Criminal Justice Academy will be constructed with LEAA, National Highway Safety Board and state and local funds, near Columbia. It will train an estimated 1,310 criminal justice employees yearly. It is expected to be operational by January 1972.

ETV training program

The South Carolina Law Enforcement Education Television Training Program was inaugurated by Governor McNair in September, 1965, to train approximately 4,000 police officers through closed circuit television. In December 1965, the first program was televised. The programs are 30 to 60 minutes of black and white video taped material transmitted monthly to 50 locations in the state. At each location a discussion leader distributes study workbooks, which are used by the students for discussing the programs.

Through televised instruction, approximately 4,000 criminal justice personnel will be brought up to date on changes in the law and new techniques used elsewhere in the criminal justice system. Twelve new programs are expected to be produced under this current $50,000 LEAA grant. Programs under preparation emphasize scientific techniques, crime scene searches, and arrest problems—focusing more on the "how to do it" than on "what the law is." Programs explaining new laws and new decisions by the courts will also serve as aids to the South Carolina Police Academy.

Volunteers

Under a $70,947 discretionary grant in 1970—a $96,959 continuation grant for 1971 is pending—an innovative program using volunteers in youthful offender rehabilitation was instituted in the Department of Corrections. Volunteers aid in the operations of the Parole and Aftercare Section of the Youthful Offender Division, where they supervise 17- to 21-year-old parolees over a two-year period. The volunteers are trained by, and under the supervision of professional parole counselors.

For the most part, the volunteers are friends or acquaintances of the youths or their parole supervisor. Most of the people contacted as potential volunteers welcomed the chance to serve.

Of the nearly 500 youthful offenders released since July 1969, only 50 (10 percent) have been returned to state correctional institutions for parole violation or felony charges. To date, the project has secured the services of 170 volunteers.

OTHER MAJOR PROGRAMS

Other major programs in the South Carolina criminal justice system center on community-based corrections and upgrading the courts.

Project Re-Entry

Project Re-Entry, a community-based pre-release center in North Charleston, enables individuals returning to the coastal area of the state from correctional institutions to participate in a program that eases their transition to civilian life. The program marshals private-sector resources in training, employment placement and guidance; provides transitional services and selective community-offender interactions; and provides supervision for individuals on work release. It also provides a continuous source of trained manpower to the community. The project was funded with a $114,433 discretionary grant.

Continuous data are maintained on all participants to determine the effectiveness of Project Re-Entry. Data collected includes number of recidivists, employer satisfaction with participants and level and extent of community participation. To date, 93 candidates have been processed through this center, and 33 are currently involved.

City-county complex

Florence County is located in the central eastern portion of South Carolina. The county contains 805 square miles with an estimated population of 85,000. Its largest city, Florence, has approximately 30,000 inhabitants.

The city of Florence was originally the center of an agrarian area, but is rapidly becoming urbanized. Industrialization has brought about many built-in problems, most of which are results of conflicting socio-economic stratifications. During this period of transition, there has been a significant increase in all crime categories.

The offices, jail, law enforcement division and courtrooms—all old, inadequate buildings—of the City and County of Florence were located on adjoining property in downtown Florence.

A feasibility survey during April and May 1965, determined that the buildings were "inadequate, badly deteriorated and not recommended for continued use."

Plans are underway for the sale of $5 mil-

lion in Florence County bonds to finance a new complex to house the criminal justice agencies. The $5 million bond issue, however, was not adequate to complete the project. A $190,000 LEAA grant was awarded to the City and County of Florence during FY 1970 to aid the construction of the law enforcement complex. During FY 1971, a grant of $80,000 regional funds and $433,000 escrow funds were granted. As of July 1971, the complex has received LEAA action funds totaling $440,000. Construction is underway and the facility is expected to be completed by December 1972.

FAMILY COURT PROGRAM

There is an urgent need to replace the blame-guilt attiude directed to juvenile delinquency with a careful definition of each child's problems, characteristics and skills and the implementation of community-based treatment programs. This special project, funded with a $250,000 discretionary grant to the Vocational Rehabilitation Department, will concentrate intensive long-term services on juveline delinquents, ages 14 to 17, who are under the supervision of the Family Courts in Charleston, Spartanburg, Florence, Rock Hill and Columbia and who have not yet experienced institutionalization. The vocational rehabilitation unit will try to reduce juvenile recidivism rates by developing inter-community services such as group, individual and family counseling; voluntary placement in foster home or group home settings; work and recreation programs; remedial and vocational education programs; job training and counseling; physical and mental health services; and other services of a like nature.

A centralized unit will coordinate the program development of all five community units and a unit now operating in the Department of Juvenile Corrections. Approximately 500 juveniles will receive service in the first year of funding.

MISDEMEANOR OPERATIONS

As part of a master plan to improve its criminal justice system, the City of Columbia set as its goal updating and streamlining of the City's Recorders Courts. The objective is efficient administration of justice.

Columbia's growing crime problem—in 1968, 8,002 persons were cited for crimes; in 1970, 8,661 were cited—has produced a heavy and rapidly increasing caseload, as well as a backlog, in the city's Recorder's Office.

Changes in the system are directed to improving the court's operations, reducing the policeman's time in court and enhancing the prestige and dignity of the court. Plans call for: a full-time judge, one associate judge, legal and clerical assistance, organization of a violations bureau and a probation office and upgraded operating space.

To date, a public defender system has been created in Richland County. A full-time judge and a full-time probation officer have been employed; renovation and construction has been completed for a violation bureau; and additional personnel have been employed.

OTHER BIG CITY PROGRAMS

The changing makeup of Columbia's urban area presents a mounting crime problem. Related significantly to increasing criminal activity are a redistribution of Columbia's population, increased density of automobiles, annexation of 21 subdivisions to the central city and infringement by dissident groups on the State Capitol. The City of Columbia has set forth a master plan to improve and expand the existing criminal justice system. Included in the plan was the modernization of the Columbia Police Department communications system. The problems of criminal justice communications in Columbia are no different from those in the rest of the state. Inability of departments to coordinate with each other via a shared radio frequency, the tardiness of bulletin and announcement release and the rapid exchange of pertinent information regarding criminal activities are at the forefront. A new system was designed and aimed at providing adequate two-way radio communications between the policeman on the beat, the squad car or the agent on stakeout and their headquarters and between police agencies within the Columbia metropolitan area.

In the 1967 school year, there were 154 thefts from schools involving a loss of $72,130.00 and 52 acts of vandalism against schools with a loss of $39,467.00—for a total loss of $101,597.00. The city of Columbia realized the need to provide increased protection for school plants against the crimes of burglarly, larceny and vandalism. With assistance from an LEAA action grant, school and local officials and the Columbia Police and County Sheriff's departments have installed an audio, or sonic, alarm system in an effort to prevent crime against the district's schools and increase the chances of apprehending the criminals.

CARL R. REASONOVER,
Executive Director.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. HOLLINGS. Mr. President, the issue before us is one of the most important we shall address during this session.

The decisions to be taken here involve nothing less than the safety, welfare, economy and quality of life of many millions of Americans.

It represents a major challenge and an unparalleled opportunity, and it deserves our most thoughtful consideration.

I refer to the fiscal year 1973 budget for the National Oceanic and Atmospheric Administration.

As early as 1966, the Congress recognized that the time had come for our Nation to give serious attention to the marine environment and to the potential resources of the oceans. It also realized the time had come to move nationally to stimulate marine exploration, science, technology, and on a materially larger scale than had been attempted before. These congressional convictions resulted in the Marine Resources and Engineering Development Act, which brought the formation of one of the most distinguished commissions in recent history: the Commission on Marine Science, Engineering and Resources, headed by Dr. Julius Stratton.

In January 1969, the Stratton Commission issued a historic, far-reaching report, "Our Nation and the Sea," which in my view will stand for a great many years as one of the most important reports to emerge from a governmental commission. It set down guidelines for the creation of the National Oceanic and Atmospheric Administration, which came into being by Executive order in October 1970.

NOAA, as it is informally known, was formed to provide a mechanism for the civil Federal effort in the oceans, the air and, to a more limited extent, the solid earth. It brought together numerous Federal organizations under a sweeping charter and with a staggering responsibility to the people of our Nation.

The Stratton Commission offered, as a first budget for the proposed agency, $773 million, with the possibility that subsequent activities would add $36 million. It projected an operating budget of approximately $2 billion a year by 1980.

And this was in the days of the 1969 dollar.

NOAA's funding has not begun to keep pace with the Stratton Commission's recommendations, nor with the Nation's needs. The Congress, which so wisely foresaw the national requirement for major progress in the oceans and atmosphere, has not thus far seen fit to provide the financial tools to make it possible.

NOAA's first appropriation was $280,000,000. Its fiscal year 1972 appropriation was $338,064,000. These figures represent a pitifully inadequate approach to our environmental problems and opportunities.

This year, we have the chance to rectify the situation, and I am convinced that the Nation will applaud the Congress for so doing. The budget for which I am speaking was not arrived at without deep thought, nor without the serious weighing of fiscal responsibility against long-neglected national needs.

The Senate Appropriations Committee is proposing, and hopes very earnestly that this body and the Congress will adopt a fiscal year 1973 budget of $465,406,000 for NOAA.

There has been a disposition on the part of many, I fear, to regard NOAA as a somewhat expanded version of its old Weather Bureau, now the National Weather Service. In that connection, it may be germane to review briefly the responsibilities faced by the agency today.

NOAA must develop programs to assure the wise, balanced use of the ocean and its resources, to make possible their development and conservation. These programs, properly funded, will bring a surge of development. They will mean the birth of new industries and the regeneration of existing ones—in short, jobs—and a welcome boost to the national economy.

NOAA must develop and operate systems to monitor and predict weather, ocean, earth, and solar hazards. This simple statement encompasses a responsibility intimately affecting life, safety, property, work, play, and quality of living for the entire Nation.

NOAA must explore the feasibility and, where warranted, develop a national capability for the beneficial modification of the environment, a potentially tremendous tool toward human betterment. Of equal importance, it must understand the consequences of man's inadvertent effects upon that environment.

I submit, gentlemen, that it cannot be done—that it cannot begin to be done—on the budget submitted to the Congress. I should like, if I may, to discuss NOAA's responsibilities in the light of what needs to be done, and what cannot be accomplished within the framework of the original budget.

First let us consider the oceans, our final unexplored frontier and perhaps one of our last hopes for the resources our burgeoning populations will need in ever-increasing volume. As the Stratton Commission pointed out:

> How fully and wisely the United States uses the sea in the decades ahead will affect profoundly its security, its economy, its ability to meet increasing demands for food and raw materials, its position and influence in the world community, and the quality of the environment in which its people live.

We look to the oceans today almost as we looked to the land yesterday. We look to them for protein, for minerals, for gas. And, in an era of intensifying needs for these resources, it is imperative that we do. But the fact is that we are ill equipped to undertake what should have been well underway by now. We lack not only a basic understanding of ocean processes: we lack the simple knowledge which comes from a sufficiency of maps and charts. We critically need nautical charts for safe and efficient use of our waterways—but in this day and age we need much more.

We cannot hope to develop a marine industry capable of helping to solve pressing national problems without first describing the geophysical characteristics of our continental margins and certain deep ocean areas—and the need to do so is painfully apparent.

It has been estimated that in the past three decades our Nation has used more minerals and fuels than the entire world in all of its previous history, and the demand may well triple by the year 2000. The United States uses more than one-third of the total world production of petroleum and more than 60 percent of its marketed natural gas. It has been estimated that by the end of the century we shall need more than double the amount of fossil fuels used today for the generation of electrical energy alone. We have become dependent upon foreign sources for many of our hard minerals, and it is wholly logical that we turn to the oceans to redress this unfortunate balance. We are almost entirely dependent upon imports for such minerals as chromium, manganese, nickel, cobalt, industrial diamonds, platinum, and tin. Of more than 70 strategic and critical commodities indispensable to our economy in times of conventional warfare, more than 40 are largely imported. Offshore deposits are becoming increasingly interesting to other nations.

We have found that we can obtain such fundamental mineral supplies as sand and gravel more economically in many cases from the sea than from the land. We take more than 16 percent of our petroleum and gas from beneath the waters of the Continental Shelf. The nonliving resource potential of the oceans must be explored as a matter of national urgency.

Our coastal zones are of surpassing importance to us; they constitute by all odds the most valuable real estate in our Nation. Thirty States border on the sea coasts and the Great Lakes; there the greater portion of our industry and commerce are carried on; there lie the biologically richest regions of our country.

The Senate has, of course, recognized the importance of the coastal zone by its recent passage of the coastal zone management bill. But let me point out that we are a long way indeed from rational management of these national treasures when they are not even adequately mapped, let alone adequately understood.

I say it is vitally necessary that we abandon halfway measures in matters of such importance. We are asking that approximately $7,507,000 be restored to the NOAA budget in the areas I have just outlined, to enable that agency to make the kind of effort our Nation requires.

NOAA is responsible also for developing our Federal civil manned undersea science and technology program. I would be hard put to think of an exploratory effort of more importance to our country. The sea bottom is a vast mystery, one which cannot be penetrated fully except by man himself. The sea bottom cannot be properly understood, developed or protected until we can work on it for extended periods. The Stratton Commission, more than 3 years ago, called for a national effort to develop deep submersibles with capabilities for research and exploration at 20,000 feet. Until man—in or out of submersibles—can work under the sea effectively, our effort is seriously deficient.

Literally dozens of programs are crying out for accomplishment. NOAA, to its credit, has launched a manned underseas science and technology program, but it is by no stretch of the imagination the size and scope required to get on with such urgent tasks as extensive pollution assessment, resource studies and environmental evaluation—to name a few. We are asking that the sum of $13,400,000 be added to the budget proposal in order to attack this area with the attention it deserves. Not directly related to the manned undersea effort, but complementary to it in providing badly needed marine environmental information is NOAA's national data buoy program, to which we should like to see $1,287,000 added by this body.

When we consider the living resources of our oceans, we can immediately identify two major problems: First, we do not know the potential for food from the sea, although the demand for it is great and steadily rising; and second, our own fisheries are in serious trouble. Turning again to the Stratton Commission Report, we find the prediction that total annual production of marine food products can grow from the present 50-odd million metric tons annually to 400 or 500 million metric tons—exclusive of mariculture—before expansion costs render further growth uneconomic—a promising forecast indeed. It would lead one to believe that no great problems exist in this area, that there is plenty for all.

Contrast this, however, with what is happening today: fish are a common resource about which we really know very little and to which there is generally unlimited entry, and other nations are getting the lion's share of the world catch. We are importing about three-quarters of all the fish we consume. Since the early 1960's foreign fleets—huge factory ships, in many instances—have brought depletion to important fisheries and hardship to our industry. Haddock, cod, herring, the hakes, mackerel and other species continue to be heavily exploited. Under current international law, it cannot be prevented, although this Nation will press vigorously for more effective regulation at the Law of the Sea Conference next year.

There are, however, certain things which can be accomplished, and which should not wait for international agreement. The oceans, far from being a storehouse of unlimited fishery riches, are a delicate and sensitive food-producing system requiring far better understanding than we now possess if we are to use them intelligently. NOAA is starting a program which it calls MESA—marine ecosystem analysis—designed to offer better understanding of physical, chemical, and biological processes in the marine environmental and to provide information and services assuring protection as well as development of that environment. It will gather ecological information, determining the effects of environmental change, developing ways to repair damaged environments, and providing other services in the general area of Federal water resource planning.

NOAA's National Marine Fisheries Service has developed the beginnings of a program to monitor, assess, and predict our living marine resources. It will watch seasonal and annual changes in fishery resources in relation to the needs of our Nation. It will assess the productive capacity of these resources and ultimately establish a comprehensive description of the marine ecosystem in biological terms, from which rational fisheries management decisions can be taken.

There are many other areas in which NOAA is working to help restore our fisheries to health. I could single out the establishment of Federal-State management arrangements and assistance to the States, the enforcement of international and domestic regulations, the development of markets, particularly for unused and underused species, and mariculture, one of the more exciting and potentially productive possibilities before us. The sector which gives me greatest immediate concern, however, is that dealing with the matters I have just discussed—resource understanding, management and development, and the ecological and biological study necessary to the fulfillment of our fisheries potential. It is our considered opinion that this crucial problem, with so much opportunity for progress and such great menace for disaster to fine American industry, requires $9,000,000 more than was contained in the original budget request.

To work on, in and under the ocean, man must have the benefit of environmental forecasts which are essentially marine in nature. NOAA is expanding its weather service to accommodate this pressing need, but the funds allotted by the House are not, in my opinion, sufficient to carry out this responsibility in a way that will insure maximum safety and efficiency for men working in the oceans. Accordingly, we are asking that this body increase the original figure by $3,700,000.

One of our greatest oceanic challenges is the achievement of an understanding of oceanic properties and processes. The oceans and the atmosphere interact continuously, each a driving force determining the state of the other. While we know this, there is much more that we do not know. When we do, many mysteries will

be solved. Research for its own sake never has been particularly attractive to those who control our finances; the quicker the promise of payoff, the more likely a research budget request is to succeed. What NOAA contemplates, however, is not research for its own sake; it is research designed to produce economically useful information and which should solve many problems which plague us today. I believe that the original budget proposal is seriously inadequate, and we are, therefore, proposing the addition of $6,319,000 to it.

One NOAA effort which is paying dividends in a most substantial way—here and now—is its national sea grant program. This is one of the most creative and innovative marine undertakings in our Nation today. It moves knowledge and ideas from the laboratory to the docks and boats. It works in a very personal and effective way with those who need it most, with applied research, by educating technicians, and by energizing oceanic efforts along every U.S. coastline and our Great Lakes. It is a relatively new program; it is fresh and dynamic—and it gets things done. Since it is a matching-fund effort, it receives close and enthusiastic cooperation and collaboration from the States. Sea grantees in Washington have developed pan-sized salmon which will open a new market; have advanced shrimp mariculture in Florida; have conducted research which brought new laws permitting private hatchery operation in Oregon; have helped establish marine public health programs in Texas. I could name scores of other achievements. Sea grant, my distinguished colleagues, rolls up its sleeves and goes to work in the great American tradition. It succeeds. No marine program in the Nation is more deserving of our support, and none will produce more in return for it. I ask that this Chamber add the sum of $8,803,000 to the entirely insufficient amount originally requested of the Congress.

The programs I have just outlined represent the bulk of the additional funds we are requesting, because we are just making our beginnings in the Federal ocean effort. Of equal importance, however, are the Nation's programs in the solid earth and the atmosphere, and I should like to share my views about them with you.

No responsible American could fail to have been touched and concerned when the great San Fernando Valley earthquake occurred on February 9, 1971. It was only by the sheerest of chance that the disaster was not greater. While earthquakes are not predictable in the short term, there is a serious expectation, based upon historical recurrence, that certain areas of our Nation may undergo upheavals involving wholesale death and destruction over the coming years. Indeed, NOAA seismologists have said that earthquakes as severe or stronger than the San Fernando event could occur in at least 16 other populous States. This conclusion was documented by 20 instances in which strong earthquakes have occurred outside of California and Alaska during the past three centuries. It has also been established that a great many high-rise buildings might well collapse in any great earthquake.

NOAA bears a substantial seismological responsibility to our Nation. Its programs have recently been reorganized and consolidated. Its National Earthquake Information Center for some years has notified our people quickly and faithfully of earthquake occurrences around the world. NOAA's seismic monitoring systems provide the basic risk assessments upon which earthquake-resistant structures can be erected, minimizing danger and damage. We must, however, work toward a goal of short-range earthquake prediction, as well as expanding and refining other seismic services to our people. In view of the gravity of this responsibility, and of the dangers inherent in the faults beneath our feet, I am convinced that proper weight has not been given to this effort, and I am asking that $2,395,000 be added to it.

The tasks I have been addressing affect many, many millions of Americans. The tasks I turn to now affect the lives of every American. I refer to NOAA's weather effort.

The United States has the best weather service in the world. We may well be proud of it. No hurricane can approach our shores undetected and unwarned; our tornado warning service is the finest anywhere; our protection from floods and similar natural hazards is unapproached elsewhere over the face of the globe. Our day-to-day weather service is excellent.

All of this is not good enough. It will not be good enough until every possible life and every possible piece of property are fully protected; until long-range, accurate forecasts provide the information needed by every segment of our economy and every individual in their lives and work.

At present, the Nation's weather services are best described as somewhat inconsistent. Quite properly, the heaviest effort has been devoted to the science and service of those phenomena which deal the most death and destruction. There are, however, certain areas where more funds are severely needed. Only our largest cities have the convenience of adequate automatic telephone-answering services at weather stations. While the NOAA Weather Wire and its network of VHF–FM continuous-broadcast shortwave weather information stations are very useful, there are by no means enough of them. Many airports lack terminal weather forecasts. There are regions without agricultural weather services, without fire-weather services, without air pollution meteorological services—all prime necessities.

We do not lack the technology to improve and extend our services; we simply have not committed adequate funds to the task. Nor would those funds represent service without return. They would repay themselves handsomely—first of all, of course, in life, but also in crops saved, industrial operations better planned and operated, in disaster losses averted through more complete community preparedness, transportation schedules improved, in better service to air pollution authorities—even in services to men in space. I might point out that the President has recognized the need for additional efforts in natural disasters, and has proposed action in that direction.

There is no need to remind this body that weather is global, that the problems are so great and the lack of knowledge of fundamental environmental processes so immense that no one country can hope to solve them by itself. Fortunately, there are international organizations dedicated to the solution of weather problems—notably the World Meteorological Organization and the International Council of Scientific Unions. They have launched a world weather program, of which the global atmospheric research program is a vital part. The United States is active in these programs. During the summer of 1974 the global atmospheric research program will conduct an international experiment in the tropical Atlantic to study atmospheric circulation.

It is encouraging to me that we are deeply involved, both domestically and internationally, in an effort to improve our understanding of weather processes and the services we provide. There are several areas in which it is my conviction that more funds are required than have been allotted, in the following areas: aeronautical charting, basic weather service and analysis, river and flood forecasting, hurricane and tornado forecasting, aviation weather service, upper air and space forecasts, pollution forecasts, and the global atmospheric research program. I am requesting this body to approve a budget of approximately $14,944,000 over that submitted to the Congress. I assure you the money will be well spent.

Next I would call your attention to the national opportunities presented by one of the most marvelous technological achievements of our time—the satellite, which has already helped to revolutionize weather forecasting and whose potential seems virtually limitless. The weather satellite has given our Nation eyes to view the world. It has provided a first line of defense against natural hazards. It is constantly being improved. Satellites soon to be launched will allow us to obtain vertical temperature and moisture profiles of the atmosphere, twice daily and on a global basis. The first geostationary satellite is planned for 1973, giving nearly continuous day and nighttime coverage.

But it would be a mistake to restrict our satellite thinking to simple weather terms. Before this year goes into history, satellite oceanic observations in the form of sea-surface temperatures will be ours. This will have a direct effect upon our knowledge of such things as fish distribution and coastal pollution. Earth resources satellites will provide our first opportunity to sense ocean color, and possibly sediment load. Sea-ice monitoring by satellite is now routine. Caribou herds have been tracked by satellite; there is reason to believe other natural resources can be similarly monitored.

The age of the satellite is in its infancy. It is imperative that NOAA make

every possible use of this promising environmental tool, and that the Congress allow it to do so. For this reason, I am asking that the sum of $6,716,000 be added to the original allowance for this item.

Finally, I should like to address the third major responsibility of NOAA—the general area of environmental modification. Here, indeed, may lie one of our greatest opportunities to improve the quality of life in America. Already, there is ground for optimism that the fury of the hurricane can be partially diffused by cloud seeding; it has in fact been demonstrated to the satisfaction of many, although NOAA scientists decline to make the claim until further research is completed. In the great state of Florida in 1971, scientists from this agency conducted experiments instrumental in alleviating a disastrous drought. Over Lake Erie, experiments have been conducted to redistribute snowfall with a view to lessening the impact of severe storms on metropolitan areas. Hail, which causes many millions of dollars' damage annually to agriculture, may be susceptible to modification by cloud seeding. Other Federal agencies are involved in a variety of experiments. The main responsibility, however, lies with NOAA.

Environmental modification, however, has many facets—scientific, operational, legal, and social. One of our most pressing concerns, in these days of smoggy skies, is to understand the consequences of inadvertent environmental change. We must do more to monitor natural and manmade effects on atmospheric constituents, to determine what they are doing—or what they may do—to our weather and climate. This will require time, efforts, and funds, and over a period of time it will be fully as important to our Nation as our labors in hurricane and tornado detection and warning. Life literally may hang in the balance. A program of this nature must not be underfunded.

I am convinced that the original action leaves it in that posture, and I earnestly request that the sum of $1,715,000 be restored forthwith.

What you have just heard has dealt entirely with NOAA programs which we consider to have been the victims of shortsighted fiscal policy. I have made no attempt to cover all of NOAA's efforts; only those which I feel to be in danger. It is my hope that the issues which I have placed before you will offer a clear realization of the absolute need that this Congress act with the wisdom which characterized its establishment of the Commission which brought NOAA into being. To a certain extent, NOAA is the creation of the Congress. When we consider its fiscal fate, we are effectively controlling a vital segment of our Nation's future. Our actions directly affect NOAA's capacity for serving the American people in many areas of surpassing importance to their daily lives now, and to those of their children and grandchildren in the years to come.

Let us act with courage and conviction. The Nation needs an effective, vigorous NOAA, and we must do everything in our power to provide it. There is no more vital or useful agency in the U.S. Government.

Let us unshackle it—today.

Mr. President, I wish to recognize the fact that the distinguished senior Senator from Arkansas (Mr. MCCLELLAN) was in daily touch with me during the hearings we had over the past 3 months on the appropriation bill for State, Justice, and Commerce, which is now before this body. Obviously, in his campaign for reelection he could not be here all the time, but I talked to him the day after his renomination, the day before yesterday, and he asked that progress be made on this bill and that it be dispensed with today, if at all possible.

I wish to recognize the contribution and leadership of the distinguished senior Senator from Arkansas (Mr. MCCLELLAN) in trying to bring to the Senate what I think is a reasonable bill, within the context of the hearings and the evidence which was presented before the committee.

No one was of more help than the distinguished senior Senator from Maine (Mrs. MARGARET CHASE SMITH). She was there daily with her experience, background, and judgment, and it was a distinct pleasure to be able to work with her on this particular measure.

At this point I would like to yield to the ranking minority member of the subcommittee, the distinguished senior Senator from Maine.

Mrs. SMITH. Mr. President, as the ranking minority member of the subcommittee which considered H.R. 14989, the appropriation bill for the Departments of State, Justice, Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973. I want to congratulate the distinguished acting chairman of the subcommittee (Mr. HOLLINGS) for the excellent manner in which he carried out his assignment and duties in reporting this bill.

The chairman has already discussed all the money items in the bill so I shall not take the time of the Senate to expand in this area except to state that the appropriation bill before us totals $4,819,292,769, which is $114,966,169 over the budget request. The bulk of the increase recommended is to take care of the National Oceanic and Atmospheric Administration program. The committee felt that this is an area where more should be done than recommended in the budget for air pollution, weather forecasting, earthquake studies, research and development, et cetera. Twenty million dollars of this increase will be provided by transfer and will not add to the overall budget.

The committee is recommending in this bill before you the full amount of the budget estimate for the mutual educational and cultural exchange program. I believe they are doing a good job under new direction. In the State Department area for contributions to international organizations, the full amount of the request is recommended, plus full funding for the International Labor Organization.

The committee is also recommending in the bill that after January 1, 1973, no appropriation is authorized and no payment shall be made to the United Nations or any affiliated agency in excess of 25 per centum of the total annual assessment of such organization except the International Atomic Energy Agency and the joint financing program of the International Civil Aviation Organization. I do not need to remind the Senate that over the years this committee and the House committee have served warning, by way of report language, to get our percentage payment down. Up to now there has been little success. The difference in the Senate recommendation and the House-passed version of this bill is that the House-passed bill would cut the contribution to international organizations immediately, whereby the Senate language on pages 5 and 6 of this bill provides a cutoff date of January 1, 1973. This would provide a little time so that the department can reach this level in a more orderly way. There are a lot of ramifications to be ironed out between now and the cutoff date of January 1, 1973.

Mr. President, in closing I want to say that there are other areas in the bill where additional increases could be justified. However, in order to preserve a certain balance to maintain the integrity of the most necessary programs it became necessary to hold the line and avoid adding to inflationary pressures. I believe that the committee used excellent discretion in these decisions before reporting the bill. I further believe that the amounts recommended in the bill for the various departments and agencies will provide adequate funding for the next fiscal year and will meet the obligations of the departments.

I am pleased to have participated in the hearings and to have worked with the acting chairman, the Honorable "Fritz" ERNEST F. HOLLINGS. This is a job well done by the chairman and his committee and especially by the knowledgeable and efficient members of the staff: Mr. Harold E. Merrick, Mr. William J. Kennedy, and Mr. Joseph T. McDonnell.

Mr. President, I join the chairman of the subcommittee in support of the passage of this bill.

Mr. HRUSKA. Mr. President, I support H.R. 14989 as it was approved and reported from the Committee on Appropriations. I have proposed two amendments to various sections of the bill which I shall call up later this afternoon and on which I shall comment in greater detail at that time. This bill makes appropriations for fiscal year 1973 for three very important executive departments—State, Justice, and Commerce, for the third branch of the Federal Government—the judiciary—and for a number of related agencies.

At the outset, I want to congratulate the chairman of the committee, the Senator from Louisiana (Mr. ELLENDER), for the effort he has put into the Senate drive to have fiscal year 1973 appropriations approved by June 30. While this is only the fifth bill to be considered on the floor for fiscal year 1973, it is still possible to meet the deadline if all Senators will cooperate. I also want to thank the temporary chairman of the

subcommittee, the Senator from South Carolina (Mr. HOLLINGS) for the very diligent and capable way that he processed this bill. In the absence of the permanent chairman, the Senator from Arkansas (Mr. MCCLELLAN), our colleague from South Carolina did an outstanding job of leading the subcommittee. As always, the ranking minority member, the Senator from Maine (Mrs. SMITH), contributed greatly to the consensus that was reached on this bill.

Mr. President, the bill appropriates $4.8 billion for the work of these departments and agencies. The committee, however, has carefully considered every item in the bill and it reflects its best judgment as to the needs of the departments and priorities that should be given the various programs. The committee figure represents an increase of $232 million over the amount approved by the other body, $115 million over the budget estimate, and $529 million more than the appropriation for fiscal year 1972.

Other members of the committee will be discussing the bill in great detail. This Senator would like to spend just a moment on a few of the items that are of particular concern or interest to him.

DEPARTMENT OF STATE

The Senate bill appropriates $570.6 million for the operations of the State Department for the coming fiscal year. This figure contrasts with the House approved amount of $524.8 million, the budget estimate of $569.8 million, and the fiscal year 1972 appropriation of $510.8 million.

The action of the committee regarding the United States contribution to international organizations and conferences is of particular interest to this Senator. For a number of years I have felt that the United States was being called upon to support these organizations to an extent far beyond our interest, capability, or necessity. I have advocated in the past and support now the idea that this Nation should not pay more than 25 percent of the cost of these bodies. In fact, it is possible that this figure could be cut even more. For this reason, I support that action of the House imposing a 25 percent limit on U.S. participation.

However, in order to facilitate advance planning and the smooth functioning of these organizations, my view is that the committee modification of the House proposal which imposes this limitation after January 1, 1973, be changed to December 31, 1973. This postponement means that the affected international organizations will have time to seek alternative funding sources or the realinement of priorities necessary to meet the new budget situation. It is also in accord with the 3-year cycle by which the U.N. budget is formulated.

Section 105 of the bill which indicates that none of the funds in this bill will be available for obligation until the authorizing legislation is enacted was added in response to a problem facing a number of the items of the bill. Similar language is contained in other sections of the bill. The problem is that the heavy workload of the Senate has meant that a number of authorization bills for items in the State, Justice, and Commerce appropriations bill have not yet reached the floor for approval.

This means, once again, that there will be a problem for the affected departments and agencies regarding funding for the first part of fiscal year 1973 or until such time as the authorizations are approved. In order to facilitate the work of the Appropriations Committee, the chairman has moved ahead with this and other bills despite the lack of some authorizations, but it was felt necessary that language such as that in section 105 be added.

DEPARTMENT OF JUSTICE

For the work of the Department of Justice in fiscal year 1973, the committee has recommended $1.77 billion. This amount is identical with that approved by the House and contrasts with the fiscal year 1972 appropriation of $1.57 billion; it is $11 million less than the budget estimate.

This Senator fully supports the action of the committee in approving almost all of the budget request for this Department. I am especially pleased that the full amount requested by the Federal Bureau of Investigation, $351.7 million, the Immigration and Naturalization Service, $135.1 million, and the Bureau of Narcotics and Dangerous Drugs, $74.1 million, has been approved. These vital law enforcement agencies need these moneys if they are to carry out their responsibility to insure the safety of American citizens.

With regard to the appropriation for the Law Enforcement Assistance Administration, I am gratified that the committee has seen fit to approve the entire budget request of $850.6 million. This is an increase of over $150 million from the previous year and $400 million from fiscal year 1971. It demonstrates the growth and the capability of this relatively new Federal program.

A good deal has been said and written about the Nation's criminal justice systems and the Law Enforcement Assistance Administration in recent weeks. Some of the comment has been critical. Some has been politically motivated and some is based on incomplete or inaccurate information.

However, when it comes time to assess the variety of opinions expressed regarding Federal efforts to assist local law enforcement, it seems to me that the most valid opinions are those stated by persons involved in the day-to-day job of protecting the public safety. I invite the attention of the Senate to a special editorial in the April–May 1972 issue of the National Sheriff magazine, published by the National Sheriff's Association. I am certain each Member of the Senate will be interested to know what the sheriffs—those men who are on the frontline in the everyday battle against crime—say about LEAA, and about some of the recent criticism aimed at the law enforcement program.

The editorial points out:

In the few years since LEAA began operations, greater efforts have been made to combat crime than were made during any previous time since the foundation of the Republic. LEAA has provided financial assistance in impressive amounts to the hard-pressed law enforcement agencies that have for so long been the stepchild of many State and local jurisdictions.

Mr. President, I urge wholehearted support for the LEAA appropriation now before the Senate, and I ask unanimous consent that the editorial from the National Sheriff be printed at this point in the RECORD.

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

OF VITAL SIGNIFICANCE TO ALL OR AMERICAN LAW ENFORCEMENT

It is most unfortunate that some members of the Legal and Monetary Affairs Subcommittee of the House Government Operations Subcommittee have seen fit to recommend, as reported recently by the news media, that further funding increases for the Law Enforcement Assistance Administration (LEAA) be suspended.

An examination of the facts reveals that this action was prompted by unwarranted conclusions, improperly drawn from misleading evidence.

We all understand that the American system of government is founded on the give-and-take of everyday politics. But there are a number of issues before the nation that are simply too important to be subjected to partisan fray. Surely the safety of our citizens is one of them.

It is therefore intolerable that some reasonable criticism of the relatively few LEAA-sponsored programs that ran into trouble is being used as a smokescreen to hide the death blows aimed at financial assistance to the states and to local government for the improvement of law enforcement.

It would be well for all citizens concerned about law enforcement in this nation to familiarize themselves with the facts because much is at stake.

Before LEAA went into operation, the United States had suffered several bloody civil disorders that threatened the stability of the nation. Congress finally enacted the Omnibus Crime Control and Safe Streets Act shortly after the assassination of a prominent presidential candidate.

The new legislation creating LEAA called for what is basically a block grant program run by the nation's fifty-five states and territories, according to their own ideas of what they need most.

The thought behind this approach was to give state and local governments the tools they need to do something specific about reducing crime. The Safe Streets concept recognizes that the United States is a Federal Republic in which law enforcement is, and must remain, an essentially state and local function.

At the same time, however, Congress also understood that the states, counties, towns, and villages across the land do need substantial amounts of federal aid to assist them in meeting their law enforcement obligations to the public.

In the few years since LEAA began operations, greater efforts have been made to combat crime than were made during any previous time since the foundation of the Republic. LEAA has provided financial assistance in impressive amounts to the hardpressed law enforcement agencies that have for so long been the stepchild of many state and local jurisdictions.

Positive results are beginning to appear. Although, across the nation, crime is still increasing, its rate of growth is definitely beginning to slow. Many jurisdictions are actually showing decreases.

The danger of suspending federal funding assistance under state and local plans should be clear to every one of us. The power to dic-

tate use of funds is the power to control. If the present system should be changed, giving federal officials the final say in funding, they certainly will have the power to determine policy in every sheriff's office, courthouse, penitentiary, and police department in the nation.

Had the critics limited themselves to reporting on the entire Safe Streets program—had they made a real attempt to take an honest look at how LEAA is doing in its fourth year—they would have been fulfilling a responsibility to the Congress and to the people. Congress has the right and the duty to see to it that every federal agency is run efficiently and according to the law. No one, however, has the right to distort the truth to fit preconceived notions of how the federal government should operate in the American Republic.

Of the nineteen witnesses who testified, only one suggested a fund freeze. Many other witnesses indicated just the opposite—that LEAA spending is sound and there are good and sufficient reasons to believe that the pace is correct.

Moreover, there is nothing in the record which would indicate the need for more federal controls—controls which can result in dictating needs to local law enforcement agencies.

For these reasons, we hope that any attempt to reshape federal aid to law enforcement into a program to control this country's criminal justice system from Washington, D.C., fails.

This nation's long tradition of local, impartial, law enforcement is in jeopardy. This is too paramount an issue to be sacrificed on the altar of partisan politics.

Mr. HRUSKA. Mr. President, the committee has approved the request of the Administrator of LEAA that language be added to the bill specifying that $15,000,000 of the appropriation shall be available for allocation to the various States without regard to the population formula contained in section 205 of the authorization. This language has been added to insure that all States, regardless of population, will have sufficient funds available to them to insure their ability to formulate effective and comprehensive criminal justice plans. By adhering in the past strictly to the formula set forth in section 205, several of the smaller States have found that they have not been receiving funding sufficient to enable them to meet this fundamental requirement of an effective statewide law enforcement effort. The language of the committee should go a long way toward rectifying this defect. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table showing how the various States would be affected by alternative base figures of $100,000—the present figure—and $200,000 or $300,000. The table will demonstrate the equity for both large and small States which will result from the adoption of this language.

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

FUNDS FOR PLANNING

State	Population	Fiscal year 1972	Fiscal year 1973 $100,000	Fiscal year 1973 $200,000 base	Fiscal year 1973 $300,000 base
Alabama	3,444,165	593,000	843,650	851,738	859,826
Alaska	300,382	143,000	164,857	256,841	348,825
Arizona	1,770,900	354,000	482,365	535,107	587,848
Arkansas	1,923,295	375,000	515,270	563,944	612,619
California	19,953,134	2,957,000	4,408,202	3,975,728	3,543,253
Colorado	2,207,259	416,000	576,582	617,679	658,775
Connecticut	3,031,709	534,000	754,594	773,689	792,784
Delaware	548,104	178,000	218,344	303,717	389,000
District of Columbia	756,510	208,000	263,342	343,154	422,965
Florida	6,789,443	1,072,000	1,565,949	1,484,765	1,403,580
Georgia	4,589,575	757,000	1,090,963	1,068,484	1,046,005
Hawaii	768,561	210,000	265,944	345,434	424,924
Idaho	712,567	202,000	253,854	334,838	415,823
Illinois	11,113,976	1,691,000	2,499,685	2,303,095	2,106,505
Indiana	5,193,669	844,000	1,221,396	1,182,797	1,144,197
Iowa	2,824,376	504,000	709,828	734,456	759,084
Kansas	2,246,578	422,000	585,072	625,119	665,166
Kentucky	3,218,706	561,000	794,970	809,075	823,179
Louisiana	3,641,306	622,000	886,216	889,043	891,870
Maine	992,048	243,000	314,199	387,725	461,251
Maryland	3,922,399	662,000	946,909	942,234	937,560
Massachusetts	5,689,170	914,000	1,328,383	1,276,560	1,224,738
Michigan	8,875,083	1,371,000	2,016,273	1,879,430	1,742,587
Minnesota	3,804,971	645,000	921,554	920,014	918,473
Mississippi	2,216,912	417,000	578,666	619,505	660,344
Missouri	4,676,501	770,000	1,109,731	1,084,933	1,060,135
Montana	694,409	199,000	249,934	331,402	412,871
Nebraska	1,483,493	312,000	420,310	480,721	541,132
Nevada	488,738	171,000	205,526	292,483	379,441
New Hampshire	737,681	206,000	259,277	339,591	419,905
New Jersey	7,168,164	1,126,000	1,647,721	1,556,430	1,465,138
New Mexico	1,016,000	245,000	319,370	392,257	465,144
New York	18,236,967	2,704,000	4,037,654	3,650,978	3,264,301
North Carolina	5,082,059	828,000	1,197,298	1,161,677	1,126,056
North Dakota	617,761	188,000	233,384	316,898	400,413
Ohio	10,652,017	1,625,000	2,399,941	2,215,679	2,031,416
Oklahoma	2,559,229	466,000	652,578	684,282	715,986
Oregon	2,091,385	399,000	551,563	595,752	639,941
Pennsylvania	11,793,909	1,788,000	2,646,494	2,431,759	2,217,024
Rhode Island	946,725	236,000	304,413	379,148	453,884
South Carolina	2,590,516	471,000	659,334	690,202	721,071
South Dakota	665,507	195,000	243,693	325,933	408,173
Tennessee	3,923,687	662,000	947,187	942,478	937,770
Texas	11,196,730	1,703,000	2,517,554	2,318,755	2,119,956
Utah	1,059,273	251,000	328,714	400,446	472,178
Vermont	444,330	164,000	195,937	284,080	372,222
Virginia	4,648,494	766,000	1,103,684	1,079,633	1,055,582
Washington	3,409,169	588,000	836,094	845,116	854,138
West Virginia	1,744,237	350,000	476,608	530,061	583,514
Wisconsin	4,417,731	733,000	1,053,859	1,035,966	1,018,073
Wyoming	332,416	148,000	171,773	262,903	354,032
American Samoa	27,159	104,000	105,864	205,139	304,414
Guam	84,996	113,000	118,352	216,083	313,815
Puerto Rico	2,712,033	485,000	685,571	713,197	740,823
Virgin Islands	62,468	109,000	113,487	211,820	310,153

DEPARTMENT OF COMMERCE

Mr. HRUSKA. Mr. President, the committee has approved $1.49 billion for the work of the Department of Commerce in fiscal year 1973. The House had appropriated $1.31 billion and the budget request was for $1.33 billion. The fiscal year 1972 appropriation was $1.27 billion.

When it is called up for consideration, I shall support the amendment of the Senator from Hawaii (Mr. INOUYE) to increase the appropriation for the U.S. Travel Service from $8.5 to $12.1 million. This is a most important program that is both fostering better understanding of this Nation by citizens of other nations and adding greatly to the income we receive from abroad, thus benefiting our balance-of-payments programs. It is essential that this service be given adequate funding to carry on these projects now that it is getting going in a substantial way. The United States is incurring a "travel receipts deficit" of more than $2.7 billion. This outflow of funds from American tourist expenditures abroad is one of the major components of our balance-of-payments deficit. Never before has there existed such a favorable economic climate for the United States to strike hard at this superb target of opportunity to attract foreign tourists to the United States. The devaluation of the dollar, increased prosperity abroad, and the determination of our Government to attract foreign visitors combine to present us with a rare opportunity to give tourist promotion a historic boost. This opportunity must not be permitted to slip by simply because of inadequate resources.

THE JUDICIARY

Mr. HRUSKA. Mr. President, for fiscal year 1973 the committee has approved $191.5 million for the work of the judicial branch of the Federal Government. This contrasts with the House approved figure of $186.8 million, the budget request of $199.5 million, and the fiscal year 1972 appropriation of $176.1 million.

This Senator is particularly concerned by the action of the House in removing all funds for support of the Criminal Justice Act of 1964, as amended, in the District of Columbia. This action was based on the view that the legislation did not provide for such payments because the new superior court for the District of Columbia is not the type of Federal court covered by the act.

In 1970, when the amendments to the Criminal Justice Act were under consideration by the Senate, I proposed and the Senate adopted an amendment expressly extending coverage of the act to the new judicial system then being considered for the District. I ask unanimous consent to have printed at this point in the RECORD an excerpt from the CONGRESSIONAL RECORD, volume 116, part 10, page 13731, containing the debate and action on this amendment.

Also I ask unanimous consent to have printed at this point in the RECORD a letter from the Comptroller General of the United States, dated May 26, 1972, setting forth his opinion that the terms of the act do extend to the District of Columbia.

There being no objection, the items

were ordered to be printed in the RECORD, as follows:

EXCERPT

Mr. HRUSKA. Mr. President, I send to the desk an amendment to the committee substitute amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from Nebraska (Mr. HRUSKA) proposes an amendment as follows:

"On page 22, after line 21, insert a new section as follows:

"SEC. 3. The provisions of this Act shall be applicable in the District of Columbia. The plan for the District of Columbia shall be approved jointly by the District of Columbia Court of Appeals, and the Judicial Council of the District of Columbia Circuit."

Mr. HRUSKA. Mr. President, the amendment that I have offered would make the provisions of the Criminal Justice Act, as amended by S. 1461, fully applicable to the District of Columbia.

This amendment is needed to clarify the application of the act to appointed counsel appearing before the court of general sessions or any other courts of general jurisdiction, now or in the future, in the District of Columbia. The Criminal Justice Act of 1964, as originally enacted, omitted any reference to the District of Columbia Court of General Sessions, although the Comptroller General ruled in 1966 that the act does extend to certain classes of cases prosecuted in that court. As I recall, that was also the intent of the 1964 act.

Since the Constitutional Rights Subcommittee began consideration of S. 1461, and other proposed amendments to the 1964 act, legislation has been proceeding through the Senate and the House District Committees that would significantly reorganize the Federal courts of the District. That legislation is now before a conference committee.

The concurrent jurisdiction of the District of Columbia District Court and the District of Columbia Court of General Sessions over certain offenses against the United States would end under that legislation, and the court system would be greatly changed. It is the concurrent jurisdiction, however, upon which the Comptroller General based his opinion of coverage under the 1964 act.

Therefore, to insure coverage of the Criminal Justice Act in the District, whether or not the court reorganization bill is enacted, for those classes of cases specified in the 1964 act, as amended by S. 1461 as reported by the full Judiciary Committee, this amendment is offered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., May 26, 1972.

Hon. ROWLAND F. KIRKS,
Director, Administrative Office of the United States Courts

DEAR MR. KIRK: Your letter of March 7, 1972, requests our opinion as to whether, in light of the reorganization of the local courts in the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, Public Law 91-358, 84 Stat. 473, the funds appropriated to the Federal Judiciary for the implementation of the Criminal Justice Act (CJA), 18 U.S.C. 3006A, are available to pay attorneys and experts appointed in the District of Columbia Superior Court as well as pay for other services, in cases where exclusive jurisdiction over the criminal offense charged is vested in that court; and if it is our decision that such funds may be so applied, in what categories of cases could such attorneys and experts be compensated. You also ask what responsibilities the Judicial Conference of the United States and your office would have over the administration of, and budgeting for, the CJA program in the District of Columbia (D.C.) Superior Court and the District of Columbia (D.C.) Court of Appeals if we determine that CJA applies to cases peculiar to the local jurisdiction of those courts. We wrote to the Executive Officer of the D.C. Courts for his views on these matters, and in response thereto The Honorable Harold Greene, Chief Judge of the Superior Court of the District of Columbia furnished us the views of the District of Columbia courts.

In 45 Comp. Gen. 785 (1966)—referred to in your letter—we stated that the Criminal Justice Act is intended to provide adequate representation at all stages for persons charged with the commission of felonies or misdemeanors, other than petty offenses as defined in section 1 of title 18, United States Code, who are financially unable to obtain an adequate defense. We noted that in making such provision, the act was framed in terms of the Federal Court System of which the District of Columbia Court of General Sessions has traditionally not been considered a part. However, we pointed out that with respect to the purposes of the Criminal Justice Act of 1964 the United States District Court for the District of Columbia had concurrent jurisdiction over all criminal cases which could properly be heard in the "United States Branch" of the D.C. Court of General Sessions, and that all criminal cases heard in the Court of General Sessions—other than those involving violations of police or municipal ordinances or regulations—were prosecuted by a United States attorney in the name of the United States. We stated that since the United States determined whether a defendant in a criminal case was to be tried in the United States District Court or in the Court of General Sessions, it was difficult to reach the conclusion that the Congress intended a defendant's entitlement under the Criminal Justice Act to be dependent upon whether the United States should choose to prosecute him in one court rather than another. Thus, we concluded that the Criminal Justice Act of 1964 should be construed as covering the United States Branch of the D.C. Court of General Sessions and that any plan covering application of the act in the District of Columbia should include that Branch. See also our decisions of September 24, 1970, B-153485 and 48 Comp. Gen. 569 (1969).

On July 29, 1970, the District of Columbia Court Reform and Criminal Procedure Act of 1970, Public Law 91-358, 84 Stat. 473 (henceforth referred to as the D.C. Court Reform Act) was enacted into law. Among other things, that act merged the three local courts—the Court of General Sessions, the Juvenile Court, and the D.C. Tax Court—into a new Superior Court. The Superior Court is given exclusive jurisdiction "of any criminal case under any law applicable exclusively to the District of Columbia" except for those already commenced in the United States District Court or those filed there during an 18-month transition period. The D.C. Court Reform Act also established the District of Columbia Public Defender Service and phased out over a 30-month period the former pro rata contributions made from District of Columbia appropriations for the maintenance of the United States District Court and the United States Court of Appeals.

You state that the D.C. Superior Court, having been invested with both misdemeanor and felony criminal jurisdiction of local application, has assumed much of the character of a State court. You further state that it appears that two of the major premises of our original opinions finding the Criminal Justice Act of 1964 applicable to the D.C. General Sessions Court are now eliminated: first, there is no longer concurrent jurisdiction shared by the local court and the United States Court and second, the trial jurisdiction is no longer dependent upon whether the United States should choose to prosecute a defendant in one court rather than another.

On October 14, 1970, shortly after the enactment of the D.C. Court Reform Act, there was enacted Public Law 91-447, 84 Stat. 916, amending 18 U.S.C. 3006A (the CJA), which amendment you describe as a "virtual rewriting of the Criminal Justice Act." While in this act the Congress did not disturb the section (18 U.S.C. 3006A(k)) defining the United States "District Courts" to which CJA is applicable, it added a new subsection (1) to the CJA, which subsection provides:

"(1) *Applicability in the District of Columbia.*—The provisions of this Act, other than subsection (h) of section 1, shall be applicable in the District of Columbia. The plan of the District of Columbia shall be approved jointly by the Judicial Council of the District of Columbia Circuit and the District of Columbia Court of Appeals."

This language (except for the phrase "other than subsection (h) of section 1") was initially introduced on April 30, 1970, on the floor of the Senate, by Senator Hruska as an amendment to the bill which amended the CIA. At the time the amendment was introduced, Senator Hruska made the following statement:

"Mr. President, the amendment that I have offered would make the provisions of the Criminal Justice Act, as amended by S. 1461, fully applicable to the District of Columbia.

"This amendment is needed to clarify the application of the act to appointed counsel appearing before the court of general sessions or any other courts of general jurisdiction, now or in the future, in the District of Columbia. The Criminal Justice Act of 1964, as originally enacted, omitted any reference to the District of Columbia Court of General Sessions, although the Comptroller General ruled in 1966 that the act does extend to certain classes of cases prosecuted in that court. As I recall, that was also the intent of the 1964 act.

"Since the Constitutional Rights Subcommittee began consideration of S. 1461, and other proposed amendments to the 1964 act, legislation has been proceeding through the Senate and House District Committees that would significantly reorganize the Federal courts of the District. That legislation is now before a conference committe.

"The concurrent jurisdiction of the District of Columbia District Court and the District of Columbia Court of General Sessions over certain offenses against the United States would end under that legislation, and the court systems would be greatly changed. It is the concurrent jurisdiction, however, upon which the Comptroller General based his opinion of coverage under the 1964 act.

"Therefore, to insure coverage of the Criminal Justice Act in the District, whether or not the court reorganization bill is enacted, for those classes specified in the 1964 act as amended by S. 1461 as reported by the full Judicial Committee, this amendment is offered." (Cong. Rec., vol. 116, pt. 10, p. 13732.)

Senator Hruska's amendment making the CJA applicable in the local courts of the District of Columbia was agreed to by the Senate. It was subsequently accepted by the House, with additional amendments after the Department of Justice noted that the language of the Senate amendment left unclear the applicability of the public defender organization provisions of the act within the District of Columbia and the question of compensation of counsel appointed to represent juveniles. (See the Hearings before Subcommittee No. 3 of the House Judiciary

Committee, June 18 and 25, 1970, pages 96 to 99.) While the Department of Justice proposed specific language to deal with these problems, the House Committee merely amended the bill to exempt the District of Columbia from the public defender organization provisions of the CJA within the District of Columbia courts. Thus, House Report No. 91–1546, 91st Congress, explains:

"Amendment No. 11 provides that except for subsection (h) involving defender organizations, the provisions of the Criminal Justice Act apply in the District of Columbia. The District already [sic] a Public Defender Service (title III, Public Law 91–358)."

The House and the Senate both accepted this further amendment of Senator Hruska's amendment.

Further, we note that section 210(a) of the D.C. Court Reform Act revises, codifies, and enacts the general and permanent laws of the District of Columbia relating to criminal procedure. That section revises title 23, D.C. Code, and provides, in effect, that all criminal prosecutions—except (in most cases) for prosecutions for violations of all police or municipal ordinances or regulations and for violation of all penal statutes in the nature of police or municipal regulations, where the maximum punishment is a fine only, or imprisonment not exceeding one year, or prosecutions for violations of section 6 of the act of July 29, 1892 (D.C. Code, section 22–1107), relating to disorderly conduct, and for violations of section 9 of that act (D.C. Code, section 22–1112), relating to lewd, indecent, or obscene acts—shall be conducted in the name of the United States by the United States attorney for the District of Columbia, or his assistants. In other words, most, if not all, criminal prosecutions formerly brought by the United States attorney in the name of the United States in the "'United States Branch" of the Court of General Sessions or in the United States District Court for the District of Columbia will now be brought by the United States attorney in the name of the United States in the D.C. Superior Court. Application of the CJA to these cases in the Superior Court would accomplish the stated purpose of the sponsor of subsection (1) of the CJA that CJA coverage in the District under the 1970 amendments should include those classes of cases which were covered by the 1964 act prior to the reorganization of the D.C. Court System.

Moreover, the intent to make applicable the CJA to the District of Columbia courts is obvious from the wording of subsection (1) of the CAJ. As noted above, the last sentence of that subsection provides:

"The plan of the District of Columbia shall be approved jointly by the Judicial Council of the District of Columbia Circuit and the District of Columbia Court of Appeals."

We agree with Judge Greene's interpretation of this sentence that:

"* * * Had it not been the clear congressional intent for the Criminal Justice Act to apply to the D. C. Court system, there would, of course, have been no reason whatever for requiring that the Criminal Justice Act plan for the District of Columbia be approved by the District of Columbia Court of Appeals, a local court without strictly 'federal' responsibilities."

We agree that the rationale of our former decisions making the CJA—prior to the 1970 amendments thereto—applicable to the D.C. Court of General Sessions (i.e., the concurrent jurisdiction shared by the local court and the United States District Court for the District of Columbia and the fact that the choice of forum was up to the United States) no longer applies to the D.C. courts as reorganized by the D.C. Court Reform Act. However, it is our opinion that except as to subsection (h) of the CJA relating to public defender systems, subsection (1) of the CJA, as added by Public Law 91–447, clearly and unequivocally makes the CJA applicable to prosecutions brought in the D.C. Superior Court and the D.C. Court of Appeals with regard to those prosecutions brought in the name of the United States, and we so hold.

As to the application of the CJA to juvenile proceedings, section 3006A(a) of title 18, United States Code, provides, in effect, that the CJA will cover:

"* * * any person, financially unable to obtain adequate representation (1) who is charged with * * * juvenile delinquency by the commission of an act, which if committed by an adult, would be such a felony or misdemeanor * * * or, (4) for whom the Sixth Amendment to the Constitution requires the appointment of counsel or for whom, in a case in which he faces loss of liberty, any Federal law requires the appointment of counsel. * * *"

House Report 91–1546, dated September 30, 1970, states on page 3 that the purpose of 18 U.S.C. 3006A is to:

"* * * render explicit the coverage [under section 3006A(a)(1)] of persons charged with juvenile delinquency. Within the District of Columbia, children would also be covered by section [3006A(a)(4)], insofar as the District of Columbia Court Reform and Criminal Procedure Act of 1970 (Public Law 91–358, approved July 29, 1970) requires the appointment of counsel for them in cases in which they face loss of liberty * * *"

In other words, the provisions of 18 U.S.C. 3006A(a)(1) are applicable in the District of Columbia, as in all the other CJA covered jurisdictions,to persons charged with juvenile delinquency by the commission of an act which, if it had been committed by an adult, would be a felony or misdemeanor (other than a petty offense as defined by 18 U.S.C. 1) or with violation of probation covered by the provisions of the CJA, and the provisions of 18 U.S.C. 3006A(a)(4) cover persons charged in juvenile proceedings in the District of Columbia for whom the Sixth Amendment of the Constitution requires the appointment of counsel, or for whom, in a case in which the juvenile faces loss of liberty, any Federal law—including, in particular, the D.C. Court Reform Act—requires the appointment of counsel.

As to your final question, the Administrative Office of the United States Courts should handle the administration of, and budgeting for, the CJA program in the District of Columbia's local courts generally in the same manner as it has in the past and to the extent possible as it administers and budgets for programs of the Federal district courts, except, of course, that the administration of, budgeting for, and financing of, the District of Columbia Public Defender Service should be in accordance with sections 306 and 307 of the D.C. Court Reform Act. Except for the aforementioned, this decision should not be construed to increase or decrease the responsibilities of the Judicial Conference of the United States or the Administrative Office of the United States Courts under sections 604, 605, and 610 of title 28, United States Code with respect to the D.C. Superior Court and the D.C. Court of Appeals.

Copies of this decision are being sent to the Executive Director of the District of Columbia Courts and to the Chief Judge of the Superior Court of the District of Columbia.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

Mr. HRUSKA. Mr. President, it is for these reasons that I am very much pleased that the committee has recommended the deletion from H.R. 14989 of the provision attached by the House removing attorneys and experts appointed by the judges of the District of Columbia Superior Court and Court of Appeals from the coverage of the appropriation. I fully support the committee action and urge that it be approved by the entire Senate.

RELATED AGENCIES

Two of the 15 related agencies covered by this bill are of keen interest to this Senator: The special representative for trade negotiations and the Subversive Activities Control Board.

SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

The committee has concurred with the House and approved $925,000 for the work of the special representative for trade negotiations for fiscal year 1973. This is $235,000 below the budget request, but $111,000 over the fiscal year 1972 appropriation. I have proposed and will call up at a later time an amendment to increase this amount to $1,100,000, almost a full budget estimate. In view of the important preliminary work done at the Summit Conference in Moscow on the subject of expanded Russian-American trade and the hope that concrete agreements in this area can be worked out during the coming year as well as other ongoing projects, I feel that it is necessary that this office receive the full budget estimate. I shall comment in more detail at the time my amendment is considered.

SUBVERSIVE ACTIVITIES CONTROL BOARD

For fiscal year 1973 the committee has approved $450,000 for the work of the Subversive Activities Control Board. This is the same amount approved by the House and equal to the sum appropriated in fiscal year 1972. It is a reduction of $256,000 from the budget request. This Senator has no problem with the cuts approved by the committee in this request.

What does concern me is the provision attached to the appropriation which requires that no part of these funds may be used to implement the directive of President Nixon, Executive Order 11605 signed July 2, 1971, which assigns new duties to the Board.

The purpose of the order was to permit the Board to deal with and make appropriate determinations with regard to violent, action-oriented organizations, whether or not such organizations are Communist in nature. It seems to this Senator that the functions the President delegated to the Board are useful and important. I regret that the action of the committee will have the effect, however temporary, of causing the Board to cease performing these duties.

On July 15, 1971, I made some remarks on the floor of the Senate concerning the Executive order and the purposes which motivated its execution. I ask unanimous consent that the text of those remarks from the CONGRESSIONAL RECORD, volume 117, part 19, page 25300 appear at this point in the RECORD.

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

EXECUTIVE ORDER 10450

The amendments to Executive Order 10450, signed by President Nixon on July 2, provide an effective mechanism for the updating of the Attorney General's list of organizations designated pursuant to the Executive order and will expedite the elimination of those

organizations which consists of over 90 percent which are now inactive or for other appropriate reasons should not be on the list.

Prior to the recent amendment to the Executive order, the Attorney General was charged with the sole responsibility for both the factfinding and designating functions in connection with the Government's personnel security program. This placed the Attorney General in the unfortunate posture of prosecutor, judge, and jury in determining whether any organization should be designated as a subversive organization. That is, there was no independent hearing or independent consideration other than that made by the Attorney General or officials within his own department before an organization could be so designated. Prior to amendment, the Executive order did not recognize the revolutionary terrorist organizations which have developed since the order was last amended.

Under the new amendment to the order, the Subversive Activities Control Board will be authorized, upon petition of the Attorney General, to hear cases and make findings involving organizations which are alleged to fall within the following criteria: Totalitarian, Fascist, Communist, or subversive, or as having adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States, or of any State, or which seeks to overthrow the Government of the United States, or of any State or subdivision thereof, by unlawful means. The above criteria are substantially the same as those prescribed by Executive Order 9835 dated March 21, 1947, and continued in Executive Order 10450, dated April 27, 1953. The amended Executive order provides definitions for each one of the categories of organizations listed in the present Executive order and, as noted, provides for a new class of organization and a definition of that class in recognition of recent history.

The amended Executive order also provides that the Board may determine, after consideration of the evidence, whether those organizations previously designated have ceased to exist, or upon petition of the Attorney General or any cited organization, that such organization does not currently meet the standards for designation. In short, an additional purpose will be to update the list where needed and to eliminate listed organizations which no longer exist or do not meet the criteria established.

The Executive order thus separates the hearing function from the Department of Justice by transferring those functions to the Subversive Activities Control Board. It provides for a due process hearing before an independent body with the Attorney General making his decisions based upon the recommendations and findings of that body.

It must be stressed that the objectives of Executive Order 10450, as amended, relate to the continuing vitality of the Federal employee security program. It should be pointed out that under Executive Order 10450, membership in the designated organizations is but one factor to be considered in implementation of the Federal personnel security program.

The need to provide for the integrity of Government employees is, of course, as old as the Government itself. The present security programs were set out in Executive Order 9835 of March 1947, and confirmed by the present Executive Order 10450 in April 1953. The new amendments are designed to guarantee the continued vitality of the program in light of current circumstances and to provide additional procedural safeguards.

Mr. HRUSKA. In order to implement all of the portions of President Nixon's Executive order, the Senator from Mississippi (Mr. EASTLAND) and I introduced a bill, S. 2294, to amend the Subversive Activities Control Act of 1950. That bill was referred to the Judiciary Committee; no action has been taken thereon. On May 30, 1972, the House approved a companion bill, H.R. 9669, by a vote of 226 to 105; this bill has also been referred to the Judiciary Committee.

We shall proceed with hearings and committee action on these bills at a very early date. Should the Senate then approve language implementing the President's Executive order, there could be no basis for an allegation that duties were transferred by executive fiat which should have been referred to the Congress for consideration. At that time there would no longer be any reason for the proviso approved by the Appropriations Committee.

All of these questions have been debated on the Senate floor twice before between the Senator from North Carolina (Mr. ERVIN) and me. At one point language similar to that contained in the committee bill was approved by the Senate only to be removed in conference. The action of the conference was later validated by the Senate, but by a narrow vote. Rather than require a great deal of time to reargue these points, I will not propose an amendment deleting the committee language, despite the fact that he opposes it. Rather, I hope that the matter can be settled for all time by appropriate action of the Judiciary Committee and the Senate on either H.R. 9669 or S. 2294.

CONCLUSION

With the three exceptions of amendments I have indicated I will propose or support, it is my hope that the Senate will give its approval to the action of the Appropriations Committee and vote favorably on the bill, H.R. 14989, making appropriations for the Departments of State, Justice and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973.

OCEAN PROGRAMS

Mr. FONG. Mr. President, I wish to voice my strong support for the increased funding recommended by the Senate Appropriations Committee for the National Oceanic and Atmospheric Administration in the Department of Commerce.

H.R. 14989, making fiscal 1973 appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies, as reported, would increase NOAA's budget by $76,046,000 over the House allowance, to a total of $465,406,000.

As a member of the Appropriations Committee, I am in hearty agreement with the committee's decision to give NOAA a major boost in its fiscal 1973 budget, particularly for funding activities in the marine environment. Those in Congress who have urged a stronger national effort in ocean activities, as I have, will be encouraged to know that of the $76,046,000 increase recommended for NOAA, $50,076,000 would be for the oceans, and the balance principally for weather, earthquake, and environmental satellite operations.

I am especially pleased that the sea grant program is recommended for an increase of $8,803,000 over the House-approved figure of $21,197,000 and more than $12 million above the fiscal 1972 budget. This program deserves the additional funding to enable it to carry out the purposes set forth by Congress when it enacted the Sea Grant Colleges and Program Act of 1966: To develop the gainful use of marine resources by providing "greater economic opportunities, including expanded employment and commerce; the enjoyment and use of our marine resources; new sources of food; and new means for development of marine resources" through programs of research, education, and training of skilled manpower, and advisory services.

Sea grant institutions across the Nation, including the University of Hawaii, have enthusiastically responded to the challenge and opportunities opened up through the sea grant program. They have been limited in achieving more promising results only by the restricted funding available till now. With additional "seed money," the sea grant program will indeed be able to fulfill its mission as a national program for the development of ocean resources.

Great hopes for oceanography and all marine activities were expressed when Congress in 1966 passed the Marine Resources and Engineering Development Act. This landmark legislation established ocean development as national policy, and placed emphasis on the pragmatic use of the seas and their resources for the national interest, and for the benefit of mankind in all lands.

Out of the legislation emerged a Commission on Marine Science, Engineering, and Resources which published the most comprehensive report ever on the subject of "Our Nation and the Sea." The report laid the foundation for the creation, by an executive reorganization plan, of the National Oceanic and Atmospheric Administration—NOAA—in the Department of Commerce nearly 2 years ago. NOAA embodies the hopes of those who advocated a unified, national effort in the oceans and the atmosphere. Unfortunately, funding has not been adequate for the heavy tasks placed by Congress upon the new agency.

The time has come to provide NOAA with the additional funds necessary, in the Senate Appropriation Committee's view, for such high-priority projects as deep ocean exploration, the sea grant program, analysis of ocean pollution, tropical storm experiments and warning systems, weather modification, earthquake studies, and modernization and relocation of facilities.

I am keenly aware of the fiscal restraints faced by our National Government, but I nevertheless believe these projects deserve adequate budgetary support now by this Congress.

It is my sincere hope that this Congress will rise to the opportunity to provide the recommended funds for NOAA to carry out its vital tasks in the oceans and the atmosphere.

Mr. TALMADGE. Mr. President, will the Senator from South Carolina yield to me at this point?

Mr. HOLLINGS. I am glad to yield to the Senator from Georgia.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. HOLLINGS. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

TRANSPORTATION CRISIS FACED BY MEMBERS OF THE SUPREME COURT

Mr. TALMADGE. Mr. President, I would like to direct the attention of the Senate to a serious transportation crisis which exists in our Nation's Capital. I refer to the problems which the members of the Supreme Court are encountering in getting to and from work every day. This problem has recently grown acute due to the flight of the Justices to the suburbs so that they can be closer to the private schools which their children and grandchildren populate in great numbers. The administration moved to meet this emergency by suggesting that each member of the Court be given his own driver and limousine. The committee has compromised by providing funds in the amount of $14,600 for a car and driver for the Chief Justice.

It occurs to me that perhaps we could arrive at a solution which would adequately and appropriately meet this problem and alleviate trouble spots which exist in several other areas as well.

My staff has instituted extensive inquiries among experts in the transportation industry. I am told that for no more that $1,000 an extremely utilitarian and attractive, though slightly used, vehicle could be secured which would admirably meet this crisis. This all-purpose vehicle has traditionally been used to transport students to and from school, primarily in the Southern States. But it is easily adaptable for other uses. I refer, of course, to that reliable mechanical beast of burden which is second only to the little red school house as an American institution—the yellow schoolbus.

It is a matter of record that the Justices themselves are ardent supporters of this method of transportation. In the great American tradition of selfless patriotism, however, they have not tried to selfishly secure for themselves the benefits which they have so freely distributed to others. With a single such vehicle, we could transport these distinguished jurists in a body, each morning, to their place of employment.

By this one simple stroke, we could do even more than relieve the transportation crisis. As the result of actions taken last year by the Appropriations Committee, unemployment runs rampant in the ranks of chauffeurs and drivers in the District of Columbia. In the District of Columbia government alone, no less than 48 of these drivers were cut from the employment rolls last year. We could reduce this figure by almost 5 percent by employing a driver and guard for the bus.

But the benefits do not stop here. One school bus would cause significantly less air and noise pollution than would the nine limousines. We would be striking a blow for clean air.

In all fairness, however, all would not be roses as the result of my proposal. There would also be some thorns, I am sad to say. The Justices would have to get up before day, stand in the sleet and the snow, to return home after dark. No longer would the suburban neighborhoods ring with the glad shouts of the Justices at play in the afternoon after Court was out. But they are not without recourse. Should this new form of transportation endanger their health, or significantly impinge upon their educational processes, we could implore the President to step in and declare a moratorium on this busing. Of course, this step could only be taken after due deliberation, and the taking of several polls among the electorate.

I want to point out to the Senate that we are moving with caution in this area. If this revolutionary transportation scheme should prove effective, it could be expanded to the ranks of the district and appellate court judges. Who knows, Mr. President, we might even expand the concept developed in this pilot study to include the ranks of neglected HEW bureaucrats who are slowed in their self-appointed mission to save our children, by the traffic jams they must contend with every morning.

I wonder if I might ask the distinguished floor manager of this bill whether any thought was given to such alternative solutions during committees deliberations on the bill.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Georgia has made a very interesting point. The fact of the matter is that Justice Potter Stewart and Justice Byron White testified to the Supreme Court request. At that time the Senator from Rhode Island suggested we might consider a carpool, that such would be more economical. When I suggested at that time that a bus might be employed, they did not seem to like it very much, although I did note they took it with good humor.

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

Mr. HOLLINGS. I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HOLLINGS. I think the justices are really trying to do their best.

I happen to favor the view that if a fellow makes $60,000, why does he need money for a car? Every member of the Court receives $60,000, plus another $60,000, plus the car.

Mr. TALMADGE. Since these Justices are so enamoured of school busing, that would solve the problem admirably, and they could travel more economically in a body at less cost to the taxpayers.

Mr. HOLLINGS. Yes. I do not know where they are located, but I take it they will have to go to the suburban areas to find them and bring them down to the ghetto area.

Mr. TALMADGE. Yes, I understand so, because they have fled to the suburbs in recent years so that they could send their grandchildren to private schools which are public.

Mr. ERVIN. Mr. President, if the Senator will yield, is it not the Senator's understanding that they are sending their grandchildren to neighborhood schools, which are private even though public?

Mr. TALMADGE. Yes, they are private, even though they are public. It occurred to me that it would be a good way to transport these justices while at the same time letting them know what schoolbusing is and its benefits, and letting them enjoy the benefits they have imposed on millions of schoolchildren throughout the country.

I thank my colleague for yielding. I hope next time, in some appropriation bill, his wisdom can prevail on his colleagues.

Mr. HOLLINGS. I thank my colleague. He has brought realism to a real problem.

Mr. President, at the time the bill was considered by your committee, there was included a flammable fabrics research program. $450,000 was made available. It is included in the bill for the experimental technology development and applications incentives program for a textile flammability research. It is the first increment of a 3-year program and will include basic and fundamental research.

I ask unanimous consent to have a statement on this subject printed in the RECORD showing the areas to which the $450,000 will be applied.

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

(1) Development of test methods (including mannequin tests) and laboratory simulation of real life situations including effect on flammability of such use variables as wear, washing and other cleaning methods.

Government sponsored exploration of alternate ways of testing garments is of top priority. It is critically important that fundamental information be developed through a cooperatively financed effort and made immediately available to the several test method setting organizations.

(2) Analysis of burn and accident data.

A. Extend the accident acquisition system already in operation to:

(1) Provide more precise information on the specific garment design and constructions, fabric types and fiber content.

(2) Provide information on the location of initial ignition.

B. Pinpoint demographic information to show where specific exposure is exceptionally high and, through controlled data collection, ascertain whether the introduction of less flammable garments can successfully influence the accident rates in this area.

This is an A priority item. It is imperative that the Federal Government join with the private sector (i.e. hospitals and health units) and the public for the common good. The role of Government would be: the funding of necessary resources, the utilization of its already well established network of research facilities, and the bringing of objectivity and credibility to the effort. The derived benefit will be a more meaningful data base and a practical valuation of a proposed standard upon which to build realistic flammability standards.

(3) Evaluation of potential hazard.

A. Development of design and construction parameters that offer maximum safety in garments based on: design, construction, fabric type and end use category. Simultaneous laboratory work to attempt to predict the design parameters that will be most hazardous. It should also be directed toward the result of reaction to fire (for instance, running in panic).

B. Flammability characteristics of multicomponent systems, including:

(1) Blends of thermoplastics and nonthermoplastics.

(2) Combinations of different thermoplastics, including low percentage usage in seams, trim and combinations of fire retardant and non-fire retardant fibers.

(3) Laminates and other "layered" products, for example, quilts.

(4) Study the interactions of apparel garments in relation to each other in model experiments. This is exceptionally important since almost all individuals wear several layers of garments and the interaction of one to the other is not understood.

This is an A priority item. Knowledge is urgently needed with respect to a meaningful integration of safety hazards and laboratory measurements. Since the entire standard setting process is dependent upon this interaction, government funding of such a research program would provide credence for its finding of need for additional flammability standards.

(4) The role that ignition, flame propagation, heat evolution, and smoke and toxic gas generation play in the flammability behavior of textile products.

The role of Government would be in the funding of a study enlisting the cooperation of university and industry representatives. The study would seek to separate and measure the basic factors involved in flammability and to gain a better understanding of the relationship between them. The benefit would come by the development of a body of knowledge upon which a variety of research could draw.

(5) Non-textile factors in the fire system. Investigate the involvement and possible means of controlling other factors in the fire system:

(1) Detection and suppression (in structural fires).

(2) Source of ignition—ranges, heaters, matches.

(3) Personal behavior (through education).

As visualized today, programs (1) and (2) could result in code changes. Government support for the data and independence of the data collecting source from industrial domination is vital.

The proposed study is based on the realization that the "fireproof building" concept has fallen short of its objective in that virtually all the contents of a modern building are combustible to some degree. Once a fire starts, complete involvement of all materials can occur with surprising rapidity and the conflagration can spread to adjacent areas with great force (flashover). Government assistance in funding is essential to our understanding of how to detect, control and extinquish such fires.

(6) Dissemination of information.

A. Technical assistance to small organizations.

B. Information on advancing technology.

C. Life safety consumer education program.

The public as well as small businesses have a real need to know. A single reliable point source of information is necessary to both acquaint the consumer with the problems of flammability and to advise business with a high level of technical competence on complying with present and future regulations.

ESTIMATE OF DOLLAR COST IN THOUSANDS OVER 3-YEAR PERIOD

	1st year	2d year	3d year	Total
1. Development of test methods	120	120	40	280
2. Analysis of data	50	50	50	150
3. Evaluation of hazard	80	80	40	200
4. Role of various factors in flammability	40	40	40	120
5. Nontextile factors in fire system	85	85	35	205
6. Dissemination of information	75	75	75	225
Total	450	450	280	1,180

RELATIONSHIP OF CLOUD SEEDING TO RAPID CITY FLASH FLOOD DISASTER

Mr. HOLLINGS. Mr. President, the disaster at Rapid City, S. Dak. is one which has generated a tremendous interest, and there are various provisions for weather modification in the bill. For example, a wire reporting system was not available at Rapid City, S. Dak. This particular bill would provide for it. But the other matter which was of great interest was whether seeding or weather modification attempts in South Dakota just preceding the flood had any bearing on the flood. We have at this time a preliminary report from the Bureau of Reclamation, Department of the Interior, and from the National Oceanic and Atmospheric Administration, Department of Commerce, to the effect that it had no effect whatever on or made no contribution to the disaster there. I believe these reports are very significant and should be submitted and made a part of the RECORD, and I ask unanimous consent that they be made a part of the RECORD at this time.

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

RELATIONSHIP OF CLOUD SEEDING TO RAPID CITY FLASH FLOOD DISASTER

Attached is a detailed report of the circumstances surrounding the weather modification activity carried out by the South Dakota School of Mines and Technology as prepared by the Bureau of Reclamation of the Department of the Interior. The Bureau of Reclamation provides funding support to this program. Briefly summarized, the report makes the following points:

a. The general weather situation that developed caused the heavy rains that produced the severe flash flooding.

b. The rains that caused the flooding occurred in a 90 square mile drainage area between Pactola Reservoir (west of Rapid City) and Rapid City.

c. The South Dakota School of Mines and Technology seeded a single cloud for about 10 minutes at about 3 p.m., 14 miles north-northwest of Rapid City and a second cloud was seeded from 5 p.m. to 5:37 p.m. about 27 miles south of Rapid City.

d. Both of the seedings produced less than an inch of rain and the rain that fell would have drained into the Cheyenne River, downstream of Rapid City. They could not have contributed to the loss of life and damage in Rapid City.

NOAA's analysis of the weather situation during the disaster is similar to that in the Bureau of Reclamation report. There is little question but that the weather pattern affecting the area was fully capable of producing the heavy and persistent rains that resulted. On the basis of the preliminary information available to NOAA, we have no evidence that would suggest that the cloud seeding experiments could have had any significant effect on the flash floods that affected the Rapid City area.

NOAA had recognized that flooding was in prospect and advised the responsible officials in the communities likely to be affected. A preliminary summary of the NOAA actions prior to and during the flash flood is also attached. A full report will be available upon completion of the report of a NOAA survey team that is currently on the scene.

SUMMARY OF CLOUD SEEDING ACTIVITIES AND WEATHER CONDITIONS FOR SOUTH DAKOTA—JUNE 9, 1972, PREPARED BY THE BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

The storm that produced the Rapid City catastrophe was the result of a rare combination of meteorologic conditions.

These included a persistent easterly flow of low-level, moist air against the Black Hills, and the absence of westerly winds aloft that usually move such mountain-formed rainclouds eastward where rainfall is then deposited over the plains.

Cloud seeding, conducted by the Institute of Atmospheric Sciences of the South Dakota School of Mines and Technology on the afternoon of Friday, June 9, could not have contributed to the loss of life and damage in Rapid City.

GENERAL WEATHER SITUATION

The Dakotas were under the influence of the leading edge of a cold air mass on Friday, June 9. At 9 a.m. MDT, the frontal system extended from a position south of Sioux Falls to about 50 miles north of Rapid City, moving very slowly to the southwest. Late in the day, the frontal system became stationary in the vicinity of the Black Hills.

Strong easterly winds prevailed from the surface to about 5,000 feet, with only very light winds above 8,000 feet.

Although dry air enveloped the Rapid City area at 6 a.m. MDT, there was considerable moisture to the northeast. This moisture was later carried by the easterly flow into the Black Hills area.

The normal afternoon heating was accomplished by the continuous supply of extremely moist air, thus increasing instability and providing favorable conditions for the development of large cumulo-nimbus clouds with tops reaching 50,000 feet.

RAINFALL PATTERN

The heavy rain area was limited to the east slope of the Black Hills. This represents a belt about 15 miles wide from the first outlying foothills just west of north-south Highway 79 to a line of 6,000 to 7,000-foot crests that include Harney Peak, loftiest in the Black Hills.

To reach the site where the deluge occurred, the moist air, moving in a west-northwest direction, passed first over Pine Ridge, 70 miles southeast of Rapid City. Pine Ridge is at an elevation of about 3,700 feet. From there, the terrain falls away to an average elevation of about 2,700 feet along the shallow Cheyenne River basin, then up a gradual rise of about 500 feet to the beginning of the abrupt Black Hills slope.

No excessive rain fell at Pine Ridge, and neither was there excessive rain between Pine Ridge and any point in the Black Hills where the ground rises above 4,500 feet in elevation.

SEEDING ACTIVITY ON JUNE 9

South Dakota School of Mines and Technology had a single seeding aircraft aloft during part of the afternoon of Friday, June 9.

The school's cloud seeding experiments are part of a continuing research effort that has been in progress at Rapid City each summer since 1965. When seedable summer clouds occur in the experimental area, three options are exercised on a randomized selection basis: 1. Don't seed. 2. Seed with common salt. 3. Seed with silver iodide.

On Friday, seeding was conducted with finely divided common salt, released by the research aircraft at cloud base, into the updraft.

Seeding was conducted over dry land east of the Black Hills. A single convective cloud was seeded for about 10 minutes at approximately 3 p.m., near Piedmont, some 14 miles north-northwest of Rapid City, in an area that drains into Elk Creek. A second cloud was seeded from 5 p.m. until 5:37 p.m., in the vicinity of Fairburn, about 27 miles south of Rapid City. Battle Creek and Red Shirt Creek drain this area.

Each of these three creeks contributes its entire flow to the Cheyenne River, downstream (east) of Rapid City.

The first seeded cloud remained nearly stationary after seeding, while the second was tracked by radar in a general nothwesterly direction to a point near Hermosa, well away from the area where the deluge later occurred.

About 700 pounds of salt were distributed between the two clouds. Rain accompanied both seeding events. Radar returns from the two seeded clouds enabled project officials to estimate rainfall amounts of 1,000 acre-feet from the first cloud, near Piedmont, and about 4,000 acre-feet from the cloud near Fairburn. In each case, these amounts represent less than 1 inch of rainfall.

By contrast, the rainfall that deluged Rapid Creek and Battle Creek and contributed most to the devastation at Rapid City was greatly in excess of 100,000 acre-feet. The total Black Hills deluge was probably between 500,000 and 1 million acre-feet.

Expressed another way, the amount of rainfall associated with the seeding effort was less than one-thousandth the amount that produced the flood, and fell well outside the flood watersheds.

FLOOD HYDROLOGY

The 100-year, 6-hour maximum rainfall estimate for the Rapid City area is 3.6 inches (Weather Bureau Technical Paper No. 40). In the flood design for the Bureau of Reclamation's Pactola Reservoir, the maximum probable computed rainfall used was 9.2 inches in a 12-hour period over the reservoir's 320-square mile drainage area. The design flow inflow to Pactola is 69,000 cfs.

Between Pactola Reservoir and Rapid City, there is a 90-square mile drainage area. It was here that virtually all of the flood waters originated. The flood control space at Pactola showed only 1,200 acre-feet was occupied following the flood, out of a flood control capacity of 43,050 acre-feet. There were no spills at Pactola, where 40 cfs were being released before the flood. Outlets were closed at the dam sometime during the storm period.

COMPUTER PROGRAMMING

The Bureau employs a computer-processed mathematical model in the performance of all summer cloud seeding experiments it sponsors, including those in South Dakota.

The computer program incorporates what is known about the rainfall production mechanism of untreated clouds, and projects in numerical form produce the presumed effects of different seeding techniques on those same clouds.

On Friday, June 9, the computer program predicted that seeding clouds over the plains area with powdered common salt would cause them to rain out before they reached the Black Hills. Radar surveillance showed heavy (water) relativity in clouds over the Black Hills, and because of this naturally efficient rain production, clouds in that area were specifically not seeded.

The experiment was intended to cause the clouds to rain out over the still-dry plains, and to make them rain more efficiently than they would have naturally. Radar observations indicated that the two clouds that were seeded did precipitate in a manner predicted by the computer.

PRELIMINARY REPORT OF WARNINGS ISSUED ON THE RAPID CITY FLOOD, JUNE 9, 1972

The following is a brief summary of the weather events and warnings issued in connection with the Rapid City flood. This summary is based on informal reports and is subject to verification by the survey team.

The late afternoon forecast for Friday evening and Saturday morning called for thundershowers. Light rain started in the Rapid Creek drainage area at 5 p.m. and became heavy at 6 p.m. Most of the heavy amounts of precipitation occurred in a one and one-half to two-hour period. Newton Fork, which was in the center of the heavy rains, reported seven and one-quarter inches with most of this rain occurring between 8:30 p.m. and 10 p.m. A site 5 miles west of Rapid City reported 10 inches between 5:30 and 11:00 p.m.

Since the National Weather Wire Service (NWWS) is not available in South Dakota, forecasts and warnings are disseminated by telephone. The Weather Service Office (WSO) Rapid City started disseminating warning information at 6:50 p.m. and had completed most of the dissemination by 8 p.m. Telephone calls were made to large numbers of radio and television stations, Defense Civil Preparedness Agency offices and law enforcement agencies in the area.

Warnings issued, June 9:

6:50 p.m.—first warning issued based on data from Air Weather Service radar at Ellsworth AFB, by telephone.

7:15 p.m.—flash flood warning for Spearfish area.

8:00 p.m.—flash flood warning for Rapid Creek and Box Elder Creek drainage.

After 8:00 p.m.—radio and TV made continual warnings and flash flood situation reports.

10:30–11:00 p.m.—Mayor and Civil Defense officials asked for immediate evacuation of flood plain in Rapid City.

Apparently large quantities of debris blocked the spillway of the Canyon Lake Dam causing the water level to build up to extremely high levels. The dam started to give way at 11:00 p.m. and the entire dam gave way within about 15 minutes. The crest occurred about one mile downstream a half hour later. The peak discharge through Rapid City was measured at about 25,000 cubic feet per second. The previous record was 2,000 c.f.s. in 1962.

Mr. HOLLINGS. Mr. President, for information of the Senate, I wish to advise that the financial status of the disaster loan fund of the Small Business Administration for fiscal 1973 is sufficient to cover the requirements for the South Dakota floods plus other disasters that are now in process. There will be an estimated balance on June 30, 1972, of $70 million. This sum together with the $80 million allowed in the pending bill will provide a total availability of $150 million.

Mr. President, I ask unanimous consent that a statement on the status of the disaster loan funds, as furnished by the Small Business Administration on June 14, be printed in the RECORD.

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

STATUS OF DISASTER LOAN FUNDS

	Millions
A. Estimated balance June 30, 1972	*$70
Capital appropriation fiscal year 1973	80
Total available 1973	150

* (Excluding South Dakota Flood)

B. SOUTH DAKOTA FLOODS

SBA has a Cadre at Rapid City, South Dakota, and is establishing an office to handle loan applicants. Although it is too early to obtain reasonable estimates for the requirements for South Dakota, the current availability in the fund is sufficient to commence approving loan applications. This $70 million balance along with the $80 million appropriation for 1973, should be sufficient to cover the requirements for South Dakota, plus other disasters that are now in process.

C. MAKEUP OF $80 MILLION 1973 APPROPRIATION

The $80 million 1973 appropriation was predicated on an estimated loan volume of $100 million. The $80 million appropriation plus $24.5 million carryover from 1972 would have been sufficient for this $100 million estimate. Of course, there is no way to forecast disaster requirements, and in the event the $80 million proves insufficient, it will be necessary for SBA to request supplemental appropriations.

D. EXPLANATION OF $70 MILLION BALANCE AT JUNE 30, 1972

At the time SBA appeared in support of their $70 million in supplemental funds for disaster loans, there were approximately four months left in the Fiscal Year. At that time, the SBA projection included requirements for existing disasters, extension of Flood Insurance requirements, and the floods in West Virginia and Massachusetts. The balance in the fund at the time, plus the $70 million would have taken care of these requirements and left $24.5 million to carry over into FY 1973. The $24.5 million, plus the $80 million 1973 appropriation was for an estimated $100 million program in 1973. Since SBA's appearance, there have been revised estimates indicating that the carryover would be $70 million instead of the $24.5 million. These shortfalls are primarily as follows:

[In thousands of dollars]

Disaster	Previous 1972 estimate	Actual through May	Current 1972 estimates	Difference
Corpus Christi (Fern)	42,000	32,233	36,000	6,000
Newark (New York and New Jersey)	80,000	54,864	56,000	24,000
West Virginia	10,000	2,717	3,500	6,500
Massachusetts	10,000	5,450	7,000	3,000
Other Disasters [1]	58,000	48,264	52,000	6,000

[1] Includes Celia of $24,800,000 (closed in February).

Mr. HOLLINGS. Mr. President, the Senator from Wisconsin has an amendment, but the Senator from Florida has a matter which will save the time of the Senator from Florida if it may be brought up at this time.

Just before the bill was marked up, on that very day, under the various regional commission development programs, the new Pacific Northwest Commission was announced. We were able to include funding for it. The very next day, the State of Florida was added to the Coastal Plans Regional Commission. The Senator from Florida has an amendment which the committee is willing to accept. I believe at this time perhaps the Senator would want to call up his amendment, have it reported, and then perhaps we can discuss it.

Mr. GURNEY. Mr. President, will the Senator yield me 2 minutes?

Mr. HOLLINGS. I yield.

Mr. GURNEY. I thank the Senator from South Carolina.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read the amendment, as follows:

On page 25, line 23, in lieu of $62,472,000 insert $62,672,000.

Mr. GURNEY. Mr. President, what the amendment does is add $200,000 to the appropriation for Regional Action Planning Commissions of the Department of Commerce. The $200,000 would be used to revise and update the Coastal Plain Regional Commission to take into account the addition of Florida to the commission.

As the distinguished manager of the bill has pointed out, Florida asked permission to get into this regional com-

mission, which is composed of North Carolina, South Carolina, and Georgia. The Secretary of Commerce a few days ago agreed to it and recommended that this be done, but it was too late to get the money in the bill. The amendment would take care of it, and I thank the Senator for considering it at this time.

Mr. HOLLINGS. Mr. President, unless our distinguished leader on the other side has any comment, we are glad to accept this amendment without a record vote.

I yield back my time.

Mrs. SMITH. Mr. President, I yield back my time.

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

The amendment was agreed to.

Mr. INOUYE. Mr. President, I wish to call up my modified version of amendment No. 1234, which I offer for myself and the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment, as follows:

On page 29, line 8, strike out "$8,500,000" and insert in lieu thereof "$10,000,000".

Mr. INOUYE. Mr. President, this is an amendment to increase the committee's recommendation of $8.5 million for the U.S. Travel Service to $10 million.

I have discussed the amendment with the floor manager, the distinguished Senator from South Carolina, and with the distinguished acting minority leader (Mrs. SMITH). I have been assured that this amendment can be taken to conference.

The U.S. Travel Service in the Department of Commerce serves this Nation as the Federal Government's official tourism promotion office. Enabling legislation passed in 1961 states that USTS is to strengthen the domestic and foreign commerce of this Nation and to promote friendly understanding and appreciation of the United States through encouragement of visits by foreign residents.

To accomplish this important and very sizable task, USTS was given a budget of only $6.5 million by the Congress for its operations during fiscal year 1972. This amount placed the United States 15th in the lineup of nations when tourism promotion budgets are compared—15 in an increasingly stiff competition for the $20 billion-plus annual travel market.

For fiscal 1973, the House of Representatives has set the USTS budget at $8.5 million. I feel, however, that the Senate, which took the lead in establishing the U.S. Travel Service, should now take the lead in supporting its programs through an increase in that budget figure. And I am, therefore, proposing an amendment which would support an increase in the USTS budget to $12 million. Let me present several reasons—some recent, others historic—for my action:

The United States is still suffering from a heavy deficit in the balance-of-payments ledger—and the travel account has represented better than half of that imbalance margin in all but 3 of the last 10 years. In 1970 alone, the travel-dollar deficit was $2.472 billion, an increase of 17.2 percent over the 1969 deficit. Estimates for 1971 are $2.6 billion, a 7-percent increase over the 1970 figure.

While this reduction of travel-deficit growth is encouraging, efforts must be stepped up to reduce it even further.

Recent events give the United States an excellent opportunity to help shore up the travel-dollar deficit situation. Following the revaluation of the dollar in December, the currencies of the major tourism markets have moved from 7.5 to about 17 percent, relative to the dollar. Coincident with that occurrence, transatlantic fares were reduced. The consequence is that a trip to the United States is now cheaper than it has been for many years. Now it is up to us to promote that fact—to make everyone aware of the opportunities that await them in this country at very low costs.

There are now approximately 70 million people, in the nations served by USTS regional offices, with economic capabilities for a trip to the United States. However, many of them are locked into long-existing patterns of travel to destinations other than the United States. In order to break these patterns, USTS must be given the resources to reach a higher percentage of these travelers with a promotional message. Such action is especially important over the next few years in order to assure heavy international attendance at planned American Revolution bicentennial programs.

Among the many benefits to be experienced from more tourism promotion is a very impressive one to be enjoyed by the labor community. Recent statistics prove that every $20,000 brought into the United States through tourism creates one new job for an American. Further, every overseas visitor to the United State represents a $400 export.

The Senate Committee on Appropriations has asked to see evidence of the effectiveness of USTS programs before approving an appropriation beyond $8.5 million. Concrete results of the USTS program were presented by the former Assistant Secretary of Commerce for Tourism, C. Langhorne Washburn, when he appeared before the Committee on Appropriations. Broader evidence of the impact of this program will not be easy to obtain—and it will be costly.

Since its creation nearly 11 years ago, USTS has operated on an annual budget of $3 million to $4.5 million through 1971. It is difficult to measure the effectiveness of so small a budget on the international travel patterns of the entire world. However, with an increased budget during fiscal year 1972 and the expectation of additional funds in the coming fiscal year, the United States Travel Service has undertaken the development of a comprehensive system of measuring the impact of its programs in terms of the objectives set forth for it by the International Travel Act of 1961—Public Law 87-63—as amended. Next year, USTS should be asked to show the mean by which they will measure their program results. One year is not sufficient time to obtain and demonstrate results.

In the meantime, however, there is a need to take positive action to reduce the growth of the travel deficit—now, while travel to the United States is so low in cost.

Significance of this program to the administration's overall effort to improve our economic situation was emphasized by the President in his most recent state of the Union message. In it he affirmed his support of the expanded travel promotion program proposed in the fiscal year 1973 budget submission. He also asked the Congress to allocate "about double" the 1972 budget for USTS. That amount would come to approximately $12 million.

I would hope that this body would defer to the Committee on Commerce, which regards tourism as an instrument to help alleviate the present balance-of-payment ills experienced by this Nation. In the January 28, 1972, publication, Goals of the Committee on Commerce, it was stated that "comprehensive oversight hearing will be held early in the second session." Accordingly, we should allow the U.S. Travel Service increased funding to operate its expanded projects while the committee continues to review the agency's programs.

Beyond the hard economic facts involved in international travel there is another aspect of the USTS program, one which was given high priority by Congress when it passed the International Travel Act of 1961: the role of travel in creating among foreign citizens a friendly understanding and appreciation of the United States and its people. Their program will enhance our image abroad at a time when such efforts are especially important.

This past winter, following his meetings in Florida with President Nixon, West German Chancellor Willy Brandt was asked by reporters for his impression of the United States. He replied that he was amazed by the warmth and friendliness of the American people. If this same impression can be left with the 25 million visitors who are expected to visit the United States during the Bicentennial Celebration year of 1976, support of the travel promotion programs of the U.S. Travel Service will have been abundantly rewarded.

In the area of travel, the United States cannot face inward only—it must also look across its border and its shorelines—it must play an even more energetic and responsible role in the formidable international competition for the travel dollar, it must seek better understanding among people through travel, and it must take every opportunity to reflect itself appropriately through its travel-promotion messages in other nations.

Mr. JAVITS. Mr. President, I strongly support the amendment being introduced by the distinguished Senator from Hawaii (Mr. INOUYE) to increase the appropriations for the U.S. Travel Service—this country's national tourist office.

In his state of the Union address, President Nixon asked the Congress to vote USTS an appropriation of $12 mil-

lion. Although severe budget stringency was being asked in other quarters of this Government, this additional investment in the one agency devoted to correcting our severe travel gap represented a good, even essential, investment. In our annual report, the Republican members of the Joint Economic Committee stated that it was a realistic use of opportunity costing.

With all due respect to the Appropriations Committee, I suggest that we give further consideration to the President's request for $12 million.

Right now the United States faces a major challenge to its economic supremacy. It must either compete more effectively in the world's markets, or watch its foreign currency earnings shrink—and its balance-of-payments deficit widen.

International travel today is a $20 billion jackpot. Last year, however, the Congress gave the U.S. Travel Service only $6.5 million to compete for this burgeoning market. In a ranking of national tourist offices, by budget size, the U.S. Travel Service rated not first or second—but 15th.

It is hardly surprising that in the last 10 years, the U.S. share of the world's international travel "arrivals" has remained relatively constant—and its share of the world's travel receipts has increased less than 1 percentage point.

Every successful businessman knows that to make money you must invest money. And that is what the United States must do to win more international travel dollars.

While we have been appropriating USTS lean budgets of $3, $4, and even $6 million, foreign governments have been moving into the world's lushest travel markets and establishing generously funded travel promotion operations.

At last count, 94 foreign countries were supporting 206 official travel promotion offices in the United States. This country had fewer than 20 such offices abroad—even when those run by States and cities were taken into account.

At the same time, more than 70 foreign-flag carriers were operating some 628 U.S. sales offices—all promoting travel to foreign destinations.

The United States has to compete harder just to catch up. It has to attract more foreign visitors to its shores because every year, foreign governments are luring more Americans abroad. Last year, Americans took more than 23 million trips to foreign countries. In the last 10 years, the number of trips Americans have taken abroad annually have more than doubled. This country has no viable alternative except to compete.

Part of the U.S. Travel Service mission is to convince the private sector—as well as U.S. States and cities—of this fact. The domestic U.S. travel market is so affluent that large segments of the domestic tourism industry have simply not entered the international market.

The only way to engage these industry components in the Visit U.S.A. program is to minimize their risk—to show them first of all, that there is profit potential in the foreign market, and second, that a limited promotional investment in foreign language advertising and sales tools will pay off. In short, the U.S. National Tourist Office must act as a catalyst. It must literally coax portions of the private sector to compete in the interest in the international market.

At present, the U.S. Travel Service is employing market research and matching grants to increase private enterprise interest in the international market.

In the past year, with matching funds, USTS has led 26 States, the District of Columbia, and nearly 200 private entrepreneurs, into the international travel market and involved them in a concerted Visit U.S.A. promotional program.

All this takes money, but in this case we get a return on our investment in USTS. With the $12 million appropriation USTS could stimulate even greater State, local and private industry participation. It can help each of our States to compete more effectively for a share of the international travel market, and help redress our $2 billion plus travel gap.

There is one last point I would like to make about the national tourist office's role as a catalytic agent—and it is this: in the past, it has been argued that increasing USTS' appropriation was unnecessary because promoting travel to the United States was the responsibility of the airlines and the hotels. This is no longer a valid argument, if, in fact, it ever was.

The U.S. travel industry is rapidly becoming internationalized in ownership, management, and service. A number of U.S. hotel and motel chains own or manage foreign as well as U.S. properties. Some U.S. carriers may serve as many points outside the country as inside, and their employees abroad, below the district sales manager level, are not U.S. citizens, but host country nationals.

These U.S. round-the-world airlines compete at nearly every foreign station they serve with a dozen or so other airlines flying to many of the same foreign cities they do. We cannot expect these multinational concerns to exclusively promote U.S. destinations, U.S. international carriers must advertise foreign as well as U.S. destinations or run the risk of transporting seats filled only with pressurized air.

The balance-of-payments deficit and the travel gap are public sector deficits, and the public sector must play a more active role in boosting its own foreign currency earnings.

A budget increase for USTS, in the amount the President requested, would be a sound, remedial step. Budget research conducted by USTS indicates that a correlation does exist between a nation's tourism promotion budget and its tourism receipts. The larger the proportion the national tourist office budget is of the GNP, the larger the proportion the country's tourism receipts is of GNP.

Mr. ALLOTT. Mr. President, I wish to state my support for Senator INOUYE's amendment which would raise the USTS appropriation. This will restore the program to a level more in line with the budget request of $12 million for fiscal year 1973. Because Colorado receives thousands of incoming foreign visitors annually, I have a particular awareness of the activities of the USTS. I believe that the budget request of $12 million for fiscal year 1973 is a reasonable one—especially considering the task.

The U.S. Travel Service is a small agency with fewer than 50 U.S. citizen employees. It operates only eight travel promotion officers abroad and one covers a sales territory of 20 countries. Another serves, singlehandedly, a region almost as large as the United States.

The fact is that in the major markets of the world, USTS and the U.S. travel industry are outmanned. They are also being outgunned and overpowered.

Competition in the world travel market is formidable today and growing more so. Nearly every country in the world is fighting for a share of the $20 billion world travel market, and this Government is partially responsible for the situation. Our well intentioned foreign aid program, has heped to bankroll our own touristic competitors.

I am not trying to be critical of our foreign aid programs, but I do want to point out that these programs do tend to aggravate an already bad balance of payments situation. While we continue to support the establishment of a tourist industry in developing countries, we must maintain a balance through continued support of our national tourist office and its efforts to help U.S. destinations compete for international tourists.

In every major travel market in the world—especially in Europe and the United Kingdom—U.S. destinations are competing with strong, Government-backed foreign tourist offices and flag carriers. One has only to study northern European travel patterns to see that the U.S. Government must increase its efforts just to stay in the running or to present a competitive package.

Part of the USTS job is to involve the private sector and other levels of government in the "Visit U.S.A." promotion effort. The Federal Government, and the public sector, should not have to assume the entire program cost.

In the last year, USTS has successfully used modest matching grants to increase private sector, and local government, involvement in the "Visit U.S.A." effort. With an investment of $478,798, USTS has generated more than a million dollars worth of "Visit U.S.A." advertising and promotion.

The U.S. Travel Service program is a productive investment—not an expense. The return on this investment will come in the form of increased foreign currency earnings for the United States greater sales tax revenues for hard-pressed State governments, and fatter excise tax collections for the U.S. Treasury.

Mr. HOLLINGS. Mr. President, unless there is comment from the other side, I yield back my time and am ready to accept the amendment without a record vote.

Mrs. SMITH. Mr. President, I yield back my time.

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

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. INOUYE. Mr. President, I had another amendment, amendment No. 1233, which I am not going to call up at this time. I have been assured by the Senator that when the priorities picture is a better one, the committee will consider it.

Mr. HOLLINGS. That is right, Mr. President. The Sao Paulo Trade Center was considered as a third priority item. The committee did not go along with it at this time, but after this year I am certain the Sao Paulo Trade Center will be heading the list.

Mr. INOUYE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter to me dated June 14, 1972, from William P. Rogers, Secretary of State of the United States.

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

THE SECRETARY OF STATE,
Washington, D.C., June 14, 1972.

Hon. DANIEL K. INOUYE,
U.S. Senate.

DEAR SENATOR INOUYE: The restoration of $633,000 to the Department of Commerce appropriation for the construction of a United States Trade Center in Sao Paulo, Brazil, and of $3.5 million for the United States Travel Service would be valuable contributions to our efforts to improve our balance of payments. The first would help to expand our exports and the second would increase the number of foreign visitors to the United States, thereby providing new jobs and adding to our exports.

It is for these reasons that the Department of State is favorable to your amendments to H.R. 14989. I hope that they will be adopted by the Senate.

The economy of Brazil is the largest in Latin America, with a gross national product surpassing $40 billion in 1971. As a trading partner, Brazil ranks just behind France, having taken just under a billion dollars worth of U.S. exports during 1971. Furthermore, the economies of few countries in the world have grown at a rate of over nine percent as has that of Brazil in each of the past four years. That kind of growth has not gone unnoticed by Europe and Japan. Last year cabinet ministers of the French and German governments opened national trade fairs in Brazil, while the Soviet Union and Japan ran active trade centers and the French took steps to establish their own center.

Despite our best efforts, the United States share of the Brazilian market declined from 39 percent in 1966 to 32 percent in 1970. Establishment of a trade center, jointly administered by the Department of Commerce and the Department of State, in Sao Paulo, an industrial metropolis which by itself absorbs half of the U.S. exports destined for Brazil, would be of major assistance in reversing this trend.

The Travel Service has had a notable success in increasing the number of foreign visitors to the United States. The long-term interest of the United States in the growth of this travel, which has so favorable an effect upon our balance of payments, is a sound reason for assuring that the Travel Service has adequate funds to develop this potential.

It is with these considerations in mind that I wish to assure you of my support for the restoration of these funds requested for the FY 1973 budget of the Department of Commerce and approved by the Office of Management and Budget.

Sincerely,

WILLIAM P. ROGERS.

PRIVILEGE OF THE FLOOR

Mr. GURNEY. Mr. President, I ask unanimous consent that my staff members, Mr. Leo Zani and Mr. Kevin O'Connell, be given the privilege of the floor during the debate.

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

Mr. HRUSKA. Mr. President, I ask unanimous consent that, during the consideration and voting on this bill and any amendments to it, two members of the Judiciary Committee staff, Malcolm Hawk and Stan Ebner, be permitted access to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, I ask unanimous consent to have present a Judiciary Committee staff member from this side of the aisle as well.

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

AMENDMENT NO. 1226

Mr. PROXMIRE. Mr. President, I call up my amendment, No. 1226, and ask that it be read.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

It is proposed, on page 52, to strike lines 15 through 20, as follows:

SUBVERSIVE ACTIVITIES CONTROL BOARD

SALARIES AND EXPENSES

For necessary expenses of the Subversive Activities Control Board, including services as authorized by 5 U.S.C. 3109, and not to exceed $15,000 for expenses of travel, $450,000.

Mr. PROXMIRE. Mr. President, let me state what the amendment would do. It would strike out the provision providing necessary expenses of the Subversive Activities Control Board. It would not touch the committee amendment, which is desirable and necessary, if this amendment is adopted, so that the action taken by the committee would be in conference in full.

Mr. President, this amendment is cosponsored by the Senator from North Carolina (Mr. ERVIN) and myself. I do not believe it is an overstatement to say that in 22 years and with $6.75 million, the Subversive Activities Control Board has not done anything useful. The Congress is being asked for yet another appropriation—on the grounds that this time as we were told in 1967 and 1968 and 1969 and 1970 and 1971 this time things will be different. But all of the evidence leads to the conclusion that this revised edition of SACB will do no more and cost no less than its expensive and impotent predecessors. How many times do we have to find this well dry before we conclude that there is no water in it.

The Board was created in 1950, at the height of American anxiety over the cold war. The Board was to identify "Communist action," "Communist front," and "Communist infiltrated" organizations, and require both the groups and their members to register with the Attorney General. But in the 22 years since, there has not been a single case in which that procedure was successfully carried out. Not one. In some years, the Board was presented with no cases. On some cases they did hear, the Board took no action. In some cases on which the Board took action, the action was overturned by the courts. In no cases at all did any person or any group ever register in accordance with the Board's direction. Seven groups were found to be "Communist front;" no groups were found to be "Communist infiltrated;" and one group—the Communist Party itself—was found to be "Communist action." What a contribution. The Communist Party was found to be Communist Action. No individuals were ever finally registered as members of these groups.

These statistics are bleak indeed. The explanation is not that the Board was ineffectual; the problem is rather in the ill-advised and unconstitutional responsibilities the Board was assigned. In 1965 the Supreme Court found the Board in violation of the fifth amendment's guarantee against self-incrimination, because the Board required individuals to register as members of Communist groups at a time when membership was illegal under the Smith Act. After Congress tried to avoid that difficulty in a 1967 revision, the Board's system of registration was held to be in violation of the first amendment's guarantee of freedom of association—and the decision was affirmed by the Supreme Court's denial of certiorari. Had the Board been more successful, it would only have succeeded in violating the constitutional rights of many citizens; as it was, what little it tried to do was often thrown out of court. It is not surprising, then, that the Board did nothing at all in 1967 and 1968, and almost nothing since. In 1970, the Board held hearings on two cases, taking testimony from three witnesses, for a total of 10 days. For their 10 days of work, each of the five Board members received a salary of $36,000.

Faced with this scandalous situation in 1971, the administration tried to resuscitate the Board by issuing Executive Order 11605. This order purported to give the Board a new set of tasks to justify its continuation. The Board was now to be responsible for keeping a list of subversive organizations for use by the executive branch in considering prospective employees. This list had previously been kept by the Attorney General, although no organizations had been added to or removed from the list since 1955.

The truth is that this new responsibility is just as useless and probably considerably less time-consuming than the old ones—and suffers in addition from a double case of unconstitutionality.

In the first place, as the Appropriations Committee decided, and as the Senate voted last year, it is not the business of an Executive order to legislate an entirely new set of functions for an agency established by act of Congress. This is an outrageous attempt to usurp legislative powers. While the recent court decision of American Servicemen's Fund et al. against Mitchell did not rule directly on this matter, it did hold that—

There is no precedent for a President delegating to an independent, quasi-judicial body far-reaching responsibilities different in form and effect from those specifically

given that body when created by the Congress.

Not only does Executive Order 11605 violate separation of powers, it is very likely unconstitutional on other grounds as well. As the American Servicemen's Fund decision said—

> The Order contains definitions governing listing which appear on their face to raise constitutional problems by reason of their vagueness and overbreadth and the resulting effect on the rights of many Government workers, present or future.

In effect, Executive Order 11605 attempts to enlarge the Board's old restrictions on freedom of association, and make them into conditions for employment. However, the Supreme Court's decision on loyalty oaths in Cole against Richardson just last April clearly states that employment may not be restricted by such unconstitutional requirements.

But, Mr. President, even if we assume that the courts will allow the Board to do everything Executive Order 11605 allows—and that seems far from likely—even then, I submit, the Board will still have almost nothing to do.

The Board is empowered to do two things with the Attorney General's list. First, upon petition by the Attorney General, it may add organizations to the list. The budget proposal of the Board says that 25 such cases are expected. But Kevin Maroney, a Justice Department official, testified in January that the Department would "probably not file any cases" while the American Servicemen's Fund case is being appealed—which could take 2 years. In other words, this entire fiscal year could easily go by without the Justice Department submitting a single new case.

The Board may also delete from the list organizations which no longer exists, or are no longer subversive. The Board's budget proposal anticipates 156 cases of this sort, of which 150 involve merely the question of the organization's existence. Now it might seem that crossing the names of organizations which do not exist off a list which has not been used for 17 years, is an utterly pointless activity. But we need not worry that the Board will waste much time on this project; a Board official candidly indicated that the Board can dispose of 25 cases in a single evening. Six evenings should be enough to complete this year's work.

In short, even if Executive Order 11605 were constitutional, it could not possibly justify the continued existence of the Subversive Activities Control Board.

My point is not only that the Subversive Activities Control Board has done almost nothing and will continue to do almost nothing. There is also nothing it really ought to be doing. It is no accident that the Board has kept running afoul of the courts. Its approach to the problem of internal security is not in keeping with guarantees of constitutional liberties. Compiling lists of groups with allegedly subversive ideas is insidious and ultimately beside the point. When men commit illegal acts to overthrow the Government, or have plans to commit such acts, they should be apprehended and tried. Even if the Control Board had had more success, it would have contributed nothing to our security—and it would have contributed much more to infringement of constitutional rights. An official blacklist in the hands of five men is inconsistent with our democratic society.

The Subversive Activities Control Board is a boondoggle in cold warrior's clothing. We should not respond to a program of no value by cutting its budget request to last year's level. A program with no purpose should get no funds at all.

Mr. HOLLINGS. Mr. President, first, I ask unanimous consent to have printed in the RECORD a letter from the Commander in Chief of the Veterans of Foreign Wars, with an enclosed resolution, and a letter from the National Legislative Commission of the American Legion. Both of those organizations have been vitally interested in this measure.

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

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., June 14, 1972.

Hon. ERNEST F. HOLLINGS,
United State Senate,
Washington, D.C.

MY DEAR SENATOR HOLLINGS: This is to indicate the support of the Veterans of Foreign Wars for the amount of $450,000 recommended by your Appropriations Committee for the Subversive Activities Control Board for fiscal year 1973, as provided in H.R. 14989, the State, Justice, and Commerce, the Judiciary and related agencies appropriation bill for 1973, scheduled for consideration this week.

The Veterans of Foreign Wars has long supported the objectives of the Subversive Activities Control Board. A typical resolution of the concern of our membership is found in a V.F.W. resolution identified as No. 136, entitled "Action Against Dissident, Violent and Co-Called Non-Violent Groups and Individuals," a copy of which is enclosed.

The Subversive Activities Control Board is the agency of government established to make determinations respecting communists, subversive and violence-oriented organizations identified in our resolution No. 136. In that regard, the Veterans of Foreign Wars is deeply disappointed with the restrictive language in the appropriation bill that the $450,000 may not be used to carry out President Nixon's Executive Order No. 11605 which will update the Attorney General's list which we feel is long overdue. In any event, the Veterans of Foreign Wars recommends your favorable consideration and vote for the $450,000 for the Subversive Activities Control Board for 1973.

The Veterans of Foreign Wars is vehemently opposed to proposed amendments to be offered which would delete the entire amount of $450,000 from the bill, thus killing the Subversive Activities Control Board. Your favorable consideration of these recommendations will be deeply appreciated by the more than 1.7 million members of the Veterans of Foreign Wars. With kind personal regards, I am

Sincerely,

JOSEPH L. VICITES,
Commander-in-Chief.

RESOLUTION NO. 136—ACTION AGAINST DISSIDENT, VIOLENT AND SO-CALLED NONVIOLENT GROUPS AND INDIVIDUALS

Whereas, certain dissident, violent and so-called non-violent groups and individuals are undermining the military defenses of the United States, knowingly and unwittingly helping the enemy; and

Whereas, there are elements among the population of the United States of America who favor the aims and objectives of North Vietnam and Vietcong as against the hopes and aspirations of the free people of South Vietnam; and

Whereas, some veterans are members of these groups, and utilize certain publications in which to advertise for membership and spread their propaganda in support of communistic ideals and goals; and

Whereas, the Veterans of Foreign Wars, many of whose members have served in the Vietnam conflict with honor, believes in adequate National Defense and Peace with honor; now, therefore

Be it resolved, by the 72nd National Convention of the Veterans of Foreign Wars of the United States, that the Justice Department institute an in-depth investigation and identification of all organizations or individuals who are knowingly or unwittingly undermining the position and security of the United States, to determine their sources of funds and propaganda, and to take whatever action deemed necessary to insure the safety of our nation; and

Be it further resolved, that the Veterans of Foreign Wars maintain its firm stand against any and all subversive groups of individuals who threaten the security of the United States of America.

Adopted at the 72nd National Convention of the Veterans of Foreign Wars of the United States held in Dallas, Texas, August 13 through 20, 1971.

THE AMERICAN LEGION,
Washington, D.C., June 13, 1972.

Hon. ERNEST HOLLINGS,
U.S. Senate, Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLINGS: According to published reports in the news media, an effort will be made to delete all appropriations for the Subversive Activities Control Board at the time H.R. 14989, the 1973 appropriations bill for the Departments of State, Justice and Commerce, the Judiciary and related agencies, is considered by the Senate.

The American Legion believes that such a move would not be in the interest of our nation's internal security. The SACB continues to serve an important function according to several government witnesses who recently testified before the House Internal Security Committee, and only the Attorney General's list of organizations need modernization.

The Senate Judiciary Committee presently has under study H.R. 9669 which passed the House on May 30 by a vote of 226–105. This measure would expand the function of the Board and authorize it to, among other things, consider all types of subversive organizations, whether foreign or domestic. To deny funds for the continued operation of the Board at this crucial time would only serve to encourage those organizations whose announced purpose is to change our democratic form of government to a totalitarian state.

The American Legion would appreciate your support of the continued existence of the SACB through the appropriation of sufficient funds to permit it to carry out its work.

Sincerely yours,

HERALD E. STRINGER,
Director, National Legislative Commission.

Mr. HOLLINGS. "Eternal vigilance is the price of liberty" is an old, but still true, injunction. Today we are considering the investigation and surveillance of the Communist movement in the United States. And there are those who claim that the threat is so diminished that no watchfulness is necessary. Do not post a

guard, do not man the towers, they say—there is no danger from within.

I submit that there is a continuing necessity to keep close tabs on what the Communists are doing. For one thing, this is an election year. The Communists are making no secret of their desire to get on the ballot in as many states as possible. Their effort, of course, is not to win—but to muddy and confuse and bewilder.

In addition to that, we all know that this is a period of many changes in the country. All about us, institutions and ideas are in flux. It is fertile ground for those who would subvert and destroy. There are many causes and movements in the country—some good, some less worthy. The danger is that even the worthy movements, if they go about their business unsuspecting, can find themselves infiltrated and perhaps even taken over.

All evidence points to increasing membership in the various Communist parties and groups in this country, and to the heightened activity of these groups—the Communist Party of the U.S.A., the Progressive Labor Party, the Socialist Workers' Party, and so on.

There are those who would cut back and even eliminate the governmental agencies which are responsible for the important works of surveillance. The Subversive Activities Control Board is one of the agencies most often singled out for attack. I believe that rather than eliminate the Board, we should make every effort to update it—to make it a more effective vehicle for the exposure of the Communist menace. This is no time to lapse into false complacency.

In spite of summit agreements in Moscow, and meetings with Mao in Peking, the world is still not a safe place. There is still an enemy without, and just as surely there is the enemy from within. To lower our guard now, at this critical time in history, would be the ultimate folly. It could be the lull that destroys our society.

I intend to vote in favor of continued funding for the Subversive Activities Control Board. And I intend to work toward making it fulfill the visions of those who founded it. The choice is not between a moderately good board and no board at all. There is a third alternative—and that is an even better Subversive Activities Board. I support the latter.

Mr. President, when we considered this matter, we had before us language which was, in essence, the earlier amendment to last year's appropriation bill, that—

> No part of the funds appropriated by this Act shall be available to the Department of Justice or the Subversive Activities Control Board to carry out, execute, or implement the provisions of Executive Order 11605 of July 2, 1971.

The Senate had voted on that language with approval, and your committee went along with that particular language, concurring that it was beyond the purview of the Executive to assign additional duties to this particular board through Executive order, and that it should be done through legislation.

Before I dwell on the legislation, let me state this: We also went into the amount. We considered the 1973 estimate, which was about $706,000, and we made the same allowance the House made, of $450,000. In other words, for the five commissioners, 11 secretaries, office expenses, and various other material to do what? To carry out the intent of a statute enacted by this Congress.

There has been dialogue and an argument in court, and I can remember our distinguished former minority leader, the late Senator Dirksen, some 4 or 5 years ago, on this very same measure, with the very same adversaries, defending this appropriation.

They do not like the Subversive Activities Control Board, yet they do not seek to amend the legislation. They always come at the back door with a collateral attack when the appropriation bill comes along.

I respectfully submit that all we are doing is trying to appropriate for what Congress itself has asked be done. If Congress says, "No, there should not be a Subversive Activities Control Board," let Congress repeal the formative statute which requires this function within our Government.

The fact of the matter is, in order to correct this situation of the Executive order vis-a-vis Congress itself acting, on the House side, they proceeded in very deliberate fashion, and they have passed a bill over here to the Senate, which is presently in our Judiciary Committee. It is H.R. 9669. They had this from their Internal Security Committee. On May 9 they reported it, and they passed it on May 30 by a vote of 226 to 105. They had quite a bit of discussion in detail as to the particular findings of their special study committee.

The chairman of the Subcommittee on Loyalty and Security on the House side is former Judge RICHARDSON PREYER of North Carolina, for whom we all have a high regard. Representative PREYER, after weeks and weeks of hearings, found certain things that obviously are not found by the Senator from Wisconsin.

I read from Representative PREYER's statement:

> Figures brought to our attention indicate that the efforts of subversives to penetrate our government in some of its most sensitive agencies has by no means abated.

We can say: "We don't need a Congress. We don't need any more new laws. We don't need any lawyers. People aren't going to steal, lie, kill, or cheat. So we can do away with the court system, and do away with the security aspects of our government, because the President has been to Peking and Moscow."

That is absolutely false. The President has evoked communications with these governments, both Russian and the People's Republic of China, but by no means have they changed their minds about prevailing in our country by means of violence. H.R. 9669 addresses itself to that continuing problem and resolves this particular Subversive Activities Control Board into the Federal Internal Security Board. To carry on what? To carry on not only a listing of Communist activities in various agencies and organizations within the land, but also to list those which are intent upon overthrowing the U.S. Government by violence, or by engaging in violence, subverting the actual orderly course of government itself within the United States.

What does it do? In essence, with all the upheaval and the suspicion and the distrust and the changing times, I think this board does perform a useful function. I think it is a good stopgap. If anyone thinks an organization is a Communist organization, then we do have within the Government an authoritative source that we can say has investigated and has or has not found that it is a Communist organization, rather than both sides being right and both sides being wrong. I think it is a very valuable service for this particular function to be carried on.

But the main reason why this board comes up with low marks—and it comes up with low marks on everybody's scoreboard—for activity is that it has been brought, kicking and screaming, through a 10-year period of courts and motions and efforts to emasculate and sideline the board in a fashion somewhat similar to this—which is collateral—on the question of money. They do not come to Congress and say, "Vote down the measure by majority vote." They say, "Rule it out in the courts, motion it to death, have it completely frustrated, or otherwise cancel this appropriation." That is why they have not done anything. We have had them before our body. They are all capable people.

I readily admit that we could economize and have three commissioners instead of five. I do not think they could handle 27 hearings in an evening if they went about deliberately protecting individual rights in America, and that is what seems to be in the mind of the Senator from Wisconsin. They cannot protect the rights of individuals by handling 27 cases in an evening.

One cannot say that a policeman in front of the Capitol is useless because he has not arrested anybody in the last year. I think that the fact that he is there has a salutary effect and brings about law and order. I think that this board also has a very valuable effect within our Government at this time. I think it would be a very bad mistake at this time, when the matter has passed the House and we have done away with the Executive order and instead inserted this language in the measure which is before the Judiciary Committee, to come in precipitately and, by the time we have come before this committee, just knock it out.

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

Mr. HOLLINGS. I yield.

Mr. PROXMIRE. I ask the distinguished manager of the bill whether he accepts the opinion expressed by Kevin Maroney of the Justice Department that as long as the American serviceman case is pending, which may be for the next 2 years, the Board would have no work to do. In other words, Justice would not file a single new case. So there's nothing for them to do.

Furthermore, I wonder whether the Senator would accept the position of the Subversive Activities Control Board official, who candidly said they could dis-

pose of the old cases, take them off the list, the organizations that no longer exist, 25 in an evening. This was not my estimate; it was theirs.

Mr. HOLLINGS. I would answer the distinguished Senator's question with another question. Does the Senator from Wisconsin suggest that we do away with busing until all bus cases have been settled? That would solve the busing problem in this land; I can guarantee that. We did not have to pass a law that said just until after the election, because I think that is the most political thing that has been done in Congress. After my election year, in 1974—that is what Congress just enacted, signed by the President:

> In the middle of 1974, in your election year, Hollings, we're going to start busing again.

Does the Senator think we ought to stop busing until all busing cases have been settled?

Mr. PROXMIRE. Next year there will be nothing for this Board to do; therefore, we should not appropriate that money.

Mr. HOLLINGS. Under that theory, we would not have any buses.

Mr. PROXMIRE. I voted with the Senator from South Carolina on busing. I am against busing, too. There is no difference. I suggest that the Senator look up the record.

So far as this matter is concerned, this is a Board with nothing to do.

Mr. HOLLINGS. I think the Senator knows full well that there is a bill before the Judiciary Committee, and they will reconstitute this Board from the Subversive Activities into the Federal Security Board. There are approximately 3 million Government employees. Some are in sensitive positions and some are in nonsensitive positions. The distinguished Senator from North Carolina has far more experience in this field than I. Sometimes it is carried over into the nonsensitive field, but I think that is a function of the Board. Certainly, we ought to be able to ask somebody within the Government, some authority that has investigated, when people are being hired for sensitive positions, to find out whether or not particular organizations are subversive. It is only for exposure. We need it in the Government. Is it the Senator's position that we do not need this function at all?

Mr. PROXMIRE. Perhaps I misunderstand the Senator.

On page 61 of the bill, the committee said:

> SEC. 706. No part of the funds appropriated by this Act shall be available to the Department of Justice or the Subversive Activities Control Board to carry out, execute or implement the provisions of Executive Order 11605 of July 2, 1971.

Therefore, this Board would not be able under this appropriation bill's own instruction to perform any new function proposed by the President. Is that correct? Or is the Senator referring to something else?

Mr. HOLLINGS. I am referring to this Board, and I think this Board should persist and should take the additional duties assigned to it under the new act.

Mr. PROXMIRE. During the testimony, the Board testified that they have spent a total of 1 hour and 15 minutes to handle 111 cases—48 seconds a case—at $406,000. That is $5,433 per minute. How do you like that for waste? It must get some kind of record.

Mr. HOLLINGS. Mr. President, I think the Senator and I agree that this Board has not functioned in the context of actually putting out results. I am glad they have not. In fact, we have had hearings within the executive department of the Government that this has had a very good effect. The very first thing was an assault upon the constitutionality of the Board itself. They said, "You can't have such a board." That is really the argument. It was found constitutional in the early 1950's; and we found, with the Hoover Commission investigating the executive activities and the intelligence activities of this Government, that many of these organizations were not organizing as a result.

In other words, the Board itself would have a mission to serve. But I do not know when we will need it. They say we do need it.

The Communist membership in the United States—not a specific membership figure—but a press release by Gus Hall on February 17, 1972, indicates that the membership was 15,000. A similar statement in 1969 puts it at between 15,000 and 16,000 dues-paying members in the Communist Party. That did not include, of course, the 129,000 sympathizers.

Mr. PROXMIRE. We have a professional skilled organization in the FBI to investigate and determine the activities of the Communist Party and find out who is active in the Communist Party. The fact is that this Board has done nothing. They have had 22 years to do it. Every year the committee comes back with the same argument, give them another year and they will get busy. They have done literally nothing. I challenge the Senator, can he name anyone this Board has identified as active in the Communist Party? Has it identified any subversive? Have they identified a single Communist?

Mr. HOLLINGS. Under this particular House bill, the Board would be resolved into the Federal Internal Security Board and its function would be to conduct hearings and make findings on petition of the Attorney General with respect to the character of relevant organizations to be designated in furtherance of the program to ascertain the suitability of individuals on loyalties or security grounds for admission to or retention in the services of the executive branch.

Would the Senator support that bill?

Mr. PROXMIRE. May I say that it is perfectly proper to have investigations of people going to work in the Government. They should be carefully screened under some circumstances, but I do not think that the Subversive Activities Control Board purports to have that function. It does not do that. The Civil Service Commission does this and has done it under an Eisenhower Executive order for many years.

Mr. HOLLINGS. That is because of the legal gymnastics which have gone on for the past 10 years. Just because that has gone on for 10 years is no reason to disband the Board any more than schools should be disbanded because there is no more busing, on which we have had legal gymnastics around here for 5 years.

Mr. PROXMIRE. If there are no children to pick up or no schools to go to, the bus can be sold. We would not need drivers. We could save their salaries.

Mr. HOLLINGS. But, the fact is there are schools. There are Communists, and there are security risks, and we do not want to employ them in the Government.

Mr. PROXMIRE. There are no security risks or Communists that that Board is capable of identifying or doing anything about. They have done nothing about it. Nothing.

Mr. GURNEY. Mr. President, if the Senator will yield on the charge made by the Senator from Wisconsin (Mr. PROXMIRE) that nothing has been done for 22 years by the Subversive Activities Control Board, that is not the information I have.

I understand, from a history of the Subversive Activities Control Board, that they have registered one Communist action group; that is, the Communist Party. There are no others in the country except that one.

Mr. PROXMIRE. Does the Senator from Florida consider that a contribution, identifying the Communist Party as a Communist action group? We certainly do not need five commissioners earning $36,000 a year to do that.

Mr. GURNEY. If the Senator will allow me to continue, I will give him some additional information, and then he can ask all the questions he wants.

In addition, the SACB has registered 25 Communist front groups and two Communist infiltrated groups. At present, it has three more Communist front group cases before it. The Board has handled some 66 individual cases and, more recently, has undertaken the task of making recommendations to the Attorney General so that the Attorney General's list can be updated.

So the Senator is not correct when he says that the Board has done nothing for 22 years.

I just wanted to get these facts on the RECORD and indicate to him what had been done by the Board.

Then I should also like to make this further statement in support of what the distinguished manager of the bill has said, that because we have a Board like this and there is evidence that the very fact it is there is like the policeman in front of the Capitol steps who is on duty. That is the reason why he is there even though no crime may be committed. During the years the Board has existed, the membership of the Communist Party has gone down. Also, many of the Communist front organizations have gone out of business. The existence of the Board is the reason that has happened.

Mr. ERVIN. Mr. President, will someone yield me some time?

Mr. PROXMIRE. Mr. President, I yield 15 minutes to the Senator from North Carolina.

The PRESIDING OFFICER (Mr. SPONG). The Senator from North Carolina is recognized for 15 minutes.

Mr. ERVIN. Mr. President, this section should be called a bill to give unemployment benefits to five bureaucrats.

The Board was created in 1950 when McCarthyism ran supreme over the land, when there were people seeing Communists under every bed or hiding behind every rosebush. Those people had vivid imaginations.

The Supreme Court held that the portions of the act creating the Board gave it the power to make Communist action fronts, Communist-dominated, and Communist-infiltrated organizations register only if it could find a constitutional method to make them do so.

Some opinions held that everything Congress had authorized the Board to do, except to draw its breath and salary, was unconstitutional. It held they could not make a requirement to register because the Communist Party was outlawed and a man would have to incriminate himself for being guilty of a violation of law if he registered as a member of it. Therefore, that provision was invalidated by the fifth amendment provision against self-incrimination.

The Congress attempted to give new breath of life to the Board, and so it said that instead of requiring them to register, they had not been able to get anyone to register, but they did find one that was in action in the United States, the Communist Party. They charged 25 others with being Communist-front organizations, but they could not make a single one of them register. They found, in most cases, that most of the organizations had ceased to exist.

Congress tried to help them out and breathe more life into this abomination. They passed a law that they could hold hearings and declare people and organizations to be subversive—that is, Communist—and brand the members. The circuit court of appeals of this district. in the Boorda case, stepped in and said that it was unconstitutional for the Board to declare any man to be a Communist unless it showed that he participated in illegal aims of the party. They were never able to show that, and the Department of Justice did not dare to appeal that decision. So since the time of the Boorda case, they have had nothing to do. Last year the President attempted to breathe new life into the Board by an Executive order which was clearly legislation and a violation of the Constitution in that respect and also a violation of the first amendment.

When the case was heard—it was alluded to by the Senator from Wisconsin—the judge, in effect, said that it was unconstitutional. And so they have not dared to exercise their power under the Executive order. So what did they do? They instituted 111 proceedings in the last year to declare that 111 organizations that no one had heard anything about for 20-odd years—who were on the subversive list of the Attorney General had died—ceased to exist. So they held hearings on 111 cases and it took 48 seconds to try each case—48 seconds, I repeat—and all these organizations had long since ceased to exist. They had been dead from the time whereof the memory of man runneth not to the contrary. They stretched it out over 4 days—1 hour and 15 minutes—to find 111 organizations that no one heard anything about for years and had ceased to exist. That is all they did last year, except draw their breath and their salaries.

This Board should be abolished for financial reasons, unless Members of Congress want to take five bureaucrats and give them unemployment compensation benefits.

The bad thing about the bill is that it is alien to America. Such a bill was never dreamed of until 1950. Then people started to see Communists. The House committee passed this bill. It gave the Attorney General the power to file petitions alleging that members of Communist action groups held illegal memberships. And during all of those years from that date down to this, the Attorney General alleged that 66 people out of 200 million Americans were Communist action group members.

They want to keep the Board for fear that those 66 men—who were never convicted—may overthrow by force and violence a nation of 200 million people. We have $450,000 in this appropriation to pay five men for doing nothing and to pay their secretaries to assist them in doing nothing. That is the purpose of the bill.

We are on limited time. However, I thank the good Lord that the Board has not been able to find anything more to do, because I do not think there are very many disloyal Americans.

Judge RICHARDSON PREYER opposed the bill the House passed. The House passed a bill that if the rules of the Senate did not prevent me from saying so, I would say was the biggest fool legislation ever passed by either House or Congress, because it says that hereafter this Board shall have such powers as the Board and the Attorney General by regulation may prescribe.

That is what it says. And that is the bill that is pending before the Internal Subcommittee of the Senate today. They changed the name of the organization. Even the Board got disgusted with its name. It had it changed to Internal Security. The only internal security it has promoted has been the internal financial security of the five members of the Board who draw some $30,000-odd a year of the taxpayers' money for doing nothing except to sit in big easy arm chairs.

Mr. President, I ask unanimous consent that an article entitled "The Internal Security Act of 1950: An Argument for Its Repeal" written by Nathaniel L. Nathanson and Stanley C. Feldman, be printed at this point in the RECORD:

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

THE INTERNAL SECURITY ACT OF 1950: AN ARGUMENT FOR ITS REPEAL

(By Nathaniel L. Nathanson and Stanley C. Feldman)

INTRODUCTION

Ever since its enactment twenty-two years ago over Presidential veto, the Internal Security Act of 1950 (the so-called McCarran Act),[1] has been embroiled in controversy. Title II of the Act—also called the Emergency Detention Act of 1950—finally was repealed on September 25, 1971,[2] without ever having been used. But Title I—also called the Subversive Activities Control Act of 1950—has managed to survive despite vigorous and frequent attempts to accomplish its repeal. The following discussion examines the administration of Title I since its enactment and marshalls the arguments in support of its repeal.

THE SUBVERSIVE ACTIVITIES CONTROL ACT

Title I of the Act established an independent agency known as the Subversive Activities Control Board to identify, on petition of the Attorney General, "Communist-action" and "Communist-front" organizations (coverage was extended to "Communist-infiltrated" organizations, by a 1954 amendment), and the members of "Communist-action organizations". It also required the registration of those organizations and members so identified with the Attorney General and the annual filing of information concerning officers, printing facilities, and finances.

A Communist-action organization is defined as one which (i) is substantially directed, dominated, or controlled by the foreign government or foreign organization controlling the world Communist movement referred to in section 2 of this title, and (ii) operates primarily to advance the objectives of such world Communist movement. . . ." A Communist-front organization is defined as one "which (A) is substantially directed, dominated, or controlled by a Communist-action organization and (B) is primarily operated for the purpose of giving aid and support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title." Finally, a Communist-infiltrated organization is defined as one "which (A) is substantially directed, dominated, or controlled by an individual or individuals who are, or who within three years have been actively engaged in, giving aid or support to a Communist-action organization, a Communist foreign government, or the world Communist movement referred to in section 2 of this title, and (B) is serving, or within three years has served, as a means for (i) the giving of aid or support to any such organizations, government, or movement, or (ii) the impairment of the military strength of the United States or its industrial capacity to furnish logistical or other material support required by its Armed Forces." Members of Communist-action organizations were barred from working in defense facilities and from obtaining passports, and any member of a registered Communist-organization was prohibited from employment or non-elective office under the United States.[3]

ADMINISTRATION AND LITIGATION UNDER THE ACT

In all the years of its existence, the Subversive Activities Control Board (hereafter referred to as the SACB) has determined only one organization, the Communist Party of the United States, to be a Communist-action organization. In *Communist Party v. SACB*,[4] the Supreme Court upheld the registration requirement in regard to the Communist Party. This decision was the culmination of ten years of complicated and expensive litigation. But in *Albertson v. SACB*,[5] the Court held that the fifth amendment privilege against self-incrimination was violated when individual members of the Communist Party were required to register. Since no individual member of the Communist Party could constitutionally be required to register, it was a logical next step

Footnotes at end of article.

to hold that the Party itself could plead the defense of self-incrimination on behalf of its members if ordered to comply with the registration requirements of the Act, including the filing of membership lists. The Court of Appeals for the District of Columbia Circuit so held in *Communist Party v. United States*,[6] and the government did not ask for certiorari to review this decision.

Following this seventeen-year futile attempt to force the Communist Party to register as a Communist-action organization, a 1968 amendment to the Subversive Activities Control Act replaced the compulsory registration provisions of the Act with authorization for the Board to issue "declaratory orders" determining whether the organizations it investigates are to be characterized as "Communist-action," "Communist-front," or "Communist-infiltrated," and whether individuals are members of Communist-action organizations. But this attempted revitalization through the 1968 amendment was also doomed in large measure to disappointment. *Boorda v. SACB*,[7] held that the provisions of the Subversive Activities Control Act authorizing determinations with respect to membership of individuals in Communist-action organizations were unconstitutional on the ground that the disclosure of Communist Party membership is "constitutionally protected" by the first amendment, "except for those who join with the specific intent to further illegal action."

The only surviving aspect of the Board's jurisdiction of current significance is its authority to determine whether organizations should be characterized as Communist-front or Communist-infiltrated. Between 1953 and 1969 twenty-four petitions were filed by the Attorney General asking for such determinations. Twenty-two of these involved alleged Communist-front organizations. Eight of these were dismissed by the Board. In the remaining 14, the Board issued orders requiring registration as Communist-front organizations. In two of these the organizations ceased to operate and took no appeal.

In the remaining 11 cases, appeals were filed in the Court of Appeals for the District of Columbia. In seven of these appeals motions to vacate the Board's order were filed on the ground that the organizations had dissolved. In four of these seven, the Court found that the organization had dissolved either formally or in fact. In the three other cases, the Court found that the organizations, although inactive, had not proved dissolution. In only one of these was the appeal pursued to the point of a decision of the court, affirming the order of the Board.[8] In none of these three cases did the organization register; nor was any further action taken.

In one of the remaining four Communist-front cases, *National Council for American-Soviet Friendship v. SACB*,[9] the Court set aside the Board's order on the ground that the Government had failed to establish that the organization at the time of hearing was substantially dominated or controlled by a Communist-action organization. In the three other cases the Court of Appeals affirmed the Board's order. In two of these, the Supreme Court vacated the judgment of the Court of Appeals and remanded the cases to the Board on the ground that the records were stale.[10] In both of these the Board vacated its former orders and dismissed the petitions. In the third case, in which the Board's order was affirmed, the organization became defunct and no further proceedings occurred.[11] In the two Communist-infiltration cases, the petitions were dismissed by the Board, with the consent of the Attorney General.

In summary, no organization was finally required to register as a Communist-front or Communist-infiltrated organization. Apart from the decision in the National Council for American-Soviet Friendship case, where the Board's order was set aside, the energies of counsel were mainly devoted to litigating the question whether the organization concerned was in fact defunct.

In addition to the disclosure purposes of the Act, determinations with respect to individuals and organizations import certain collateral disabilities. Some of these consequences have also been voided by court decisions. In *Aptheker v. Secretary of State*,[12] section 6, making it unlawful for a member of a Communist-action organization to apply for or to use a passport, was held to be void for overbreadth in that it unduly restricted the right to travel in contravention of the liberty guaranteed by the fifth amendment. In *United States v. Robel*,[13] section 5 (a) (1) (D), making it unlawful for members of Communist-action organizations to be employed in any defense facility, was held "an unconstitutional abridgement of the right of association protected by the first amendment." The *Robel* decision does not auger well for the other provisions of section 5, including those which prohibit a member of a Communist-action organization from seeking or holding non-elective office or employment under the United States.

In recognition of the Board's dreary history of unsuccessful litigation, as well as its lack of activity at that time, the Congress on January 2, 1968, made the continued life of the Board conditional upon the referral of *one* case to it within the period of a year.[14] The Board survived this test, but during the period following this action of Congress until the *Boorda* decision of December 12, 1969, a period of approximately 2 years, only 22 petitions were filed by the Attorney General for determinations of individual membership in the Communist Party. *Boorda* has now foreclosed any further exercise of jurisdiction on this matter. In the twenty years of the Board's existence, a total of only 66 petitions for the determination of individual membership in the Communist Party have been filed. After the *Boorda* decision, the supporters of the SACB were distressed by the fact that it was left with virtually nothing to do; the only authority remaining to the Board was the authority to issue declaratory orders publicizing that certain organizations are subversive, insofar as an organization may be declared "Communist-action," "Communist-front," or "Communist-infiltrated." On July 13, 1970, two petitions were filed by the Attorney General for Board orders determining both the Center for Marxist Education and the Young Workers Liberation League to be Communist-front organizations pursuant to Section 13(a) of the Subversive Activities Control Act. The evidentiary hearings for these organizations were completed recently and further action is pending. If adverse determinations are made in respect to either or both of these organizations, the application of the principle of the *Boorda* decision to the constitutionality of the Communist-front provisions of the statute will surely be argued upon appeal.

THE FUNDAMENTAL CONSTITUTIONAL QUESTION

The fundamental question underlying all of the Board's remaining activities under the statute is whether it is the proper business of government to guard its citizens from questionable associations by publicly labeling certain organizations as politically dangerous. This is the purport of a declaratory order characterizing an organization as Communist-action, Communist-front, or Communist-infiltrated. We submit that involving the government in such a process is so basically inconsistent with the fundamental assumptions of an intellectually free society that it is not surprising that the per curiam opinion vacating the order in *American Committee for Protection of Foreign Born v. Subversive Activities Control Board*,[15] made this explicit reservation with respect to the constitutionality of the whole process of attaching the label "Communist-front" to private organizations: "Our Communist Party decision on the Communist-action provisions did not necessarily foreclose petitioner's constitutional questions bearing on the Communist-front provisions." As this reservation suggests there is good reason to believe that a continuation of the Board's life would eventually lead to a determination of the unconstitutionality of its principal remaining function under the Internal Security Act.

EXECUTIVE ORDER 11605

Under Executive Order 11605[16] issued on July 2, 1971, the SACB is authorized to conduct hearings, upon petition by the Attorney General, to determine "whether any organization is totalitarian, fascist, communist, subversive, or whether it has adopted a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the government of the United States or any State or subdivision thereof by unlawful means."

The SACB may further determine, upon petition of the Attorney General or of an organization which has been designated under the provisions of this Executive Order and after appropriate hearings, that an organization has ceased to exist.

The clear intent of this Order is to revitalize the nearly moribund SACB by expanding its powers while, at the same time, updating the Attorney General's list of Subversive Organizations—a list that has not been amended for 15 years and that is now composed mainly of defunct organizations.[17]

The origin of the Attorney General's list is Executive Order 9835,[18] issued March 21, 1947, which required the Attorney General to furnish the Loyalty Review Board for civilian employment in the federal government the names of organizations he determined to be totalitarian, fascist, communist or subversive, or which adopted subversive policies. The dissemination of the names of the organizations on the Attorney General's list, then, served to notify government employees as well as prospective employees that membership in such organizations could affect their service in the federal government. Executive Order 9835 was superseded by Executive Order 10450,[19] which directed the Attorney General to continue listing subversive organizations and to supply information in that regard to the heads of government departments and agencies.

Executive Order 11605 in effect transfers from the Attorney General to the SACB the authority previously conferred upon the Attorney General by Executive Order 9835 and later by Executive Order 10450 to determine whether an organization is "subversive." Executive Order 11605 also modifies somewhat the standards previously incorporated in 9835 and 10450 with respect to the organizations to be listed. More specifically, it undertakes to define the terms, "totalitarian," "communist," "fascist," and "subversive."[20]

After passage of the 1971 appropriations bill containing an item for the SACB,[21] the Senate Subcommittee on Separation of Powers held hearings in October 1971 on Executive Order 11605. Under the leadership of its chairman, Senator Sam J. Ervin, Jr., the subcommittee considered the question of the circumvention of the legislative powers of Congress by executive orders. Senator Ervin, also introduced S.2466 which would make it unlawful for the SACB to carry out the new functions conferred by Executive Order 11605 and S. Res. 163, which expresses the view that the Executive Order is a usurpation of the legislative powers of Congress; both bills were reported favorably by that subcommittee and are currently pending in the Committee on the Judiciary.[22] The Justice Department, on the other hand, has proposed legislation renaming the Board as the Federal Internal Security Board and making

Footnotes at end of article.

certain procedural provisions of the Internal Security Act applicable to the administration of the Executive Order. Bills to this effect have been introduced in Congress.[22]

It may well be that the reactivation of the Attorney General's list for purposes of government employment will raise substantial constitutional difficulties under the principles of *Keyishian v. Board of Regents*,[24] and *United States v. Robel*,[25] holding that an individual may not be barred from employment in the government or in critical defense facilities merely because of membership in the Communist Party or other proscribed organizations.[26] It has also been suggested that there is another constitutional problem with respect to whether the President can add additional powers to a quasi-judicial agency established by statute for certain specific purposes.[27] In any event, the attempt to revitalize the SACB by transferring to it responsibility for what was formerly the Attorney General's list of subversive organizations only accentuates the need for thorough reconsideration of the Board's continuation.[28]

CONCLUSION

The present condition of the SACB is quite unlike that of the SACB in 1950. Stripped of all but one of its functions under the original Act by court decisions, even its remaining authority is of questionable validity in light of the decision in the *Boorda* case. In short, the SACB for twenty years has been an exercise in futility, wasting large sums of the taxpayers' money while inevitably pinning a social stigma against any one charged, irrespective of the merits of the charges.

Not only have the provisions of the Internal Security Act proven ineffective and unworkable, but the very dangers it seeks to protect us against are adequately met by other laws. Treason,[29] espionage,[30] sabotage,[31] and conspiracies to overthrow our government by force or violence have long been punishable crimes, irrespective of the Internal Security Act. For example, the statute on seditious conspiracy[32] makes it a crime, subject to a fine of not more than $20,000 or imprisonment up to twenty years.

"[I]f two or more persons in any State or Territory or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder or delay the execution of any law of the United States, or by force to seize or take, or possess any property of the United States contrary to the authority thereof. . . ."

In addition, the Alien Registration Act of 1940 (popularly known as the Smith Act),[33] making it a crime to advocate overthrow of the government by force or violence, or to be a member of an organization which advocates such overthrow, is still in force and available, provided that it is enforced in accordance with the constitutional limitations elaborated in *Dennis v. United States*.[34] *Yates v. United States*,[35] *Scales v. United States*,[36] and *Noto v. United States*.[37] Furthermore, other laws[38] require registration with the Attorney General, in such detail as he may prescribe, by every organization subject to foreign control which engages either in political activity or civilian military activity, by every organization which engages both in political and civilian military activity, irrespective of foreign control, and by every organization one of whose purposes is the overthrow or control of the government by force or threat of force. Finally, every agent of a foreign government, other than a duly accredited diplomatic representative, must file a comprehensive registration statement with the Attorney General before disseminating political propaganda in the United States.[39] The authority remaining in the SACB to issue declaratory orders in regard to whether organizations are "Communist-front" or "Communist-infiltrated" is hardly an essential safeguard of our security and, at best, contributes little, if anything, toward those legitimate objectives which are better accomplished under other existing laws.

Nor do we believe that the Board should not be continued for the purpose of carrying out the functions conferred by Executive Order 11605. These are subject to the same constitutional objections as the Board's remaining statutory functions. Furthermore, American citizens should be assumed to be sufficiently mature to make their own choices among political organizations, accepting at the same time whatever appropriate risks may be involved in such associations. The governmental labeling of organizations as "Communist-front," "Communist-infiltrated" or "subversive," should not be confused with general and objective disclosure requirements which are made applicable to various types of organizational or propaganda activities, such as the disclosure requirements applicable to labor unions, political parties, or agents of foreign powers. Whether such objective disclosure requirements should be extended to other types of organizational or propaganda activities is a debatable question of public policy which has nothing to do with continuation of the Subversive Activities Control Board.

The strategic importance of national security is not denied because an objective appraisal of the record of the SACB leads to the inevitable conclusion that it should be abolished. The real point at issue is the question of the most effective means of insuring our national security. Our experience with Title I of the Internal Security Act and the Board it established has proven that means inimical to our constitutional traditions of free speech and free association have had at best a dubious effect in curtailing the "Communist threat" of internal subversion. It is abundantly clear that the time has come to rid ourselves of the SACB and the moral and legal burdens engendered throughout its existence.

FOOTNOTES

[1] 50 U.S.C. §§ 781–794, 811–826.

[2] Public Law 92–128.

[3] In 1954 Congress extended the prohibition to holding office in, or employment with, a labor organization and to representation of an employer, 50 U.S.C.A. § 784 (2) (1951 ed., p. 1971).

[4] 367 US. (1961).

[5] 382 U.S. 70 (1965).

[6] 384 F.2d 967 (D.C. Cir. 1967).

[7] 421 F.2d 1142 (D.C. Cir. 1969), *cert. denied*, 397 U.S. 1042 (1970).

[8] Jefferson School of Social Science v. SACB, 331 F.2d 76 (D.C. Cir. 1963).

[9] 322 F.2d 375 (D.C. Cir. 1963).

[10] American Committee for Protection of the Foreign Born v. SACB, 380 U.S. 503 (1965); Veterans of the Abraham Lincoln Brigade v. SACB, 380 U.S. 513 (1965).

[11] Weinstock v. SACB, 331 F.2d 75 (D.C. Cir. 1963).

[12] 387 U.S. 500 (1954).

[13] 389 U.S. 258 (1967).

[14] 50 U.S.C. § 791(1) (1964 Ed. Supp. V).

[15] 380 U.S. 503, 505 (1965).

[16] 36 Fed. Reg. 12831.

[17] See Hearings regarding the Administration of the Subversive Activities Control Act of 1950 and the Federal Civilian Employee Loyalty-Security Program Part I, 91st Congress, 2d Sess., Sept. 23 and 30, 1970, p. 5254.

[18] 12 Fed. Reg. 1935, Mar. 21, 1947.

[19] 18 Fed. Reg. 2489, April 27, 1953.

[20] Compare, for example, 2(c), (f), (g), and (h) of Executive Order 11605 with paragraph 3 of Part III of Executive Order 9835 and Section 12 of Executive Order 10450.

[21] 117 Cong. Rec. H7595–8, Aug. 2, 1971; S13043, Aug. 3, 1971.

[22] 117 Cong. Rec. S195, Jan. 21, 1972.

[23] 117 Cong. Rec. H7179, July 27, 1971.

[24] 385 U.S. 589 (1967).

[25] 389 U.S. 258 (1967).

[26] See, for example, the testimony of Kimbell Johnson, Director, Bureau of Personnel Investigations, U.S. Civil Service Commission, in Hearings regarding the Administration of the Subversive Activities Control Act of 1950 and the Federal Civilian Employee Loyalty-Security Program. Part I, pp. 5254–5255.

[27] See remarks of Senator Ervin during Senate debate on Conference Report recommending an appropriation for the Subversive Activities Control Board (117 Cong. Rec. S13022–S13030, Aug. 3, 1971); remarks of Representative Edwards in House debate on the appropriation (117 Cong. Rec. H7181–H7184, July 27, 1971). Department of Justice Memorandum on Legal Issues Raised in connection with Executive Order 11605 and the SACB Appropriation (117 Cong. Rec. H7278, July 27, 1971). The appropriation for the SACB was finally approved without the proposed restriction, originally approved by the Senate, prohibiting use of any of the money appropriated for carrying out the responsibilities conferred by Executive Order 11605. 117 Cong. Rec. S11445–11450, S13022, S13043, and H7598.

[28] The President's proposed budget for 1973 contains an increased item for the SACB, apparently on the assumption that its responsibilities under Executive Order 11605 will result in an increased workload. Senator Proxmire has given notice that an attempt will again be made to strike this item from the budget. 118 Cong. Rec. S 881, Feb. 1, 1972. Recent information received from the SACB indicate that as of March 31, 1972, 169 petitions had been filed by the Attorney General which asked merely for determinations under Executive Order 11605 that certain organizations previously listed have ceased to exist; approximately 80 of these have been disposed of.

[29] 18 U.S.C. §§ 2381–2391.

[30] 18 U.S.C. §§ 791–799.

[31] 18 U.S.C. §§ 2151–2157.

[32] 18 U.S.C. § 2384.

[33] 18 U.S.C. § 2385.

[34] 341 U.S. 494 (1951).

[35] 354 U.S. 298 (1957).

[36] 367 U.S. 203 (1961).

[37] 367 U.S. 290 (1961).

[38] 18 U.S.C. § 2386.

[39] 22 U.S.C. §§ 611–621.

Mr. ERVIN. Mr. President, I ask unanimous consent that a statement prepared by me entitled "Freedom in Peril: The Subversive Activities Control Board," which gives the minimal history of this organization and how it is an affront to the first amendment, be printed at this point in the RECORD.

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

FREEDOM IN PERIL: THE SUBVERSIVE ACTIVITIES CONTROL BOARD

Mr. ERVIN. Mr. President, the Senate today has an unusual opportunity to vote for freedom under the Constitution and for economy in government at the same time.

The amendment offered by the distinguished Senator from Wisconsin and myself would save the American taxpayers hundreds of thousands of dollars in wasteful spending on an agency that has very little to show for its 22-year history.

At the same time, it would lay to rest once and for all the Subversive Activities Control Board, which in addition to establishing a barren record has been a threat to the freedom-loving traditions of this great Nation.

Since it was created in 1950, the SACB has spent $6.75 million doing practically nothing. This year, the Board asked Congress for an appropriation of $706,000, but the House and

Senate Appropriations Committee wisely cut the figure to $450,000—the same amount granted last year.

Mr. President, we cannot justify wasting another $450,000 on the SACB when so many of our national needs are going unmet.

The SACB has been moribund since its existence in part because the courts have struck down its major approach for combatting subversion—disclosure of individual members through compulsory registration.

Until 1971, the Attorney General brought only 25 petitions alleging organizations to be "communist action," "communist front," or "communist infiltrated." Of these 25 petitions, the Board issued only eight final orders determining that the organizations fell within the definitions of the Act. Only one organization, the Communist Party of the United States, was designated a "communist action" organization, and seven groups were found to be "communist front" organizations.

The majority of the remaining cases were dropped either because the Board found that the organizations did not fall within the provisions of the Act, or because the Board's orders were vacated pursuant to a Federal court decision.

Even with additional duties purportedly conferred on it by President Nixon's Executive Order 11605 of July 2, 1971, the Board has found little to do.

During the past year, it handled 111 petitions referred by the Attorney General to remove organizations from the so-called Attorney General's list of subversive groups. These 111 petitions were disposed of in just 75 minutes of hearing time.

Mr. President, at more than $5,000 per minute, these hearings likely were the most expensive in the history of the American bureaucracy. Such waste is disgraceful.

More important than the absolute waste involved, however, is the total disregard for the fundamental freedoms of all Americans presented by the continued existence of the SACB.

To discuss this threat to freedom, I must first discuss the First Amendment. This is so because the SACB and efforts to revive it obviously are inspired by a lack of faith in the First Amendment freedoms and a fear of their exercise by persons whose thoughts and words understandably are offensive to the established order.

The First Amendment outlaws governmental action which abridges freedom of thought, or freedom of speech, or freedom of the press, or freedom of association, or freedom of assembly, or freedom of petition, or freedom of religion. These freedoms embrace and nourish a kindred freedom, the freedom of dissent.

These freedoms, which may be called First Amendment freedoms, were created to make Americans politically, intellectually, and spiritually free.

The novelist, Thomas Wolfe, sensed this when he said:

"So, then, to every man his chance—to every man, regardless of his birth, his shining, golden opportunity—to every man the right to live, to work, to be himself, and to become whatever thing his manhood and his vision can combine to make him—this, seeker, is the promise of America. I do not believe * * * that the ideas represented by 'freedom of thought', 'freedom of speech', 'freedom of press' and 'free assembly' are just rhetorical myths. I believe rather that they are among the most valuable realities that men have gained, and that if they are destroyed men will again fight to have them."

The First Amendment grants its freedoms to all persons within the boundaries of our country without regard to whether they are wise or foolish, learned or ignorant, profound or shallow, brave or timid, or devout or ungodly, and without regard to whether they love or hate our country and its institutions. Consequently, the Amendment protects the expression of all kinds of ideas, no matter how antiquated, novel, or queer they may be.

In the final analysis, the First Amendment is based upon an abiding faith that our country has nothing to fear from the exercise of its freedoms as long as it leaves truth free to combat error. I share this faith.

To be sure, the exercise of First Amendment rights by others may annoy us and subject us at times to tirades of intellectual or political rubbish. This is a small price to pay, however, for the benefits which the exercise of these rights bestows on our country.

The First Amendment protects the expression of ideas, not the commission of acts, and for this reason cannot be invoked to justify criminal or violent deeds.

It is explicit in the First Amendment that the freedom of the people to assemble to petition for the redress of grievances must be exercised peaceably; and it is implicit in it that the other freedoms it secures must be exercised in like manner.

First Amendment freedoms are simply designed to secure to the people a constitutionally protected right to use the means which nature and man's ingenuity afford them to express to others their thoughts, ideas, and desires concerning government, society, religion, and all other things under the sun. Inasmuch as expression has persuasive power, this right must be recognized and exercied if government is to be responsive to the will of the people, and if society is to be free.

Since one of its principal purposes is to make America a politically free society, the First Amendment assures to every person or group of persons the right to express publicly ideas concerning any problem of government or society without prior restraint or fear of subsequent punishment, even though the ideas are displeasing to government or are believed by a majority of our citizens to be false and fraught with evil consequences.

Why did the Founding Fathers secure this right to every individual and association and assembly within our borders?

There are two answers to this question, one philosophical and the other pragmatic.

As philosophers, the Founding Fathers believed that free and full debate teaches men the truth that frees them from the worst of tyranny, i.e., tyranny over the mind; and as pragmatists, the Founding Fathers believed that free and full debate is vital to the civil and political institutions they established.

The Founding Fathers were right on both counts.

Freedom of thought and speech are the things which distinguish our country most sharply from totalitarian regimes. They enable our country to enjoy a diversity of ideas and programs, and to escape the standardization of ideas and programs totalitarian tyranny requires.

Besides, a free and full interchange of ideas concerning the problems of government and society makes us aware of conditions and policies which need correction, and induces us to make in apt time and in a peaceful way the reforms that changing times demand. As a consequence, violent revolution has no rational or rightful place in our system.

Like all freedoms, First Amendments may be abused.

Society is often disturbed by those who abuse these freedoms to protect, either rightly or wrongly, conditions or policies they deplore.

Society must ordinarily tolerate these abuses by protestors, however much it may hate their thoughts and words.

This is true because the power of government to deal with them is limited by the First Amendment.

It is well that this is so. If it is justified, protest may lead to reform; and if it is unjustified, protest may relieve at least temporarily the tensions of the protestors. In either event, protest has therapeutic value for both protestors and society.

Freedom of thought is absolute, and cannot be limited or punished by government in any way. Other First Amendment freedoms are qualified in the sense that their exercise may be circumscribed by government within narrow limits to protect other overriding social interests.

The general rule, however, is that people may express their ideas freely, and associate or assemble freely to make their ideas effective. But this general rule does not prevail in respect to the exercise of speech, association, or assembly which defames others, invades the privacy of others, constitutes obscenity, incites to crime or violence, obstructs the courts in the administration of justice, amounts to sedition, or imperils the national security.

Government may punish by law past speech, association, or assembly falling within these narrow limits, and under extraordinary circumstances subject it to prior restraint by obtaining injunctions from courts of equity.

Except when it acts within these narrow limits, government violates the First Amendment if it attempts to limit its freedoms by legislation. Moreover, government violates the First Amendment if it engages in conduct which is calculated and intended to stifle the willingness of people to exercise their freedom of speech, association, or assembly. It is to be noted in this connection that the First Amendment was written for the timid as well as the brave.

In describing First Amendment limitations on the power of government, the Supreme Court declared in *Terminiello v. Chicago*, 337 U.S. 1, 4, that "freedom of speech, though not absolute, is nevertheless protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest."

Strange as it may seem at first blush, the Amendment protects advocacy of conduct prohibited by law unless it incites action to bring such conduct about and creates a clear and present danger that it will provoke action to that end. This is so because the Amendment protects the expression of ideas, no matter how reprehensible they may be.

Since the doctrine of civil disobedience is invoked with such frequency nowadays, it seems not amiss to emphasize that the Constitution does not countenance civil disobedience which contemplates and produces unlawful acts.

Government has an inherent right to self-protection, and may under some conditions prohibit or punish the advocacy or teaching of the desirability of overthrowing it by violent action.

Judges have used multitudes of words in many cases to define the conditions under which government may exercise its right of self-protection by limiting speech, association, and assembly.

While the words of some of the judges are sometimes somewhat elusive in meaning and for that reason difficult to comprehend, I interpret these cases to lay down these principles:

1. The First Amendment protects all utterances, individual or concerted, advocating constitutional or political changes, however revolutionary they may be, if the utterances contemplate that the changes are to be achieved by lawful means. Hence, freedom of speech permits an individual or a group to advocate the adoption of communism, fascism, or any other system of government by means of the ballot box.

2. The First Amendment also protects all utterances, individual or concerted, advocating or teaching as an abstract doctrine the

desirability of the forcible overthrow of the government. This is true even though such advocacy or teaching is engaged in with intent to accomplish violent overthrow and with the hope that it may ultimately do so.

3. The First Amendment affords no protection, however, to utterances, individual or concerted, advocating or teaching action for the forcible overthrow of government.

4. Inasmuch as the capacity of a group to create danger is greater than that of an individual, the law makes a distinction between the power of government to exercise its right of self-protection against individuals and groups. Government may prohibit or punish utterances of an individual advocating or teaching action for the forcible overthrow of government only if his advocacy or teaching creates a clear and present danger that it will provoke action. But it may prohibit or punish utterances of a group advocating or teaching action for the forcible overthrow of government if their advocacy or teaching takes place under circumstances reasonably justifying apprehension that the action will occur either immediately or at a future time selected by the group.

When it enacted The Smith Act of 1940, Congress made it a felony knowingly or willfully to advocate or teach the desirability of overthrowing the government of the United States or any of its states, territories, districts, or possessions by violence. (18 U.S.C. 2385)

In construing the Smith Act, the Supreme Court decided that the words "advocate" and "teach" were not used by Congress in their ordinary dictionary meanings, because they had been construed in prior cases interpreting similar laws "as terms of art carrying a special and limited connotation." (*Yates v. United States*, 354 U.S. 298, 319) By so doing, the Supreme Court adjudged that the principles which I have outlined were embodied in the Smith Act and in consequence such Act is not unconstitutional.

The Constitution expressly provides two ways to protect our country against domestic danger by civil means. Congress may make punishable as crimes dangerous acts, and, subject to First Amendment limitations, dangerous words; and those of us who esteem our system the best yet devised by man may use our First Amendment freedoms to instruct the ignorant, convert the doubting, and combat the efforts of those who undertake to destroy or injure it.

Justice Bandeis must have had these considerations in mind when he made this statement in his eloquent concurring opinion in *Whitney v. California*, 274, U.S. 357, 378:

"Among freemen, the deterrents ordinarily to be applied to prevent crime are education and punishment for violations of the law, not abridgment of the rights of free speech and assembly."

Since it was first organized as the nation's legislature, Congress has enacted these sedition laws: the Sedition Act of 1798, which still lives in infamy; the Espionage and Sedition Acts of 1917 and 1918, which Attorney General Palmer grossly abused in his "witchhunts" after the First World War; and the Smith Act of 1940, whose potentiality for abuse has been restricted by Supreme Court cases, which subject its broad language to First Amendment limitations. Each of these Acts was adopted in a time of great national strain.

By each of these laws, Congress made utterances it deemed dangerous to the common weal punishable as crimes, and thus secured to all against whom the laws were invoked the right to trial by an impartial jury of the vicinage and the other protections created by the Constitution to prevent the punishment of the innocent.

From the time of the Russian Revolution until the day on which Russia became an ally of the United States in the Second World War, multitudes of Americans entertained profound fears in respect to the menace which they believed communism presented to peace abroad and security at home. As a result of Russia's intransigence in Europe and the communist take-over of mainland China after the end of the war, these fears were revived and intensified, and they rightly remain until this day insofar as they are based on concern for the threat which communism poses to world peace.

Inasmuch as they were based on concern for domestic security, the fears of communism persisted with intensity until the middle of the 1950's, and they still linger in some quarters.

There is room for dispute as to how substantial the communist threat to our domestic security actually was during the times it was feared most. There was some tangible evidence and plethoric surmise that communists had strongly infiltrated segments of the labor movement and had even penetrated government and the armed forces to a degree. The extent of the threat was exaggerated by a tendency on the part of the fearful to believe that persons of unorthodox views were tainted with communism.

Anyway, the fear of the threat to domestic security produced two pieces of major congressional legislation, the Smith Act of 1940, which has already been mentioned, and the Internal Security Act of 1950, which Congress passed over President Truman's veto.

Before the Internal Security Act was adopted, our country steadfastly adhered to the principle that government ought not to punish anybody for anything except for crime of which he has been convicted in a constitutionally-conducted trial in a court of justice.

The Internal Security Act injected a novel concept into our system, which is alien to this principle.

This concept may be summarized in this way:

To protect society, our country should maintain a governmental agency to stigmatize publicly organizations the government considers intellectually or politically dangerous, and visit upon such organizations and their members severe penalties.

I use the phrase "intellectually or politically dangerous" to distinguish the stimatized organizations and their members from organizations and individuals whose legally dangerous acts or words are punishable as crimes under constitutional safeguards.

The Internal Security Act of 1950 created the Subversive Activities Control Board. By the original Act and an amendment of 1954, the Board was given jurisdiction to act on petitions of the Attorney General to identify and require the public registration of communist-action, communist-front, and communist-infiltrated organizations, and members of communist-action organizations.

The Act as amended automatically imposed upon the organizations and the members of the organizations stigmatized by the Board severe penalties. For example, a stigmatized organization was denied the use of instrumentalities of communication unless it plainly revealed that they were being used by it and that it was "a communist organization"; and a member of a stigmatized organization was denied the right to hold any nonelective office or employment under the United States or even to seek such office or employment or employment in any defense facility without revealing his membership in the organization; the right to hold office or employment with any labor organization subject to the National Labor Relations Act; and the right to obtain or use a passport.

The Supreme Court adjudged, in essence, in *Communist Party of the United States* v. *Subversive Activities Control Board*, 367 U.S. 1, that Congress had the constitutional power to regulate the registration of communist organizations because of its finding that such organizations advocate or teach action for the forcible overthrow of government. It ruled, however, in other cases that the procedures prescribed by the Act to effect the compulsory registration of communist organizations violated the self-incrimination clause of the Fifth Amendment, and that major provisions of the Act relating to membership in communist organizations imposed penalties upon individuals on the theory of guilt by association and could not be reconciled with the First Amendment.

These rulings left the Subversive Activities Control Board with virtually nothing it could constitutionally do.

By an amendment of January 2, 1968, Congress undertook to revive the moribund agency by repealing the compulsory registration provisions of the Internal Security Act, and by conferring upon the Board power to issue declaratory orders determining whether organizations it investigates are communist-action, communist-front, or communist-infiltrated organizations, and whether individuals it investigates are members of communist-action organizations.

The revival was short-lived. On December 12, 1969, the United States Court of Appeals for the District of Columbia Circuit handed down *Boorda* v. *Subversive Activities Control Board*, 421 F. 2d 1142, holding that the provisions of the Internal Security Act and its amendments allowing public disclosure of an individual's membership in a communist-action organization without finding that the individual concerned shares in any illegal purposes of the organization to which he belongs violates the First Amendment.

The Supreme Court refused to review this ruling, and the Board found itself left once again with virtually nothing it could constitutionally do.

As one who loves America and hates Communism, I take much comfort from the ineffective record of the Board. It corroborates my conviction that despite its enormous efforts to peddle its shoddy ideas, Communism has made few sales in America.

On July 2, 1971, President Nixon issued Executive Order No. 11605, which attempts to confer on the Subversive Activities Control Board vast power to harass and stigmatize Americans.

President Nixon's Order purports to amend Executive Order No. 10450, which was issued by President Eisenhower on April 27, 1953, to establish loyalty and security requirements for government employment. Hence, we must understand what power the executive department has in this area.

As Justice Frankfurter declared in his concurring opinion in *Garner v. Los Angeles Board*, 341 U.S. 716, 724–5:

"The Constitution does not guarantee government employment. City, State, and Nation are not confined to making provisions appropriate for securing competent professional discharge of the functions pertaining to diverse governmental jobs. They may also assure themselves of fidelity to the very presuppositions of our scheme of government on the part of those who seek to serve it. No unit of government can be denied the right to keep out of its employ those who seek to overthrow the government by force or violence, or are knowingly members of an organization engaged in such endeavor."

President Eisenhower's Executive Order applies only to persons presently enjoying or presently seeking employment in federal executive departments and agencies, and requires the Civil Service Commission, the employing department or agency, or the F.B.I. to investigate matters relating to them as individuals, including their individual memberships in subversive organizations, which are relevant to the determination of whether the employment or retention in employment of each of them is clearly consistent with the interests of national security.

Hence, the Eisenhower Order establishes forthright and circumscribed procedures for

insuring the loyalty of federal civil servants. Moreover, it merely implements powers vested in the President by the Constitution and Acts of Congress relating to government employment.

President Nixon's Executive Order is a different kettle of fish.

To be sure, it professes itself to be a mere amendment to the Eisenhower Order, and it does alter that Order in one or more insignificant respects.

The major provisions of his Executive Order represent, in reality, an attempt on the part of President Nixon to amend the Internal Security Act of 1950 by bestowing upon the Subversive Activities Control Board new sweeping powers far in excess of those Congress sought to give it.

To this end, the Nixon Order declares in express terms that the Board shall henceforth possess and exercise the power to conduct, on petition of the Attorney General, hearings to determine whether any of the innumerable organizations which claim the membership of millions of Americans who do not enjoy or seek federal employment are (a) totalitarian, (b) fascist, (c) communist, or (d) subversive organizations, or (e) organizations which have the policy "of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State," or (f) organizations "which seek to overthrow the government of the United States or any State or subdivision thereof by unlawful means."

The Nixon Order further declares that in making its determinations, the Board shall have power to investigate the activities and objectives of every group in America which commits acts of force or violence; or unlawfully damages or destroys property, or injures persons; or violates laws "pertaining to treason, rebellion or insurrection, riots or civil disorders, seditious conspiracy, sabotage, trading with the enemy, obstruction of the recruiting and enlistment service of the United States, impeding officers of the United States, or related crimes or offenses."

The Nixon Order provides that the Attorney General will transmit to each federal executive department or agency the names of all organizations condemned by the Subversive Activities Control Board for its use in determining whether persons enjoying or seeking employment by it should be employed or retained in employment.

It is manifest, however, that the real objective of the Order is to empower the Board to brand the organizations and groups specified in it as intellectually or politically dangerous to the established order. It is equally as manifest that such branding of these organizations and groups will place a political or social stigma on their members, and tend to minimize their exercise of freedom of speech, association, and assembly.

I submit that the provisions of the Nixon Order which purport to confer new powers on the Board have no legal force for these reasons:

1. Their promulgation was beyond the constitutional power of the President.

2. They are void for overbreadth.

3. They violate the First Amendment and due process rights of all the members of the organizations or groups designated except those who share the illegal aims of the organizations or groups.

What was said by the Supreme Court in respect to President Truman's Executive Order in the steel-seizure case, *Youngstown Sheet and Tube Company v. Sawyer*, 343 U.S. 589, 588, makes it plain that in his attempt to expand the power of the Board, President Nixon undertook to make law.

"The President's order does not direct that a congressional policy be executed in a manner prescribed by Congress—it directs that a Presidential policy be executed in a manner prescribed by the President."

It necessarily follows that the major provisions of the Nixon Order are void under Sections 1 and 8 of Article I of the Constitution, which give Congress all the law-making power of the federal government and deny any of it to the President.

I do not question the power of the President under the Constitution and Acts of Congress governing federal employment to establish by executive order procedures to assure the loyalty of federal civil servants. But I do assert with confidence that even if it were a bona fide effort to accomplish that objective, the Nixon Order would be void for overbreadth.

The Order brings within its coverage the organizational memberships of millions of Americans who neither enjoy nor seek employment in the federal establishment. Besides, it applies to the activities and objectives of groups past numbering which have no relationship whatever to the loyalty of federal civil servants.

The President has no power to subject the organizational memberships, activities, or objectives of all Americans to the scrutiny of the Subversive Activities Control Board because some of them may be employed by the federal government or some of them may hereafter seek employment by it.

The Nixon Order also violates the First Amendment and the due process clause of the Fifth Amendment by applying the theory of guilt by association and stimatizing politically and socially all the members of all the organizations or groups branded by the Subversive Activities Control Board, including those who may be passive or inactive members of such organizations or groups, or those who may be unaware of the unlawful aims of such organizations or groups, or those who may disagree with those unlawful aims.

While I do not care to belabor the points, a pretty good case can also be made for the proposition that some of the powers the Order attempts to allot to the Board trespass upon areas the Constitution reserves to the States, and others offend the First Amendment principle that government cannot touch the mere advocacy of ideas, no matter how reprehensible they may be.

MY FAITH

Apart from its constitutional infirmities, President Nixon's Executive Order is to be deplored because it has no rightful place in our land.

It is not the function of government in a free society to protect its citizens against thoughts or associations it deems dangerous, or to stigmatize its citizens for thoughts or associations it thinks hazardous. Yet that is exactly what the Executive Order undertakes to empower the Subversive Activities Control Board to do.

I rejoice in the fact that the Committee on Appropriations has amended the State-Commerce-Justice Appropriations bill to prohibit the expenditure of any funds to carry out the functions granted the Board by Executive Order 11605. With the Order effectively paralyzed, there will be no justification for continuing to fund the Board, since for all practical purposes it will have nothing to do except pose a latent threat to freedom.

If America is to be free, her government must permit her people to think their own thoughts and determine their own associaitons without official instruction or intimidation; and if America is to be secure, her government must punish her people for the crimes they commit, not for the thoughts they think or the associations they choose.

In closing, I affirm my faith in the sanity and steadfastness of the overwhelming majority of all Americans. I shall not fear for the security of my country as long as love of liberty abides in their hearts, and truth is left free to combat error.

Mr. ERVIN. Mr. President, I ask unanimous consent that a statement prepared by me entitled "Getting Our Money's Worth From the SACB at $5,413.33 a Minute" be printed in the RECORD.

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

GETTING OUR MONEY'S WORTH FROM THE SACB AT $5,413.33 A MINUTE

Mr. ERVIN. Mr. President, in a few days the Senate will be asked to appropriate almost one-half million dollars to continue the SACB for another year. Many Senators, myself included, oppose this appropriation and ask that the Board finally be laid to rest by striking the money from the bill.

Last Saturday, June 10, an editorial appeared in The Washington Post setting out the case against the SACB. Although that editorial repeated the uncontroverted facts about the history of the SACB, it may be that some people believe that the Post and other opponents of the Board have been unfair in their criticism.

Allow me to summarize the arguments against the Board. Quite simply the continued existence of the SACB stands as an insult to the traditional freedoms of Americans. Although we may be thankful that the Board has never exercised effectively any of its unconstitutional powers, still the public has had little to show for the expenditure of almost seven million dollars in taxpayers' money during the Board's 22-year history. During this time it heard only 26 cases.

In 1971 there was a last minute desperate effort by the Administration to find something for the Board to do. On July 2, 1971, the President attempted to amend the Internal Security Act of 1950 by Executive Order. Executive Order 11605 purported to expand the Board's powers to include the preparation of the so-called Attorney General's list of supposedly subversive groups. Last year the Senate effectively rejected this Executive Order as unconstitutional for the reason that the President had attempted to legislate, which under the Constitution is a congressional responsibility, and secondly because the order infringes upon the rights of free expression and free association. I am pleased that the Appropriations Committee has reported the bill with this same amendment already added.

In all fairness, the President, who is "a trained lawyer," no doubt recognized the constitutional infirmities of his action but felt compelled to ignore these qualms in an attempt to save the Board from extinction and to rescue its members from the excruciating boredom they have suffered for almost two decades by giving it something—anything—to do. To some extent, the latter goal may have been successful. I am informed that the Board heard 111 cases last year. Certainly when compared with the 25 cases it heard in its previous 20 years, this seems a lot of work. In fact, when the Board came before the appropriations committees of Congress this year, it was evidently so proud of having had a four-fold increase in the number of cases last year over its entire previous 20-year history that it pleaded for a 57 percent increase in its appropriation so that it might continue at this feverish pace.

Now, skeptics may take issue with claims that the Board is overworked. They might argue that these 111 petitions can be used to demonstrate that the SACB is an agency which cannot function under the Constitution except by holding absurd proceedings on matters about which no one cares. They might cavil by pointing out that in all these cases the Board was simply exercising its "delisting" function pursuant to the order and that that is all the Board is likely to do in years to come. They might point out that these 111 cases only took four days of hearings which consumed a total of only 1¼ hours of the Board's time. They might also argue that at more than $5,000 a minute

these are probably the most expensive hearings in the history of American bureaucracy.

Indeed, to date the "delisting" hearings have not been excessively complicated. The process operates something like this. The Justice Department decides that a group on the Attorney General's list has gone out of existence. This is not too difficult since most of them were created in the pre-World War II era, and nothing has been heard of them since the war started. They have existed for the past 20 or 30 years only in the Justice Department's Attorney General's list, which was last revised 17 years ago. An Attorney General in the Justice Department then prepares a formal application or petition alleging that the group no longer exists and establishes the date when the association expired. He prepares identical ones for each group and then sends the petition by certified mail to the last known address of each of the organizations.

The Post Office performs perhaps the most important and difficult phase of this "delisting" process—it tries to deliver the petitions. Since the associations have all expired, naturally the Post Office returns the notices to the Justice Department marked either "addresses unknown," "unclaimed," "no forwarding address," "unknown," "return to sender," or some other appropriate notation signifying that no one was there to receive it. Armed with this conclusive evidence of the organization's demise—and who can argue with such simple yet uncontrovertible evidence based upon the joint efforts of two government agencies—the Justice Department then forwards the petitions, returned envelopes, and certificates of service to the SACB for the hearing. The Justice Department officially closes this meticulous investigation with its declaration to the Board that "in the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further showing with respect to this petition."

And now it's the SACB's turn to carry the ball. Upon receipt of the petitions from the Justice Department, the Board categorizes the organizations named and groups them into sets of 25–30 cases. After a date is set, a notice of hearings, together with a copy of each petition and certificate of service from the Justice Department involved, is published in the *Federal Register*. Although not as popular a journal as *Playboy*, this is to satisfy the necessary legal notice that each organization has been duly informed of the impending hearing. The Board then awaits in vain a response to its notice.

Finally the day arrives and the hearings are called to order. Assembled are all interested parties to the proceedings. A panel of three Board members are present. What work preoccupies the other two that they cannot also participate, no one has explained. The General Counsel, whose presence "assures that due process and procedural safeguards are met," is also there. So are a court stenographer and all witnesses. Thus far only the Executive Secretary, who is also Chief Clerk of the Board, has ever testified.

The hearing consists solely of the formal recitation of the actions of the Justice Department, Post Office, and Board to date and the insertion of each and every copy of each of the documents—including each unsigned register receipt and each envelope—into the record. The Executive Secretary states the Justice Department's allegations that the groups seem to have gone out of existence and tells the Board of the lack of response to its published notice of hearings. He presents to the Board the unequivocal evidence adduced by the Justice Department—the returned petitions with the Post Office's "unknown" notation on the envelopes. After receiving this material into the record, the evidentiary proceeding, which averages 48 seconds per case, is gaveled to a close. The whole thing literally takes less time to do than it takes to describe.

The three Board members who heard the testimony then retire to their chambers to prepare a recommendation to be presented to the entire Board. On the basis of the preponderence of evidence, the Board inevitably issues its conclusion asking the Attorney General to strike the group's name from the list because it no longer exists.

I must confess that I am not persuaded that the taxpayers got their money's worth last year, having spent almost $500,000 for this kind of nonsense. This is a travesty of bureaucracy in inaction. I cannot understand why the SACB has come before the Congress asking for a 57 percent increase in its budget to conduct this simple exercise. I cannot understand why anyone would want to continue the farce for yet another year.

But perhaps I am being too hasty on the Board. Maybe they are engaged in difficult, important work. What would happen if an organization actually contested one of the Justice Department's delisting petitions? What if an organization came forward and insisted that it was still alive and still subversive?

The questions of determining whether an unincorporated association has died and, if so, the exact moment of its passing, will not be easy ones. Indeed, they rate as profound political, philosophical, legal—and maybe even religious questions. The giants of western civilization—Shakespeare, Descartes, Plato, Blackstone to name a few—have written reams trying to grasp the meaning and definition of human death. How much more elusive and more difficult is the question with which the members of the Subversive Activities Control Board must grapple—the life and death of a supposedly subversive organization.

How does one decide when an unincorporated voluntary association has become defunct? This is not a simple issue for the common law. The legal encyclopedia lists nine means by which a group may commit associational suicide. A consideration of only two out of the nine points up the difficulties the Board will face if an organization protests that reports of its death are greatly exaggerated.

For example, Corpus Juris teaches us that an organization may be destroyed by unanimous consent of its members. Assume that the SACB adopts this test. To begin with the Board has to determine whether the meeting of the group where the organization was allegedly dissolved was properly called. So the SACB would have to obtain a copy of the constitution and by-laws of, for example, the Central Council of American Women of Croation Descent. Hopefully, there will be no language barrier. After becoming experts on the constitution and by-laws of this rather obscure group, assuming they have one, the SACB then has to get a stenographic record of the group's final meeting or else receive oral testimony from those present at that last meeting 20 or 30 years ago. The Board then must determine whether the members who voted on the resolution dissolving the organization were actually bona fide members. In the case of the Central Council, the SACB would have to determine whether the women involved were truly of Croation descent. Along the way, they would have to decide how much Croation ancestry qualifies to be a bona fide member. What, for instance, about adopted children? What if the only members actually present at such a meeting were FBI agents? Would they be considered bona fide members? What if they were both Croation and FBI?

Assuming the SACB cannot resolve the issue in this manner, Corpus Juris suggests another test. An association can cease to exist when it has achieved its object or purpose. This would involve the SACB in even more complex problems. The SACB first must determine the organization's purpose or goal. Consider the difficulties the Board faces in that regard with respect to the League for Common Sense. What is common sense?

Clearly in this case, the League has not achieved its purpose—which I guess is the forcible overthrow of the United States government by common sense. Anyone can tell that common sense does not dominate our government. Indeed, it has not even begun to subvert important portions of it. The Senate could strike a blow for the victory of common sense by abolishing the SACB. Until it does so, no one can argue that the League for Common Sense has achieved its goal. More likely, it has despaired of even converting the government to the principles of common sense. We can see that this test will not be of much help to the SACB in deciding when a voluntary association expires.

Of course, this test would be unfair for some groups. For example, consider the Department's petition in the case of "Everybody's Committee to Outlaw War." Now this organizations goal is clear—to outlaw war—but the group obviously has not achieved its goal. In fact, using this test it might be argued that this group never even existed because its purpose was frustrated from the very beginning and anyway not "everybody" is in favor of outlawing war.

I could go on and list the other tests laid out by Corpus Juris for determining whether an organization has ceased to exist but I believe I have made my point. The SACB has a Herculean task. I submit that even a Holmes or a Cardozo would have considerable difficulty determining these crucial questions of law and philosophy.

Indeed, my reading of Corpus Juris and the cases cited thereunder do not even address themselves to the question of how to determine the exact date an organization has succumbed—which is the other issue the Board must resolve. Here the Board will, no doubt, make exciting new contributions to the common law as it labors in a vineyard overgrown with onion grass. Few have trod this ground before.

I expect the Board has anticipated the possibility of a contested delisting case and has begun to formulate a new standard, a test to determine whether an organization has ceased to exist. Perhaps this is what the missing two Board members do when the hearings are going on. Even though we cannot yet see the fruits of their labor, I suppose the Senate must use its imagination. Imagine the Board members, red-eyed from long nights of worry, its legal assistants burdened down with briefs and dusty case books, pouring over old philosophical tracts from the Byzantine Age, perusing the statements of men of learning from the nation's schools of philosophy, law, medicine and religion.

If we invest another half-million dollars in the Board we will eventually get this classic statement on this most important problem—associational suicide. We will have a classic essay, an essay on one of the issues of great moment to the future of western civilization. An issue which can only be compared to such fundamental questions as: How many angels do stand on a pin? Does a tree make a sound if it falls with no one to hear it? Where does the flame go when a candle is blown out? Does a pond ever stop rippling when a stone is dropped in it? Who killed cock-robin?

That is what we buy the American people if we approve the Board's money. It's time to put an end to this travesty.

Mr. ERVIN. Mr. President, this statement gives a history of how they dug up 111 dead organizations temporarily and then put them back to rest at the rate of one every 48 seconds. It shows how the great labors of this Board consisting of five members consumed only

4 hours and 15 minutes, since the bill was up here for consideration last year, of very arduous labor which consisted of resting in easy armchairs.

Mr. President, I also ask unanimous consent that—an editorial published in the Washington Post entitled "A Last Hurrah for the SACB?" be printed in the RECORD. I hope that the title of the editorial is a harbinger of the success of the amendment, and that the amendment will be adopted.

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

[From the Washington Post, June 11, 1972]

A LAST HURRAH FOR THE SACB?

The appropriations bill for the Departments of State, Justice and Commerce, the Judiciary and Related Agencies, which contains, among other things, the appropriation for the Subversive Activities Control Board, has been reported out of Committee and will soon be taken up by the Senate. The Board has had so little to do over its lifetime that last year, its Chairman had to admit plaintively during his appropriations hearings that he and his agency had too little to do and the President felt constrained to issue an executive order of doubtful Constitutional validity in an effort to interrupt the agency's slumber. The Senate, where welfare discussions are sure to evoke numerous expressions of high principle against giving people taxpayers' money for doing nothing, will have to go through extraordinary contortions in order to justify appropriating another penny for the SACB.

The Board was created by the Internal Security Act of 1950 to identify, when petitioned by the Attorney General, three kinds of organizations: "communist action" "communist front," and "communist infiltrated," and to provide a registry of subversive individuals. In large measure, because the courts have found that the bulk of its authority was unconstitutional, the Board has done next to nothing in the 88 years of its existence. Up through the summer of 1971, Attorneys General had sent over 25 petitions suggesting the listing of organizations and it had rendered final orders in only eight of them. From 1966 to 1971 the Board held no hearings on alleged communist front organizations, then in fiscal year 1971 it heard three witnesses on two cases. So far in fiscal 1972, it has heard no cases. It has never managed to register a single subversive individual. While we would agree with the argument that, considering its obnoxious mandate, it is probably a good thing that the Board has done so little, it is a fact that it has managed to spend about $6.7 million of the taxpayers' money, all to no purpose.

The inactivity led President Nixon to issue an executive order which seems to have been intended to give the Board a little work to do. And nasty work it is. It transfers the function of making up the list of subversive organizations from the Attorney General to the Board, vastly and vaguely expands the types of organizations to be listed (totalitarian, fascist, communist and subversive, which seek to overthrow the government by unlawful means or advocate force or violence to deny others their constitutional rights) and it also authorizes the government to evaluate its present or prospective employees on the basis of the SACB listings.

The executive order raises three enormous problems: first, it is an attempt to amend legislation by executive fiat; second, its provisions are so broad and imprecise they could encompass any number of lawful dissident organizations including substantial chunks of the peace and civil rights movements; and finally, the order is aimed at speech alone as opposed to illegal acts—a grievous wounding of the first amendment.

The Senate has a great opportunity finally to lay this offense to the Constitution and to budget-conscious government watchers to rest, once and for all. When the money bill comes to the floor, it will carry with it Senator Ervin's amendment which would prohibit the Board from using any appropriated money to carry out the provisions of the executive order. This is a good measure, as far as it goes, we think, but it does not go far enough. On the floor, Senators Proxmire and Ervin will offer amendments deleting all appropriations for the SACB. A similar amendment was defeated by the narrow margin of 47 to 41 last year. Since then, the Board has done virtually no work even with its ugly and probably unconstitutional new powers, the very existence of which—whether they are exercised or not—demean the republic. A Senate vote for the Proxmire-Ervin amendment would be a statesmanlike exercise in an important area of pollution control and in budget trimming all in one fell swoop.

Mr. ERVIN. Mr. President, why is this Board bad? The Constitution of the United States and the American system of government contemplated that no man shall be punished by the Government except for a crime which he has committed and of which he has been duly convicted according to constitutional standards in a court of justice. However, we departed from that good old American principle back in 1950 when we established this Board, whose sole purpose is to try to intimidate people and to keep them from speaking in their own voices and to keep them from associating with people who have like thoughts. So, we set up this Board to brand organizations as being political and intellectually dangerous to the establishment.

The Constitution in article I gives its freedoms to every person within our borders regardless of whether he is wise or foolish, whether learned or ignorant, whether devout or ungodly, and regardless of whether he loves America and its institutions or hates them. It gives every person the right to make a fool of himself. It is the purpose of this Board to keep some people intimidated so that they will not make damn fools of themselves.

The Board only found 66 people of that character—and they were not convicted of being so—since 1950. But the United States is not in any danger of being overthrown by force and violence by 66 alleged Communists out of a population of 200 million people.

If I could see ghosts of communism hiding in all corners, I could support this thing. If I thought 200 million Americans were so pusillanimous as to believe that the country they love could be overthrown by force and violence by 66 people, I would vote against the amendment offered by the Senator from Wisconsin and myself. I would vote to continue the unemployment insurance compensation benefits for the five bureaucrats who do nothing but draw their breaths and their salaries.

The Board has no function except to brand organizations as being politically and intellectually obnoxious.

The Constitution of the United States gives a man the right to make a damn fool of himself and believe anything that he wants to as long as he does not take any action.

We have a law, the Smith Act, that says that any man who advocates the overthrow of the Government by force and violence, if he comes within the terms of the Smith Act as interpreted by the Supreme Court—which requires more than mere theory and utterances—can be prosecuted.

If anyone is afraid of someone overthrowing the Government by force and violence, let him make out a case under the Smith Act, which has been held constitutional. But let us not permit them to set up an organization which cannot function under the decisions of the Supreme Court, an organization that is likely to label or brand as politically or intellectually obnoxious to the established order people who think in a sort of haywire fashion.

I do not fear for the security of my country as long as my country only punishes people for the crimes they commit. However, I do fear for the continuance of my country as a free society when my country sets up a board which undertakes to tell people what thoughts they can think and what associations they shall choose.

I do not think my country is in any danger as long as the love of liberty abides in the hearts of its people, as long as it leaves truth free to combat error.

That was the reason which inspired the writing of the first amendment.

This measure is nothing in the world but an effort to continue by this appropriation an organization which has proved to have functions which are unconstitutional and an organization which cannot find anything constitutionally to do, in order that that organization might try to exercise what Thomas Jefferson said was tyranny over the mind.

Like Thomas Jefferson, I have sworn eternal hostility to every form of tyranny over the mind of man, and this proposal to continue this board in existence is merely an attempt to have an organization whose sole function is to try to exercise tyranny over the mind of men whose foolish thoughts are obnoxious to those of us who belong to the established order.

I am frankly willing to let any man think anything he wants to think, no matter how foolish or how unpatriotic, because I have an abiding conviction that our country has nothing to fear from freedom of thought, no matter how foolish it might be, as long as it leaves truth free to combat error.

The Senator from South Carolina said we should have a way to investigate people applying for Government jobs. Mr. President, you already have such an order in the form of an Executive order signed by President Eisenhower. It provides that no person is entitled to have Federal employment or to be retained in Federal employment if his employment or retention is inconsistent with the national security. It provides that the Civil Service Commission shall have the power to examine applicants for employment through the Civil Service Commission,

and it provides that where the person to be employed does not come through civil service he can be investigated by the employing department or agency. It further expressly provides that either the Civil Service Commission or the employment department or agency can receive assistance of the FBI with respect to every person who is employed by the Federal Government or who seeks employment by the Federal Government, concerning whom there is any doubt as to whether or not he is a patriotic American and a good security risk.

Mr. President, why set up a board of five men to conduct investigations like that of all people in the United States on the theory that some of them may at some time in the future seek employment at the hands of the Federal Government? If these board members want a pension, let us give them a pension, but let us not go through the mockery of doing nothing but drawing salaries and breath. Let us save this $450,000 and have some respect for the first amendment which is designed to make every American, regardless of how wise or foolish he is, intellectually and spiritually free.

Mr. HOLLINGS. Mr. President, I yield 10 minutes to my distinguished senior colleague from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the pending amendment 1226 to H.R. 14989, the State-Justice-Commerce appropriations, would eliminate the appropriation for the next fiscal year for the Subversive Activities Control Board.

Such a suggestion disturbs me greatly. The SACB has played a vital role in the protection of national security. Communist front organizations have shown us time after time that they fear the strengthening of our security above anything else. The undermining of Communist operations and strengthening of U.S. security can be done through the mere process of exposure.

Mr. President, now is certainly not the time to weaken our activities in this area. On May 30, 1972, H.R. 9669 passed the House. This legislation would serve as the heart of a new internal security program. This was formulated by the joint efforts of the executive branch and the House over several years. It is now pending in the Senate Judiciary Committee.

The new program created by Executive Order 11605 and H.R. 9669 permits actions aginst the various Communist organizations which are operating within the United States to violate personal freedoms of U.S. citizens by unlawful means. This program will alert the American people to the nature of these various organizations by making this knowledge public. This new program will greatly reduce the weaknesses of the existing operations.

The Subversive Activities Control Board is an essential part of the program. This board was formed to expose the Communist Party USA and the "fronts" of the Communist Party which are dedicated to the active overthrow of the Government of the United States by illegal means.

Congress held extensive hearings in the years from 1947 to 1950 to determine how best to control the threat the Communist movement poses to the internal security of the United States. Congress finally decided that the best solution is a system of control through revelation, combined with limitations on certain types of Communist activity.

The Subversive Activities Control Act of 1950 was the solution proposed by Congress at that time. This act granted the Communist Party the freedom to exist and to operate, but denied the Communist movement its most lethal weapon: Its secretive, subversive manner. By operating in a clandestine manner, the Communist Party was able to keep the individual American citizen ignorant of its purpose, existence or aims.

Mr. President, Congress decided that Communist organizations must now annually file certain basic information with the Attorney General. This registration and disclosure requirement is to protect the interest of the American people in the same way they are protected from certain practices of various businessmen, lobbyists, and political parties.

If these Communist groups did not register, the Attorney General could petition the SACB to hold hearings to determine if they came under the 1950 act and then order them to register as such. The informational, educational, and exposure function under this 1950 act was to be achieved through the SACB by its hearings, reports, and filed information.

Critics have charged that the SACB has become moribund. This charge may have been accurate under Attorneys General Katzenbach and Clark. However, under this administration the Justice Department has again been sending cases to the Board. Over 200 cases have been filed with the SACB since October 1971 under Executive Order 11605.

The Congress has supported the Board throughout its history by appropriations and by major amendments to the 1950 act. The recent 1968 amendment reiterated the nature of the World Communist Movement and stated that:

> The Party and the Movement present a clear and present danger to the security of the United States and to the existence of free American institutions.

Mr. President, President Nixon's Executive Order 11605 will join with the House bill to correct the present shortcomings in our internal security system. This order will give the SACB a major role in Government employee security procedures. It also designates the Board as the hearing and factfinding agency for organizations to be placed on the Attorney General's list. This list continues to be a vital element in the Federal personnel security program.

The Attorney General's list was a nonadversary closed administrative procedure. In the 1950's, various court decisions decreed that these proceedings should be open with requisite due process. The executive branch lacks the authority to confer subpena and judicial appeal and thus there have been no organizations designated by the Justice Department since 1955. The list needs updating; however, Government witnesses who have testified before the House Internal Security Committee stated that the program is effective because of its exposure of subversive organizations and their activities, and that only the list needs modernizing. The objection concerning open adversary hearings is also eliminated because the SACB is a quasi-judicial body with cross-examination and evidence examination rights to those involved.

To eliminate the SACB appropriation at this time would be dangerous, particularly in view of the effort taken to formulate a new program and to provide the SACB with the powers needed to carry out its essential role.

Mr. President, I ask unanimous consent that the statements by Mr. John W. Mahan, Chairman of the Subversive Activities Control Board, before the Committee on Appropriations of the U.S. Senate and the Committee on Internal Security of the U.S. House of Representatives be inserted in the RECORD at the conclusion of my remarks.

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

STATEMENT OF JOHN W. MAHAN, CHAIRMAN, SUBVERSIVE ACTIVITIES CONTROL BOARD

Mr. MAHAN. That is correct.

We would like to have the 80-page statement placed in the record and I would like to summarize, Mr. Chairman.

The CHAIRMAN. That will be done without objection.

(The document referred to follows:)

SUBVERSIVE ACTIVITIES CONTROL BOARD

The Subversive Activities Control Board (SACB) is an independent, five-member, quasi-judicial agency of the Federal Government whose members are appointed by the President with the advice and consent of the Senate. No more than three members may be of the same political party.

The Board was created by Title I of the Internal Security Act of 1950, the Subversive Activities Control Act, which became law over presidential veto on September 23, 1950, in the Second Session of the 81st Congress.

The function of the Board is to hold hearings, on petition of the Attorney General of the United States, for the purpose of determining whether organizations are Communist-action, Communist-front, or Communist-infiltrated, as those terms are defined in the Subversive Activities Control Act. Until recently, it also had the function of determining whether individuals were members of the Communist Party, which the Board had found to be a Communist-action organization. Another Board function is to hold hearings, on petition of organizations (and, formerly, individuals) which are the subject of Board findings, to determine whether the finding in question should be vacated or altered.

The Board does not have authority to conduct investigations or initiate proceedings itself. It can hold hearings and issue reports only on request of parties authorized by the Subversive Activities Control Act to submit petitions to it.

BACKGROUND

The purpose of Congress in enacting the Internal Security Act which created the SACB can be understood only in the light of certain developments which had taken place over a period of years prior to 1950.

The end of World War II did not bring peace. International Communism's intent to take over the world soon became apparent from its seizure of various governments in Middle and Eastern Europe and its attempts—defeated with United States assist-

ance—to take over Iran, Turkey, Greece, the Philippines and other nations.

Concurrently with these foreign developments, the American people were jolted into a realization that, operating through the U.S. Communist Party and a network of spies and agents, international Communism not only planned the destruction of the United States by force and violence but had made considerable headway in penetrating and influencing many areas of life in this country, including the Government itself.

The 1945 defection of Igor Gouzenko, code clerk of the Soviet Embassy in Ottawa, Canada, revealed American complicity in the theft of United States atomic secrets by the Soviet Union while it was our World War II ally. Louis Budenz' testimony about the Party before the House Committee on Un-American Activities in 1946 also had great impact. Budenz had served for years on the National Board, the ruling body of the Communist Party, and also as managing editor of the Party's newspaper, the "Daily Worker." He was thus in a position to reveal much about the Party that had not been made public before.

Other Congressional revelations about Communist operations, combined with events abroad and widespread open Communist activities within this country, inevitably led to the introduction of bills dealing with the problem of domestic Communist subversion.

In 1947, the Committee on Un-American Activities held seven days of hearings on two such bills. Nineteen witnesses testified in these hearings and their testimony filled approximately 600 pages. Witnesses ranged from Eugene Dennis, then the General Secretary of the Communist Party, to persons such as FBI Director J. Edgar Hoover, the Honorable William C. Bullitt, former Ambassador to the Soviet Union, Victor Kravchenko, representatives of veterans and patriotic groups, congressmen, governors, and the President of the AFL, William Green.

Shortly after the completion of these hearings, Senator Mundt, then a Representative and member of the Committee, after consulting with the FBI and his friend and Committee colleague, then Representative Richard M. Nixon, introduced a bill which became known as the Mundt-Nixon bill and was the original version of the Subversive Activities Control Act.

In 1948, a Legislative Subcommittee of the Committee on Un-American Activities, chaired by then Representative Nixon, held hearings on this bill and on another bill which would have outlawed the Communist Party. Thirty witnesses testified in these hearings which extended over a period of seven days. Many prominent Americans were among those testifying—Attorney General Tom C. Clark; FDR braintruster Donald Richberg; Ferenc Nagy, former Premier of Hungary; Louis Waldman, the famous labor lawyer; Admiral William H. Standley, former Ambassador Extraordinary to the Soviet Union; John Foster Dulles; Thomas Reed Powell, Professor of Constitutional Law at Harvard; Raymond Moley, Professor of Law at Columbia University and Associate Editor of Newsweek; Adolph A. Berle, Jr., another Columbia University Law School Professor and former Assistant Secretary of State; Dr. William Yandell Elliott, Professor of Government at Harvard; Eugene Lyons, editor, writer, correspondent and authority on the Soviet Union; the Chairman of the American Bar Association's Special Committee on the Bill of Rights; and Benjamin J. Davis, the late Chairman of the Communist Party.

The House passed the bill on May 19, 1948, by a 319–58 vote, after it was reported by the committee. Hearings on it were held in the Senate but that body adjourned before acting on the measure.

In 1949, additional Senate hearings were held on the Mundt-Nixon and related bills and, in 1950, further hearings were held by the House Committee on Un-American Activities. I will not take time to go into details about these hearings, the type witnesses, etc., but the result of all this was that by the time September 1950 came, the House and Senate had held 58 days of hearings during which over 230 witnesses had filled some 3,200 pages of testimony with views pro and con the bills which became the Subversive Activities Control Act.

It is worth noting that Senator Wiley stated on the Senate floor on June 19, 1948, that, in the Senate Judiciary Committee hearings held that year, opponents of the proposed legislation were given 4/5 of the time allowed for testimony and the proponents only 1/5. An array of Communists testified in these Senate hearings, a few of them openly, but most of them covertly, under the mask of officers of Communist-controlled unions or officials of Communist fronts.

After the House passed the Mundt-Nixon bill in 1948, there was great public demand for Senate action. Allegations were made that Communist and leftist pressure was shocking Senate approval of the House-passed bill. In his remarks on the Senate Floor on June 19, Senator Wiley, Chairman of the Judiciary Committee, said that the Committee was not reporting the House-passed bill only because it "arrived too late in the Senate" (on May 21) and the Senate was not going to merely rubber stamp the House measure. He emphasized the fact that the Communists had neither killed nor succeeded in delaying the proposed legislation, and that it was simply a matter of the Senate Committee not having sufficient time to fully weigh and consider the bill after four days of hearings late in May during which the testimony of 27 witnesses was received.

This fact, combined with the fact that the House and Senate held so many days of hearings with so many witnesses over a period of four years before enacting the Internal Security Act, refutes the claim that it was a hastily conceived measure passed in the grip of hysteria. On the contrary, it was probably the most carefully and thoroughly considered security bill ever enacted by the Congress.

It is important to recall that during the years 1947, 48, 49, and 50, while these hearings were being held, more and more evidence was piling up which demonstrated the need for effective internal security measures. There was the testimony of Elizabeth Bentley and Whittaker Chambers before the Committee on Un-American Activities and the eventual Alger Hiss conviction on perjury charges growing out of those hearings. The Committee also exposed American Communist complicity in the Soviet theft of our atomic secrets from Los Alamos, Communist penetration of the Radiation Laboratories at the University of California and of numerous governmental agencies. Theft of documents and influencing of policy in favor of Soviet Union was also disclosed.

The 1946 Amerasia case alone involved the theft of hundreds of classified Government documents.

In 1947 The Committee on Un-American Activities published a heavily documented report on the Communist Party as the agent of a foreign power. In 1948 it published a similar report on the Communist Party as an advocate of the overthrow of the Government by force and violence.

A Gallup Poll taken early in 1947 revealed that:

61% of the American people believed that membership in the Communist Party should be made a criminal offense;

61% believed that Party members were loyal to the Soviet Union rather than to the United States, and;

67% believed that Communists should be barred from all Government positions.

Communist Party leader William Z. Foster, testifying before the Senate Judiciary Committee in its hearings on the Mundt-Nixon bill in 1948, said that if there were a war with Russia it would be the fault of the United States and United States Party members "are not going to fight against the Soviet Union."

In March 1949, Foster and Eugene Dennis, another top Party leader, said that U.S. Communists would be on the side of Russia in the event of a "Wall Street war." It was after they had made this statement that President Truman referred to the leaders of the Communist Party as "traitors."

In 1949, the CIO began expelling a dozen of its major unions on the basis of Communist-control and subservience to the policies of the Cominform rather than the CIO Communist penetration not only of moving pictures, but of radio and TV and the use of these media for propaganda purposes were documented.

The top leaders of the Communist Party, indicted for conspiring to teach and advocate the violent overthrow of the United States Government in 1948, were tried and convicted in 1949.

J. Edgar Hoover in his appearances before the House Appropriations Committee and in speeches and articles did much to alert the Congress and the public about Communist operations and penetration in this country.

In the spring and summer of 1950 the Committee on Un-American Activities held hearings on Communism in the United States Government. During these hearings various persons who had served as Government officials and had been identified as Communists and members of cells within the Government were called as witnesses. They included members of the so-called Silvermaster spy group, named after Nathan Gregory Silvermaster who had been director of the Labor Division of the Farm Security Administration and had served on the Board of Economic Warfare; the Perlo group, also involved in espionage, named after Victor Perlo, now a columnist for the Communist Party's newspaper, The Daily World, who was head of a research section branch in the Office of Price Administration who had also been employed by the War Production Board and the Treasury Department; and the Ware-Abt-Witt penetration group named after the late Harold Ware, who had been employed in the Department of Agriculture; John J. Abt, now an attorney for the Communist Party, who had also worked in the Department of Agriculture, for the WPA, the Senate Committee on Education and Labor and the Department of Justice; and Nathan Witt of Agriculture and the NLRB.

On the international front, the Government adopted various methods to combat Soviet aggression and also its propaganda operations. During these years the CIA, Voice of America, and the United States Information Agency were created. The Marshall Plan, forerunner of the various foreign-aid programs that have since been carried out to strengthen foreign nations threatened by Communist aggression, was instituted. In 1949 the North Atlantic Treaty Organization was formed. The South East Asia Treaty Organization (SEATO), was formed several years later. In the light of these developments, it was only natural that steps would also be taken to counter the inroads made by Communism here at home.

These and numerous other events which could be mentioned, coupled with continued Soviet aggression abroad, make readily understandable the determination of Congress that the Internal Security Act be passed before it recessed for the 1950 elections.

The Communist Party was not idle with respect to the proposed legislation during this period. To supplement the appearances its open officials and secret agents made to oppose the measure in legislative hearings, it

launched a nationwide agitation and propaganda campaign against the proposed legislation.

During the Senate hearings on the bill in 1948, as one example, the Committee for Democratic Rights staged a demonstration in Washington on the day Paul Robeson testified against the bill, which was the last day of the hearings. Almost 6,000 people, most of them from New York City, came to Washington on special trains and in automobiles and chartered buses. They picketed the White House, invaded the Senate Office Building, and held a rally at the Washington Monument at which Robeson sang.

In December 1950, a few months after the bill became law, the Committee on Un-American Activities published a report on a front that had been set up by the Party for the specific purpose of agitating against the bill that became the Subversive Activities Control Act. The report was entitled, "The National Committee to Defeat the Mundt Bill—a Communist Lobby."

In September 1950, the Communist Party held a huge rally in Madison Square Garden, New York City, to celebrate its 31st anniversary. The main theme of the rally was opposition to the McCarran Bill, as it was known at that time.

On September 22, when the President's veto of the bill was being debated in the Senate, Party agents were working just outside the Senate Chambers trying to induce members of that body to uphold the veto.

On September 25, 1950, immediately after the law was passed, the "Daily Worker" called for a campaign to nullify the law. As the members of this Committee know, that campaign is still going on, 20 years later.

On August 29, 1950, by a vote of 354 to 20, the House passed H.R. 9490, an updated version of the Mundt-Nixon bill introduced by Chairman Wood of the Committee on Un-American Activities. This bill was adopted by the Senate, with amendments, by a vote of 70 to 7 on September 12. After a conference, the House approved the compromise measure by a vote of 313 to 20 on September 20, and the Senate approved it on the same day by a vote of 51 to 7. Because the Administration had indicated its disapproval of the bill and a veto appeared likely, Congress refused to adjourn as it had planned, but stayed in session so that it could override any veto.

When President Truman vetoed the measure, as had been expected, the House overrode his veto on September 22 by a vote of 286 to 48, and the Senate, early in the morning of September 23, by a vote of 57 to 10, after being in session all night long and only after Senator Langer, who was determined to filibuster the bill to death, collapsed from exhaustion.

History of the Board

Immediately after passing the Internal Security Act, Congress recessed for the 1950 elections until November 27, 1950. President Truman appointed the five original members of the Board on October 23, during the recess. They were: Seth W. Richardson Chairman, Peter Campbell Brown, David J. Coddaire, Charles M. LaFollette, Dr. Kathryn McHale.

The Board held its organizational meeting in the Apex Building in Washington, D.C., on November 1, 1950, after Chief Judge Bolitha J. Laws of the United States District Court had administered the oath of office to the members.

At the meeting the Board considered and adopted organizational and functional charts and a budget request for $326,990 which had been prepared by Francis P. Brassor, a specialist in administration, personnel and budgeting who was loaned to the Board by the office of Administrative Services of the Civil Service Commission to assist in its organization. Mr. Brassor was designated as Acting Executive Secretary of the Board at this meeting. He, like a few other initial employees, was detailed to the Board for several years on a reimbursable basis from other Government agencies.

The Board acquired space in the old RFC Building, now called the Lafayette Building. It received $60,000 from the President's Emergency Fund for its initial expenses. This and a subsequent congressional appropriation of $175,000 gave the Board a total of $235,000 on which to operate during the eight months of its existence in fiscal year 1951.

The next few meetings of the Board were devoted largely to organizational matters, the drafting and adoption of Board Rules and Regulations, the hiring of personnel, and similar matters. The first version of the Board's Rules and Regulations was published in the Federal Register of November 21, 1950 (15 Fed. Reg., 7920, 7960). These Rules and Regulations have been revised several times since then, most recently on January 16, 1963.

At a meeting on December 21, 1950, the Board adopted a seal which had been prepared with the assistance of the Heraldry Branch of the Department of the Army.

President Truman submitted the names of the five Board nominees to the Senate on November 27, 1950, the day it reassembled following the election recess. The Senate failed to act to them prior to adjourning on January 2, 1951. They were therefore resubmitted on February 12, 1951. For reasons of health, Seth W. Richardson, the first chairman, resigned on June 6 before being confirmed. The other four members were confirmed by the Senate on August 9, 1951.

As of June 30, 1951, after being in existence eight months, the Board had 26 employees. During fiscal year 1952, when its appropriation was also $235,000, it reached a peak of 38 employees. This number had dropped to 34 at the end of that fiscal year. Since that time, the number of employees has always been below 30. At the present time, it is 9.

The largest appropriation received by the Board during the 20 years of its existence was in fiscal year 1966, when its appropriation totaled $480,000. Its lowest appropriation was $235,000, the sum on which it operated during each of the first two fiscal years of its existence.

Twenty-four persons have been nominated by various Presidents for Board membership, and 21 have actually served as members. There have been six full-term Chairmen. In addition, Mr. LaFollette served as Acting Chairman for a time during June 1951.

The Board received its first petition to hold a hearing on November 20, 1950. This petition, submitted by Attorney General J. Howard McGrath, concerned the Communist Party as a Communist-action organization.

Attorneys General have submitted a total of 94 petitions to the Board requesting it to hold hearings and issue appropriate reports and orders. The breakdown of the types of these petitions is as follows:

Communist-action organizations	1
Communist-front organizations	25
Communist-infiltrated organizations	2
Individual Communist Party Memberships	66
Total	94

In addition, one organization, the International Union of Mine, Mill and Smelter Workers, found by the Board to be a Communist-infiltrated organization, subsequently filed a petition pursuant to section 13A (b) of the Act asking that the Board find it no longer Communist-infiltrated.

Summary and disposition of cases—Communist Party of the United States of America (Docket No. 51-101)

Petition filed: November 22, 1950. Attorney General: J. Howard McGrath.

Hearings: April 23, 1951–July 1, 1952. Hearing Transcript: 18045 pp.

Place: Washington, D.C., and New York City.

Recommended Decision: October 20, 1952 (170 pp.). By: Kathryn McHale and Peter Campbell Brown, Member and Chairman.

Board Report and Order: April 20, 1953 (219 pp.)—found the Communist Party to be a Communist-action group and ordered it to register as such.

Court of Appeals,* December 23, 1954, affirmed Board Order.

First Remand: Supreme Court, April 30, 1956, for reconsideration of findings in light of Communist Party claim that testimony of three Government witnesses was false.

Modified Board Report and Order: December 18, 1956 (206 pp.)—again found the Communist Party a Communist-action organization, after testimony of three challenged witnesses had been struck.

Second Remand: January 9, 1958, Court of Appeals, for production of reports to the FBI by witness Markward on grounds that the Supreme Court decision in *Jencks* (353 U.S. 657 (1957)) was applicable to Board proceedings.

COMMENT ON SENATOR PROXMIRE'S STATEMENT

There are many inaccuracies in the statement submitted for the record by Senator Proxmire. Having no desire to be argumentative or contentious with the Senator on the issues he raises, but being strongly desirous of keeping the record straight, I will quote certain of his key sentences and then cite facts rebutting them.

Statement: "the S.A.C.B., and all that it represents, is inconsistent with the First, Fifth and Fourteenth Amendments" and "freedom and democracy are not protected by denying the right to free association, by discouraging or opposing political beliefs, or by undertaking witch hunts."

Fact: The U.S. Supreme Court rejects these charges. It made specific findings in Communist Party that the SACB and the statute in no way violate the Fifth Amendment, nor the First Amendment rights of free speech and association. The Fourteenth Amendment claim has never been supported by any court in decisions on the Board or the statute.

The Court stated in Communist Party:

"There is no attempt here to impose stifling obligations upon proponents of a particular political creed as such, or even to check the importation of particular political ideas from abroad for propagation here." (C.P. v. S.A.C.B., 361 US 1, at 104, 105.)

The Court of Appeals subsequently held (*Communist Party, U.S.A.* v. *United States of America*, 384 F. 2d 957) that the Communist Party, having invoked the Fifth Amendment in response to a Board order to register, could not be compelled to register. This decision did not, however, find or imply that the statute, the Board, its findings, or its order to register were unconstitutional. It merely held that if an organization invoked the self-incrimination privilege in response to a Board order, it could escape compliance with the order. It was comparable to earlier court decisions that a witness who invoked the self-incrimination privilege in response to a valid question asked by a constitutionally created congressional committee, could avoid answering the question.

Though the Court also held in *Albertson and Proctor* v. *SACB* (382 U.S. 70) that the registration provision of the statute, as applied to individual members of the Communist Party, violated their self-incrimination privilege, this decision, affecting only one of many provisions in the Act, did not support the above statement by Senator Proxmire. If

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*"Court of Appeals," in all cases, refers to the U.S. Court of Appeals for the District of Columbia Circuit.

his statement were true, the courts would have made findings to this effect years ago and the statute would have been long since repealed and the Board abolished.

Statement: "All efforts by the S.A.C.B. [since 1965] to enforce the Internal Security Act have been thrown out of court."

Fact: The SACB has no enforcement duties whatsoever in relation to the Internal Security Act. Enforcement and administration of the Act, by congressional determination, are completely the responsibility of the Attorney General. For this reason, it would be improper for the Board to attempt action in this area and it has never done so.

The Attorney General alone has the power to bring cases before the Board under the Act's provisions and, if the Board makes a positive finding which is upheld by the courts, he has sole authority and responsibility for the enforcement of the regulatory provisions which flow from the finding.

The Board's sole function under the statute is to hold hearings when petitioned to do so by the Attorney General, to make findings of fact thereon and report them to the Attorney General.

Statement: "In the 22 years that it has been in existence, the S.A.C.B. has never controlled a single subversive, not one."

Fact: The legislation which created the SACB limited its function to holding open hearings and making findings of fact with respect to certain categories of organizations defined in the law, in response to petitions from the Attorney General. Its findings are furnished to the Attorney General who has the sole responsibility for enforcing the Internal Security Act of 1950, as amended. It was the intent of the Congress to have a quasi-judicial executive agency that would, in keeping with constitutional guarantees, inform the public about the nature and extent of Communist activities which, the Congress found, "present a clear and present danger to the security of the United States." Certain controls on such activities would flow from the Board's findings.

Thus, it was the administration of all provisions of the statute, rather than just the work of the SACB, that was intended to control or regulate certain types of Communist subversive activity in the U.S.

The results of the SACB's findings may be briefly summarized as follows:

When the SACB was created in 1950, the Communist Party had over 52,000 members. In 1961, the year the Supreme Court upheld the constitutionality of the Board's hearings, report, and order concerning the Communist Party, its membership had declined to less than 10,000.

It is not claimed that the Board action alone was responsible for this decline, but authorities agree that it was probably the most important factor in bringing it about. J. Edgar Hoover testified in 1966 that while waging a "worldwide" campaign against the Internal Security Act, leaders of the U.S. Communist Party were stating that if they could repeal the Act (and eliminate the Board) "they can recruit 50,000 new members within a year."

The Communist Party did not hold a convention for nine years after the Board was created, and then none for seven years after that (its constitution provided for a convention every two years).

In the 22 years of the Board's existence, cases concerning the 25 most important Communist fronts in the country have been referred to it. Proceedings in 23 of these cases have been completed (the Board is presently preparing reports on the last 2 of these cases). Twenty of the 23 fronts on which the Board has completed proceedings have gone out of existence. The 3 that are still functioning are shadows of their former selves.

Specific examples of how Board proceedings have controlled Communist fronts follow:

1. The *Labor Youth League* was formed in 1949 to serve as the youth arm of the Communist Party. It made considerable progress. The Attorney General therefore petitioned the Board in April 1953 to hold hearings for the purpose of finding it to be a Communist front. Hearings were held in 1953 and 1954 and, in February 1955, the Board issued its report and order finding the Labor Youth League to be a Communist front.

The Labor Youth League was dissolved in February 1957 at a special convention called for that purpose. The official LYL summary of this convention contained the following statement:

"A large number of the delegates spoke of the attacks against the LYL by the McCarran Act [Internal Security Act and SACB] as a major factor in preventing the growth of the organization. . . ."

2. Three years later, in 1960, because a youth group is so vital to the Communist Party, another organization, *Advance*, was formed as successor to LYL. In January 1963, the Attorney General petitioned the Board to make a finding about Advance. The Board held hearings in 1963 and 1964 and, in September 1964, its recommended decision finding Advance a Communist front was filed. Six months later, in March 1965, Advance was dissolved.

For the second time in a row, Board proceedings initiated by the Attorney General had stymied the Communist Party's efforts to organize a successful and effective youth group.

Statement: "The only organization it [the Board] has judged to be a Communist-action organization has been none other than the Communist Party of the United States. (An example of perceptive work!)"

Fact: The Congress knowingly, deliberately—and correctly—designed and worded the Internal Security Act to reflect that, in each nation of the world that is a target of Soviet subversion, there was one and only one "Communist-action organization" (usually called the Communist Party) which directed subversive operations for the USSR.

Further, it was the Attorney General, not the Board, who determined that the Board should undertake this proceeding. In doing so, he was carrying out the clearly expressed will of the Congress.

Most important, the Act was so designed that, unless there was first a finding that a Communist-action organization was operating in the United States, there could be no proceedings involving other types of Communist organizations, all of which were defined as being controlled, directly or indirectly, by a Communist-action organization or its members. All the regulatory and control provisions of the Act also flowed from such a finding.

Thus, the Attorney General, in carrying out his constitutional obligations to enforce the law as enacted by Congress, had no choice but to petition the Board, as its very first case, to make a determination that the Communist Party was a Communist-action organization.

Statement: "In 1968 Congress amended the Internal Security Act. . . and empowered the Attorney General to send to the Board names of possible subversives . . . The Board was to hold hearings on questionable individuals and register those if found to be subversive."

Fact: The Congress has never given the Attorney General or the Board authority to initiate or hold hearings concerning "possible" subversives or "questionable" individuals, nor has it authorized the Board to find anyone "subversive" and register them.

Moreover, the 1968 amendment referred to actually did the opposite of what the Senator claims. It eliminated the registration provisions concerning Communist organizations and individuals contained in the Act.

Statement: "Time and again it [the SACB] has sought to hold hearings and to register individuals or organizations that are 'totalitarian, facist [sic.], Communist, or subversive' ".

Fact: Not once has the Board sought to hold a hearing to register individuals or organizations that are totalitarian, fascist, or subversive. Congress did not authorize it to do so in the Internal Security Act.

Executive Order 11605, signed less than a year ago (July 2, 1971), authorizes the Board to hold hearings and make findings that organizations are of the above types. The order, however, has no registration provisions. Furthermore, no petitions have been filed with the Board under the order asking it to find that any organization is totalitarian, fascist, Communist or subversive. The 169 petitions filed with the Board since last October all ask for determinations that organizations on the Attorney General's list have ceased to exist.

Statement: "The output of the Board has been near zero."

Fact: The Board has received and acted on petitions from Attorneys General as follows:

Communist-action case	1
Communist-front cases	25
Communist-infiltrated cases	2
Individual membership cases	66
Executive Order cases	136

(111 have been completed and, within a few weeks, it will act on another 33 petitions of this type.)

Transcripts of hearings held by the Board total well over 100,000 pages. In addition, the Board has issued numerous reports, orders, and memoranda on factual and legal issues relating to its work which fill a 5-volume set of over 3,000 pages.

Statement: "Congress has had a history of trying to revise and restructure the S.A.C.B. to give it greater impact and to have it comply with the Constitution. Each new revision has been struck down by the courts and each action by the Board has been overturned."

Fact: Major revisions of the Internal Security Act were enacted in 1954 and 1968. Only one of the numerous provisions contained in these amendments has been struck down by the courts. That was the 1968 amendment authorizing the Attorney General to petition the Board to find that an individual is a member of the Communist Party.

Statement: "Even in 1950 Members of Congress, and President Truman himself, realized that the Board was a mistake."

Fact: This allegation is vague, yet highly misleading in its implication.

On August 29, 1950, the House passed H.R. 9490, the bill which became the Internal Security Act, by a vote of 357 to 1.

The Senate then passed an amended version of the bill by a vote of 70 to 7.

On September 20, the House approved the conference report on the bill by a vote of 313 to 20 and the Senate by a vote of 51 to 7.

When President Truman vetoed the measure, the House overrode his veto by a vote of 286 to 48 and the Senate by a vote of 57 to 10.

Statement: "Last year, after the Board frankly admitted it had nothing to do, the Senate voted to fund it $450,000."

Fact: The Board never stated last year that it had "nothing to do." Testifying before this Committee for the Board, I stated in response to a question by Senator McClellan about its workload:

"There are two Communist-front cases which had been sent to the Board. . . . We are holding hearings on these two cases. Those are two cases that we have. Of course they have never done anything with the DuBois case, which is the third case we have had. . . .

"We can try more cases. . . ."

Mr. GURNEY. Mr. President, in considering this amendment to delete the

$450,000 in funds for the Subversive Activities Control Board—SACB—the key question to be answered is, Does the U.S. Government have the right to protect itself from external and internal dangers and, if so, by what means?

I believe there is general agreement that our Government does have the right to protect itself, right down to the point of not employing people who are knowing members of subversive groups. The problem becomes one of making the Nation, and its personnel agencies, aware of these groups without depriving innocent people of their constitutional rights. Certainly, in view of all the recent hue and cry about public disclosure, the American people are entitled to know which groups are subversive—which is what the SACB is all about.

Contrary to what some people would have us believe, the most important functions of the SACB—holding hearings and issuing reports on the three types of Communist organizations listed in the Internal Security Act of 1950—have not been impaired by the courts.

It has been claimed that the activities of the SACB violate the first and fifth amendments, yet the Supreme Court specifically ruled in *Communist Party* v. *SACB*, 361 U.S. 1, at 104, 105, that such was not the case. As for violations of the 14th amendment, no court, in the 22 years of its existence, has ever ruled that the SACB has denied the right to due process. The facts of the matter are that the SACB is required to maintain records which are open to the public and that its findings can be appealed to the U.S. Court of Appeals for the District of Columbia and then, if necessary, to the Supreme Court.

As long as people are not required to incriminate themselves—which they are not—the Government owes it to the Nation to make public what groups are for us and which ones are against us. Any society, no matter how free, must have some checks against internal subversion if it is to survive.

As for the concern about guilt by association hurting people's job opportunities, I think the SACB serves a positive rather than a negative function. If subversive groups have been publicly identified as such, people will have a better idea of what a group stands for and what it will mean if they join it. Then, if one still insists on joining a subversive group—which is certainly his right—then he should be willing to accept the consequences. The needs of society—in this case self-preservation—must not be overlooked in our concern for the rights of each individual.

As far as the SACB not having enough to do, several things must be taken into account. First, the law states that the Attorney General must initiate an investigation into a group, not the SACB. Any charge of inactivity, therefore, should take this factor into account. Just because two Attorneys General—Nicholas Katzenbach and Ramsey Clark—chose to use the SACB far less than either of their predecessors or their successor, there is hardly grounds for doing away with the SACB.

Second, the record shows that the SACB has been far from inactive. In its 22-year history it has registered one Communist action group—the Communist Party—25 Communist front groups and two Communist-infiltrated groups. At present, it has three more Communist front group cases before it. In addition, the SACB has handled some 66 individual cases and more recently has undertaken the task of making recommendations to the Attorney General so that Attorney General's list can be updated.

Charges that SACB has only registered one Communist action group overlooks the fact that the Communists have only one such group in the United States—the Communist Party itself.

Probably even more important than this statistical record is the psychological impact of the SACB. If the SACB was not an impediment to Communist recruiting efforts, why then do Communist publications keep calling for its elimination? And why did Communist Party leaders claim that, if the Internal Security Act—of which the SACB is an integral part—were repealed, they would recruit 50,000 new members within a year?

Furthermore, one cannot ignore the fact that Communist Party membership has dropped from 52,000 to 10,000 and that 20 of the Communist front groups the SACB has so identified have gone out of existence. Now, some may use these figures to argue for the elimination of the Board; this Senator prefers to think that SACB exposure, or the possibility of it, had something to do with the demise of a number of these groups. In view of the proliferation of subversive groups of all types in the Nation today, there seems to be more, rather than less, reason for continuing the activities of the SACB.

I might also remind my colleagues that the House Internal Security Committee has held extensive hearings on both the Subversive Activities Control Act and the Federal civilian employee loyalty-security program. The result was H.R. 9669, which passed the House in May 30, 1972, by a vote of 226 to 105 and authorized the President to delegate more work to the SACB, not less. Moreover, the House has already passed a bill authorizing $450,000 for the SACB and, in the process, defeated an amendment similar to the one we are now discussing by a vote of 206 to 106.

As far as this Senator is concerned, there is no reason to delete the funds for SACB. Not only has it performed an important service to the public by identifying subversive groups, but it is also of great assistance to Federal agencies which need to check out potential and existing employees. Now, with the number of subversive groups proliferating, there is more reason than ever to keep track of them and to keep the American public informed as to what they really stand for.

This Nation has a right to defend itself and to protect the American way of life. The SACB is one of many ways to achieving that end and, as such, should not be disregarded. The American people are sick of the small minority of revolutionaries who use, to the fullest possible extent, the constitutional protections provided by the very country they want to overthrow. The freedoms enumerated in the Bill of Rights are in no way synonymous with subversion, nor were they designed to provide full and adequate immunity to those engaged in subversion. By voting to fund SACB today, we will be putting the revolutionaries on notice that we are not about to allow subversion to become an accepted way of life. Getting this message across is worth every nickel of the $450,000 we are discussing here today.

Therefore, I urge my colleagues to vote "No" on this amendment to delete the SACB funds.

Mr. HOLLINGS. Mr. President, I yield now to the distinguished Senator from Nebraska so much time as he may require.

Mr. HRUSKA. I thank the Senator from South Carolina.

Mr. President, in considering the pending amendment, we ought to realize that we are engaged in considering the broad subject of personnel security in Federal employment. That is where the whole demand is. In 1947 we had an Executive order that set forth a list of organizations, membership in which would be considered as one of the elements to determine whether or not an applicant for employment by the Federal Government would be suitable and would comply with the requirements for security which are laid down as desirable in employment. That order created the Loyality Review Board.

That Subversive Activities Control Act was passed in 1950, creating the Board for the purpose of making a determination as to which organizations would fall within the categories that are spelled out in that act, whether they were totalitarian, Fascist, Communist, or subversive.

In 1953, the 1947 Executive order was modified by President Eisenhower in Order No. 10450. It is that order under which the Subversive Activities Control Board functioned for a long time.

In 1971—July of 1971—President Nixon issued a new order. It superseded the 1953 order, and it added new classifications and organizations to those that would be under the jurisdiction of the SACB to identify. The new classification is this, Mr. President. Under the new amendment, the Subversive Activities Control Board would be authorized to hear cases and make findings involving organizations that, in addition to totalitarian, fascist, Communist, or subversive, would be this type of organization: an organization—and I am quoting now—"as having adopted a policy of unlawfully advocating commission of acts of force or violence to deny others their rights under the Constitution or laws of the United States or of any State or organizations which seek to overthrow the Government of the United States or of any State or subdivision thereof by unlawful means."

We get into categories of organizations which are familiar in today's nomenclature: The Weathermen, for example, the Black Panthers, RIM–I, RIM–II, Rim No. 2, the Youth International Revolutionary Party, and so on—not that membership in these organizations

would ipso facto disqualify an applicant for employment in the Federal Government, but it is one of the elements and one of the circumstances that can be considered in determining whether or not a person should be on the payroll for the purpose of Federal employment.

The 1971 Executive order is alleged to be an invasion of the legislative process. It is said that the Subversive Activities Control Act of 1950, if it is going to be changed to the extent embraced in the 1971 order, should be done by statute, and not by Executive order. Rather than go to the matter of testing that out in the courts and adding more legislation of the type that plagued the existence of SACB, a bill was introduced in the other body and a bill was introduced in this body—they were identical bills—that had for their purpose the legitimizing of the changes made in the Subversive Activities Control Board so as to embrace the content and the substance of the Executive order of July 1971. The Senate bill to which I refer is S. 2294.

On May 30 of this year, the other body, by a vote of 226 to 105, approved such a bill, H.R. 9669.

Mr. President, I ask unanimous consent that there be set out in the RECORD at this point the text of that bill.

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

H.R. 9669

An act to amend the Subversive Activities Control Act of 1950, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(11) of the Subversive Activities Control Act of 1950 is amended by deleting the words "Subversive Activities Control Board" and inserting in lieu thereof the words "Federal Internal Security Board".

(b) Section 12(a) of the Subversive Activities Control Act is amended by deleting the words "Subversive Activities Control Board" and inserting in lieu thereof the words "Federal Internal Security Board."

(c) The caption to section 12 of the Subversive Activities Control Act of 1950 is amended to read "Federal Internal Security Board".

SEC. 2. Under such regulations as he may prescribe, the President is authorized to delegate to the Federal Internal Security Board the function of conducting hearings and making findings, upon petition of the Attorney General, with respect to the character of relevant organizations to be designated in furtherance of programs established to ascertain the suitability of individuals on loyalty and security grounds for admission to or retention in the civil service in the executive branch. The provisions of subsections (c) and (d) (1), (2), and (3) of section 13, and section 14 of the Subversive Activities Control Act of 1950, as amended, shall apply to proceedings conducted by the Federal Internal Security Board pursuant to the delegation authorized by this section.

Mr. HRUSKA. Mr. President, the bill provides, in brief, just what the objectives were, as I have already described—namely, that it would by statute bring the substance of the 1971 Executive order properly within the purview of the SACB, which would be renamed and called the Federal Internal Security Board.

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

Mr. HOLLINGS. Mr. President, if the time on the amendment has expired, I yield such time as is necessary on the bill itself.

Mr. HRUSKA. I would like 5 minutes.

Hearings are scheduled in this body, in the Judiciary Committee, on this bill and the Senate version. The policy adopted by the committee was that opportunity would be given to the other body to act first. The other body has acted. Now the Senate will proceed in orderly fashion to consider the proposal.

The wise course for this body to take is to continue the SACB under an appropriation equal to last year's for the purpose of having that body available to execute and implement the new statute and the new Executive order and carry on in the duties that would be assigned to it, but particularly in the field of the Weathermen, RIM–I, RIM–II, Black Panthers, and the Youth International Revolutionary Party, because organizations of that type have developed into a new current event that is highly important in the handling of the personnel security program of the Federal Government.

I want to say again that it should be of great interest to any agency that is putting new men or women on the payroll whether the applicants for those jobs are members of any organization that has a policy of unlawfully advocating the commission of acts of force or violence to deny others their rights under the Constitution or the laws of the United States or of any State. It should be of vital interest to the employer of a Federal agency whether or not the organization to which that man or woman belongs is one which seeks to overthrow the Government of the United States or of any State or subdivision thereof by unlawful means.

It was only a little over a year ago that, within 200 or 300 feet of this Chamber, a satchel of dynamite was caused to be exploded in one of the restrooms of the Capitol, shaking this part of the Capitol. Would it not be of interest to any official of the Federal Government entertaining the application of someone for employment in the Federal Government to know whether or not that applicant is a member of a type of organization that advocates that type of conduct? I would think it would be, and I would think every Member of this body would be concerned with that point.

The purpose of having the appropriation available on last year's basis is to have a holding operation, in the main, to await the enactment of the legislation. In the meantime, they are engaged in correcting, editing, and revising the list of the subversive organizations known as the Attorney General's list.

That is the sum and substance of it. It is a holding action so that we can ready in the proper way the designation of these organizations and for those purposes.

I believe that is a sufficient description at this time to supplement those descriptions already made by the junior Senator from South Carolina and the senior Senator from South Carolina, who went into that subject in greater detail. It is my hope that the amendment will be defeated, so that we may continue with this program, with those views in mind that I have just explained.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, this is not a simple matter of throwing out a bunch of lazy bums. It is definitely very complex. It goes into the sensitivity or nonsensitivity of positions within the executive department. It goes into whether or not individuals' rights are protected.

Suffice it to say that during the past 10 years, the Supreme Court has acted to protect individual rights in other areas, as in education and within prisons, and I think they have acted properly to protect individual rights in such instances.

I know of no one better qualified to speak on this subject than former Judge RICHARDSON PREYER, now a distinguished Representative from North Carolina, who has made a most thorough study on this score, and I ask unanimous consent that a statement by the Honorable RICHARDSON PREYER on loyalty and security, made in the House of Representatives, be printed in the RECORD at this point.

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

STATEMENT BY HONORABLE RICHARDSON PREYER, CHAIRMAN, SUBCOMMITTEE ON LOYALTY AND SECURITY, HOUSE COMMITTEE ON INTERNAL SECURITY, SUBCOMMITTEE HEARINGS, MARCH 16, 1972

As you know, this subcommittee, consisting of myself as subcommittee chairman, together with Mr. Ichord who is chairman of the full Committee, and Representatives Claude Pepper, John M. Ashbrook, and Roger H. Zion, has been engaged in a study of the administration of the Subversive Activities Control Act of 1950 and of laws and procedures underlying the Federal Civilian Employee Loyalty and Security Program. More recently, several bills relevant to the inquiry, including H.R. 11120, H.R. 9669, and H.R. 574 have been referred to this subcommittee for consideration and report.

In the course of its inquiry, you will recall, the subcommittee has heard representatives of all cabinet departments of the Government (including the Post Office Department, now the U.S. Postal Service), and twelve major independent agencies, as well as the Subversive Activities Control Board. We now approach the close of the subcommittee's public hearings. In due course we shall make our report. I am pleased to take this opportunity to note that, on the whole, we have found the administrative and security officers of the departments and agencies to be frank and cooperative. We are grateful for their contribution to the subcommittee's efforts.

On the occasion of the appearance today of representatives of the Civil Service Commission, an agency which carries a heavy burden in the administration of the loyalty and security program, I am impelled to observe that I share certain apprehensions regarding the operation of this program. These arise because it is evident that there are some serious deficiencies in procedural aspects and regulations under which the program is administered. Yet it does not appear to me, nor is it my belief that the Civil Service is riddled with subversives. On the contrary, I believe that the employee recruitment program has operated generally to provide the Federal Government with a body of trustworthy, loyal, and effective public servants.

Nevertheless, figures brought to our attention indicate that the efforts of subversives to penetrate our Government, in some of its most sensitive agencies, has by no means abated. Some indication of the magnitude of the effort may be derived from the fact that full-field investigations, prompted by subversive associations of applicants for Federal employment, within recent years have numbered about 500 each year. That there has been some penetration of Government by subversives seems clear. Of the 20-odd agencies of Government of whom we have inquired, several agencies have advised us that one or more persons in their employ are present or past members of certain subversive groups.[1] Those of which we are informed do not appear to be significantly large in number. However, we cannot verify this information. It is an extraordinary fact that neither the Civil Service Commission, nor the several departments of the Government, maintain any separate indices with respect to persons employed in Government as to whom investigation has revealed past or present affiliation with subversive organizations.

On the other hand, we do know that there are weaknesses in the procedures, the consequence of which must necessarily be that some subversives, however small their number, may pass through the screen. It is also clear that we seem to be having extraordinary difficulty in ridding ourselves of those of whom we are aware. Indeed, I have formed the impression—and this is on the basis of candid disclosures by experienced security officers in the major departments and agencies of Government—that there is really no program for the dismissal of persons on loyalty grounds from non-sensitive positions. It is a matter of significance, as well as a matter of surprise to me, that most agencies have told us they have ceased dismissing persons on loyalty and security grounds. Our examination of existing procedures in the major departments and agencies of the Government reveals that most of them have adopted no regulations to implement dismissals from non-sensitive positions on loyalty grounds. It is also a fact that although most agencies do have regulations implementing dismissals from sensitive positions on "national security" grounds, yet no agency within the past 5 years has dismissed any employee from any such position on loyalty or security grounds.

The agencies tell us that they have been advised to take that course by the Civil Service Commission and the Department of Justice. We are informed that they have been instructed to utilize "suitability" grounds—that is suitability grounds *other than* loyalty or security—in all cases. This, of course, assumes that other grounds may appear as a basis for dismissal when an individual's loyalty or security status is called into question. What happens when such other concurrent grounds do not exist? May we then presume that the loyalty or security risk is permitted to retain his employment?

The agencies in fact appear to take the view that the Supreme Court has said we cannot have a loyalty or security program in nonsensitive positions, in support of which the decision in *Cole* v. *Young*[2] is frequently cited as the culprit. It does not appear to me that the decision is the disaster it is said to be, or that it should have the effect which ostensibly has been attributed to it. It is of course true that the summary procedures for suspension and dismissal authorized by the Act of August 26, 1950[3] "in the interest of the national security" have been limited by the decision to positions determined to be sensitive on national security grounds. Moreover, it is the obvious effect of the decision that E. O. 10450 shall require appropriate amendment if it is to be applicable both to sensitive and non-sensitive positions as originally intended on its promulgation in 1953. However, the decision explicitly recognized that there is no absence of authority to dismiss employees on the ground of reasonable doubt as to loyalty, regardless of position, under the general personnel laws, particularly the Lloyd-LaFollette and Veterans' Preference Acts.[4] These congressional enactments provide liberal procedures for dismissals and, while requiring notice and an opportunity to respond, do not require confrontation or cross examination of Federal witnesses.

So we must inquire of the Civil Service Commission why they have not, on the other hand, advised agencies to implement procedures for dismissals from non-sensitive positions on loyalty grounds under the Lloyd-LaFollette and Veterans' Preference Acts, or with respect to persons not within the purview of this legislation, then under such procedures as were employed in *Bailey* v. *Richardson?*[5] We must also inquire of them why they have advised the agencies not to process dismissals from sensitive positions on loyalty or security grounds as authorized by the Act of August 26, 1950 and as required by E. O. 10450?

Apart from *Cole* v. *Young*, we are also advised that other court decisions have had a significant impact on the loyalty and security program. These decisions, we are told, have virtually rendered removal actions based on membership impossible. There are difficulties, our witnesses have said, in proving what is conceived as the inflexible requirement of the cases that (1) the goals of the organization are unlawful, (2) the member has knowledge of these goals, (3) the member specifically intends to further and accomplish these goals, and (4) the member is an "active" and not merely passive or inert member. Mr. Mardian, Assistant Attorney General, Internal Security Division, in a statement to our Committee last July 29, 1971, expressed it as saying that some of the difficulties "have arisen as the result of court decisions which require that action can only be taken against an employee whom the Government can prove has knowingly involved himself in the illegal conduct of an organization in which he is active." Mr. Kevin T. Maroney, Deputy Assistant Attorney General, Internal Security Division, who appeared before us this January 27, 1972, put it this way: "The Supreme Court has indicated that only knowing and active membership in certain types of organizations, and not mere membership *per se*, can be the basis for governmental sanctions against an individual," for which he cites *Aptheker* v. *Secretary of State*, 378 U.S. 500 (1964); *Elfbrandt* v. *Russell*, 384 U.S. 11 (1966); *Keyishian* v. *Board of Regents*, 385 U.S. 589 (1967); *United States* v. *Rabel*, 389 U.S. 258 (1967); *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969); *Baird* v. *State of Arizona*, 401 U.S. 1 (1971) and *In Re Stolar*, 401 U.S. 23 (1971).

I cannot fully agree with the propositions as stated by any of these gentlemen. The position they take is too rigid, too indiscriminate. Such unqualified representations have had the effect of discouraging, confusing, and disconcerting our security personnel. Although cases called to our attention by Mr. Maroney are typical of those frequently cited for the proposition which he and some others assert, they are all distinguishable from the situation under the Federal employee loyalty and security program either as currently authorized (pursuant to E.O 10450) or as proposed in the bill, H.R. 11120. This fact indeed is made clear by Mr. Justice Goldberg, who wrote for the majority in *Aptheker*, a principal case cited by Mr Maroney, in which a divided court voided section 6 of the Subversive Activities Control Act.

Section 6 to which I refer prohibited and made punishable the application for, or use of, passports by members of organizations required to register as Communist. It was voided on the ground that it "too broadly and indiscriminately restricts the right to travel and thereby abridges the liberty guaranteed by the Fifth Amendment." In determining the constitutionality of the provision, said Mr. Justice Goldberg, it was important to consider that Congress has within its power "less drastic" means of achieving the congressional objectives of safeguarding our national security. As an example of such means—and this is the point I wish to emphasize—he cited the Federal Employee Loyalty Program. "Under Executive Order No. 9835," he said, "membership in a Communist organization is not considered conclusive but only as one factor to be weighed in determining the loyalty of an applicant or employee." This was said in relation to footnoting the 1950 remarks of Peyton Ford, then Assistant to the Attorney General of the United States, in expressing to the Congress the views of the Department of Justice with regard to a proposed Government loyalty bill which predicated, as Justice Goldberg noted, a conclusive presumption of disloyalty on the fact of organizational membership. Mr. Ford is quoted as saying:

"A world of difference exists, from the standpoint of sound policy and constitutional validity, between making, as the bill would, membership in an organization designated by the Attorney General a felony, and recognizing such membership, as does the employee loyalty program under Executive Order 9835, as merely one piece of evidence pointing to possible disloyalty. The bill would brand the member of a listed organization a felon, no matter how innocent his membership; the loyalty program enables the member to respond to charges against him and to show, in a manner consistent with American concepts of justice and fairness, that his membership is innocent and does not reflect upon his loyalty."

Indeed, the latest and perhaps most relevant of the cited decisions, the case of *Robel*, does not support the rigid conclusion Mr. Maroney asserts. In voiding on the ground of "overbreadth" provisions of section 5 of the Subversive Activities Control Act which made it unlawful for a member of a Communist-action organization (in this case the Communist Party, USA) "to engage in any employment in any defense facility," Chief Justice Warren likewise appears to suggest a screening program as a premissible alternative. (389 U.S., at 266 f.) Moreover, the decision was understood by Mr. Justice White, in a dissenting opinion with which Mr. Justice Harlan joined, "to permit barring respondent, although not an 'active' member of the Party from employment in 'sensitive' positions in the defense establishment." Although concurring in the result, on the ground that there were no standards establish for the designation of "defense facilities," Mr. Justice Brennan took the position that the Congress could as a "prophylactic" measure bar *all* Communist Party members, whether active or passive, from employment in defense facilities.

The remaining cases cited by Mr. Maroney are likewise distinguishable. In *Elfbrandt*, a State loyalty oath statute, subjecting the affiant to a perjury prosecution if he know-

[1] These responses are collected in Appendix C of the subcommittee Hearings, Part 4.

[2] 351 U.S. 536 (1956).

[3] Now 5 U.S.C. 7531–7533.

[4] Respectively 5 U.S.C. 7501 and 7512, 7701.

[5] 181 F. 2d 46 (1950), affirmed 341 U.S. 918. Miss Bailey, a probational appointeee, was dismissed from the Federal service because of alleged disloyalty in accordance with the standard established by E. O. 9835 (President Truman's "loyalty order"). Her dismissal under regulations of the Civil Service Commission rather than procedures of the Lloyd-LaFollette Act was sustained.

ingly became or remained a member of the Communist Party, was voided because, here again, a disability was imposed resting upon a narrow fact of current membership of which the individual could not exculpate himself.[6] In *Keyishian*, sections of the New York State Civil Service and Education Law, intended to insure the employment of loyal teachers, requiring removal of teachers for "treasonable and seditious utterances," were held "unconstitutionally vague," and other provisions of the statue which made Communist Party membership prima facie evidence of disqualification were held void for "overbreadth," because by official administrative interpretations the presumption of disqualification arising from proof of "mere membership" was not fully rebuttable. *Brandeburg*, which involved an Ohio criminal syndicalism statute similar to the Federal Smith Act, appears to me to have been cited in error, for I see nothing relevant to the proposition for which it is cited.

Lastly, Mr. Maroney cites *Baird* and *Stolar*. These cases were decided together with *Law Students* v. *Wadmond*, 401 U.S. 154 (1971), which he does not cite, although the trio involved the same, or similar, issues relating to applications for membership in State bars. The State requirements involved in Baird and Stolar were voided, whereas in Wadmond they were upheld. Actually, Wadmond throws some light in support of procedures laid down in H.R. 11120. In Baird and Stolar, applicants for membership in the State bars were denied admission for failure to respond to questions relating to membership in subversive organizations, whereas in Wadmond similar inquiries were upheld in which it appeared that no person was refused admission, and it further appeared that the inquiry had no purpose of "penalizing political beliefs," but was directed toward ascertaining the good faith with which an applicant could take the constitutional oath. Mr. Justice Stewart, writing for the majority in Wadmond, thought it important to point out that there was no indication that a New York bar applicant would not be given the opportunity to explain "any mental reservation" and still gain admission to the bar.

Litigation in which the agencies have been involved, unsuccessfully in several instances, has indicated that they have not availed themselves of procedural advantages. In the administration of the loyalty-security program, the role of presumptions with respect to knowledge and intent arising from proof of membership has been ignored, and the agencies have not taken into account the burden which should rest upon the applicant of coming forward with rebutting evidence upon proof of membership. See *Keyishian* v. *Board of Regents*, supra, at page 608. Certainly where the Government has established the character of the organization and has introduced evidence of the applicant's membership we may require the applicant to assume the burden of coming forward with credible evidence establishing (a) lack of knowledge of the purpose of the organization, and (b) lack of intent to further its purposes. The three-judge district court in *Law Students* v. *Wadmond*, (297 F. Supp. 117, at 125) had occasion to note the significance of distinguishing between a shifting of the burden of proof, which could be constitutionally impermissible, and the burden of coming forward with evidence, for which there is abundant favorable precedent. The court had occasion to say, "We see no reason why New York may not impose the latter with respect to a subject concerning which the applicant has detailed knowledge, but the committees will be required to make extensive investigation." Undoubtedly the utilization of such permissible and rational trial techniques would lighten the burden of the personnel and security officers in the administration of the loyalty and security program. We have seen no evidence that these useful and intelligible procedures are followed or promulgated.

It ought to be made clear, it appears to me, that the point of focus is not upon the organizational membership but upon the standard. To that end it is of no consequence whether that standard be, as in loyalty cases, loyalty to the Government of the United States, or, as in the bill H.R. 11120, good faith support of the Constitution of the United States, or, as in national security matters, clearly consistent with the interests of the national security. There should be no doubt that we are looking to the nature and character of the individual's activities or associations in their totality, and that the purpose of the inquiry is not punishment, but enlightenment, with assurance to the individual that he shall have full opportunity to respond to the issues and to the investigation. This, I believe, to be the true distillation of these most recent decisions of the Court. It is, in my opinion, the essence of such cases as *Robel* and *Apiheker*.

Indeed, when we talk of organizational associations, are we not endeavoring to determine whether the individual is committed to a purpose or ideology inconsistent with the faithful and most efficient execution of his responsibilities to the Federal Government? To make this judgment, we cannot literally look into the individual's mind, but we seek to read it in the only way possible, and that is on the basis of his actions. It is in objective manifestations by deed or speech that intent or purpose should be proved in this as in other cases. In making these determinations, we cannot adhere to rules or limitations which defy reality.

Organizational membership is significant and objective evidence of an individual's commitment to a particular purpose or ideology. It must be recognized, however, that we are dealing with a complex and subtle area of inquiry. Certain organizations, such as those in the Communist movement, have a detailed doctrinal base. We must be able to discriminate among varying types of action and auxiliary organizations and the significance of an individual's relationship to each. We must take into consideration the nature of the position which the applicant seeks. Is he, for example, seeking employment in a position to which he will have access to top secret defense information? Here, past membership in a subversive organization may be significant, particularly when it is evident that the individual has recently severed membership for the purpose of seeking sensitive employment.

When we talk of "active" and "knowing" membership, are we not only reciting some evidential factors which relate to the ultimate question of purposive membership? Is the fact that the individual is inactive necessarily an exculpating fact? On the contrary, it may be significant, particularly where there is reason to believe that the individual is a "sleeper" in the Communist Party, or has discontinued activities and severed all contact with the Party for the purpose of later surfacing and undertaking a special mission on its behalf. May an individual be a loyalty and security risk who does not accept, or share, the illegal means of purpose of the organization? Certainly if the individual shares the ultimate political objective of the organization, but takes the position that, while he himself would not attain it by illegal means, he will nevertheless stand by and not oppose those who would, can one say that such a person "supports" the Constitution or is fit for Federal employment?

I would like to say that I am coming increasingly to the view that some of the principal deficiencies in the loyalty and security program can, and should, be resolved by executive action. Other deficiencies must be resolved by legislation. The advantages of flexibility inherent in executive action has much to commend it in this difficult field of trial and error, rather than the more rigid route of legislation, although these are certain areas which undoubtedly require the base of legislative authority or the impetus of legislative action. I am not unmindful of the failures of executive action during the years since the enactment of E. O. 10450. It may be argued, with good reason, that in placing our reliance on executive action we have had little evidence to comfort us in this approach. Nevertheless, this subcommittee shall make its report on existing deficiencies, and we shall hopefully make several recommendations for executive action. If we see no beneficial response to this course, we may then take the alternative route of mandatory legislation.

The bill H.R. 11120 provides the necessary legislative base for the erection of a Federal Employee Security and Appeals Commission which would follow upon the repeal of the Subversive Activities Control Act. The provisions of the bill which establish a mandatory loyalty-type standard for Federal employment are intended to give legislative impetus to the loyalty program which, as the investigation indicates, has so seriously deteriorated since the decision in *Cole* v. *Young*. It is my position that the Federal Government must have, and maintain, a district loyalty program for access to all positions in Government. Apart from ethical concerns, the maintenance of a loyalty standard involves the question of efficiency. It is a means of giving assurance that the operation of the Government will not be sabotaged, impeded, or obstructed by individuals who are not committed to its successful operation, or who are committed to its failure, and destruction.

I would like to observe in conclusion, that the difficult question, it appears to me, in the maintenance of the loyalty and security program has not been with the sensitive policy-making positions, but with respect to the great mass of positions which have been commonly, although not always accurately, referred to as non-sensitive. I am speaking now from the standpoint of investigation for clearance. It is evident that we cannot afford investigations of a full-field type for all positions, either from a point of view of what it would cost, or from the point of view of what it would do to civil liberties in this country. That we must have some degree of investigation seems clear. If there are no investigations, or if the investigations are largely ineffective, it is not inconceivable that the Government would ultimately be overrun, and in a substantial degree immobilized, by persons hostile to its purposes. I think that this matter can be worked out along lines provided in the bill, H.R. 11120.

Certainly no argument is necessary to support the proposition that the Government and people of the United States have a most vital and imperative interest in maintaining the integrity of its civil service. It was a bitter experience to learn not so long ago of the loss of our atomic secrets, because of the deep penetration made into our scientific community by individuals committed to the Communist ideology. However, excesses that may follow upon a failure to maintain public confidence is, in my opinion, the true, and perhaps most abiding, lesson of the McCarthy era.

Mr. BAYH. Mr. President, since its creation in 1950, the Subversive Activities Control Board has spent $6.75 million to

[6] This distinction has been advanced by the "Burger Court" in the latest decision on the subject. See *Connell* v. *Higginbotham*, 403 U.S. 207, decided June 7, 1971.

consider only 25 petitions, brought by the Attorney General, alleging that certain organizations were "Communist action," "Communist front," or "Communist infiltrated." Of those 25 petitions, only eight justified final orders of the Board that the organization named fell within the definitions of the Internal Security Act of 1950. Not only have attorneys general made scant use of the SACB, but also the courts have struck down the Board's main tool for combating subversion—disclosure of individual members of organizations through compulsory registration. For 21 years the Board has had practically nothing to do.

Last year the President issued Executive Order 11605 designed to expand the purposes of the SACB; since then hearings have indicated that these new purposes are of dubious constitutionality. As a result, the Committee on Appropriations has prohibited the use of any funds in this act to carry out the new responsibilities assigned to the Board by Executive Order 11605. The committee action has returned the SACB to its pre-1971 status: that of having practically no legal functions. I cannot vote in good conscience to appropriate one-half million dollars simply to pay the salaries of a large staff with nothing to do.

Mr. HOLLINGS. Mr. President, is the Senator from Wisconsin ready to vote?

Mr. PROXMIRE. The Senator from North Carolina had requested some time.

Mr. ERVIN. Mr. President, I would like to have about 5 minutes on the bill.

Mr. HOLLINGS. I yield the Senator 5 minutes on the bill.

Mr. PROXMIRE At the end of that time, I might say, I shall be prepared to yield back my time

Mr. ERVIN. Mr. President, I have given a lot of study to this question——

Mr. HOLLINGS. Mr. President, will the Senator from North Carolina yield for a moment, so that we may ask for the yeas and nays?

Mr. ERVIN. I yield.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, in my early days in the Senate, I went along with the arguments that were advanced in behalf of the continuance of the Subversive Activities Control Board, until I got to studying the thing and reading these Supreme Court decisions; and now I am a convert to the viewpoint of those who do not believe in governmental tyranny. Therefore, I oppose the continuance of this Board.

I have read these decisions a number of times, and I shall merely summarize them now.

In the first case, the Supreme Court adjudged, in essence, in *Communist Party of the United States* v. *Subversive Activities Control Board*, 367 U.S. 1, that Congress had the constitutional power to regulate the registration of Communist organizations because of its finding that such organizations advocate or teach action for the forcible overthrow of Government. The Court held in that case and other cases that merely advocating the overthrow of the Government by force or violence was permitted by the first amendment. The Court ruled, however, in other cases that the procedures prescribed by the act to effect the compulsory registration of Communist organizations violated the self-incrimination clause of the fifth amendment, and that major provisions of the act relating to membership in Communist organizations imposed penalties upon individuals on the theory of guilt by association and could not be reconciled with the first amendment.

These rulings left the Subversive Activities Control Board with virtually nothing it could constitutionally do except, as I have said before, draw its breath and a salary.

By an amendment of January 2, 1968, Congress underwent to revive the moribund agency by repealing the compulsory registration provisions of the Internal Security Act, and by conferring upon the Board power to issue declaratory orders determining whether organizations it investigates are Communist-action, Communist-front, or Communist-infiltrated organizations, and whether individuals it investigates are members of Communist-action organizations.

The revival was short-lived. On December 12, 1969, the U.S. Court of Appeals for the District of Columbia Circuit handed down *Boorda* v. *Subversive Activities Control Board*, 421 F.2d 1142, holding that the provisions of the Internal Security Act and its amendments allowing public disclosure of an individual's membership in a Communist-action organization without finding that the individual concerned shares in any illegal purposes of the organization to which he belongs violates the first amendment.

The Supreme Court refused to review this ruling, and the Board found itself left once again with virtually nothing it could constitutionally do.

RECORD OF THE BOARD

Let us consider the record of the Board during the 21 years of its existence.

During these 21 years, the Board has found only one Communist-action organization in all America, and that was the Communist Party itself. It was not even able, by constitutional methods, to impose registration upon it.

During these 21 years, the Attorney General filed petitions alleging that 22 other organizations were Communist-front or Communist-infiltrated. Eight of these petitions were dismissed by the Board, and the other 14 came to naught because the organizations had ceased to exist or the Board was unable for other reasons to compel their registration.

During these 21 years, the Attorney General filed petitions alleging that 66 individuals—that is, 66 persons out of 200 million Americans—were members of Communist-action organizations. These petitions were frustrated in large measure by the Boorda case and other decisions.

As one who lives America and hates communism, I take much comfort from the ineffective record of the Board. It corroberates my conviction that despite its enormous efforts to peddle its shoddy ideas, communism has made few sales in America.

This was the status of the Board until last July 2, when the President issued an Executive order attempting to give the Board powers that Congress had not given the Board and which had been declared unconstitutional before. The point was raised that that was an exercise of legislative power by the President, and therefore it was unconstitutional. It was also clearly a violation of the first amendment, in many respects, and a violation of the clause reserving certain powers to the States; and the Board has never dared to use that order.

In addition to the record which I have cited, the only thing the Board has done to date is try 111 cases alleging that organizations on the Attorney General's subversive list had ceased to exist. It took the Board an average of 48 seconds to try each of those 111 cases. They worked a total of 1 hour and 15 minutes in disposing of those 111 cases.

Mr. PROXMIRE. Mr. President, if the Senator from South Carolina is ready to vote, I am ready to yield back the remainder of my time.

Mr. HOLLINGS. We have no further time. We are prepared to vote.

The PRESIDING OFFICER (Mr. SPONG). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Wisconsin. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. JORDAN of Idaho (when his name was called). On this vote I have a pair with the distinguished Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Connecticut (Mr. RIBICOFF). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BIBLE (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Idaho (Mr. CHURCH). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. SPARKMAN (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), 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 North Carolina (Mr. JORDAN), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator

from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF), are necessarily absent.

I further announce that the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Idaho (Mr. CHURCH), are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Maine (Mr. MUSKIE), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from New York (Mr. BUCKLEY) are absent on official business.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

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

If present and voting, the Senator from Pennsylvania (Mr. SCOTT) would vote "nay."

The pair of the Senator from Arizona (Mr. GOLDWATER) has been previously announced.

The result was announced—yeas 42, nays 25, as follows:

[No. 215 Leg.]

YEAS—42

Aiken	Eagleton	Pastore
Bayh	Ervin	Pearson
Bentsen	Harris	Pell
Boggs	Hartke	Percy
Brooke	Hatfield	Proxmire
Burdick	Inouye	Randolph
Byrd, Harry F., Jr.	Jackson	Roth
Byrd, Robert C.	Javits	Spong
Cannon	Kennedy	Stafford
Case	Magnuson	Stevenson
Chiles	McGee	Symington
Cooper	McGovern	Talmadge
Cranston	Mondale	Tunney
Dominick	Nelson	
	Packwood	

NAYS—25

Allen	Fannin	Smith
Allott	Fong	Stennis
Beall	Gurney	Stevens
Bennett	Hansen	Taft
Cook	Hollings	Thurmond
Cotton	Hruska	Tower
Curtis	Miller	Young
Dole	Montoya	
Eastland	Schweiker	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—4

Jordan of Idaho, for.
Mansfield, against.
Bible, against.
Sparkman, against.

NOT VOTING—29

Anderson	Gravel	Metcalf
Baker	Griffin	Moss
Bellmon	Hart	Mundt
Brock	Hughes	Muskie
Buckley	Humphrey	Ribicoff
Church	Jordan, N.C.	Saxbe
Ellender	Long	Scott
Fulbright	Mathias	Weicker
Gambrell	McClellan	Williams
Goldwater	McIntyre	

So Mr. PROXMIRE's amendment (No. 1226) was agreed to.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. SPONG). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 15, line 7, strike out "$12,836,000" and insert in lieu thereof "$14,836,000".

Mr. TUNNEY. Mr. President, this amendment would add $2 million to the appropriation for the Antitrust Division of the Justice Department.

My reasons for this amendment are rather simple. Concentration of economic power has become an increasing reality in this country. Accompanying that concentration are implications and effects of vast significance to every member of society. And for that reason, if decisions about the nature and extent of such concentration are not to be made by default, we must depend upon continued vitality of the Nation's antitrust laws.

Effective enforcement of those laws hinges to a considerable extent upon the resources which we make available to those charged with the responsibility of that enforcement. Yet despite the enormous impact which antitrust violations have upon the economic well-being of our citizens, the budget for the Antitrust Division has remained essentially static.

Furthermore, when compared with the funds which we have committed to other law enforcement activities, the disparity is most striking. In 1972, the budget for the FBI was $334 million, for LEAA it was almost $700 million. The President has estimated that the total Federal outlays for the reduction of crime in 1972 amounted to almost $2 billion. Yet antitrust law enforcement accounted for less than six-tenths of 1 percent of that total.

I propose a small but significant effort to increase that fraction by adding $2 million additional funds. That would mean moving the budget for the Antitrust Division up from $12 million to approximately $14 million.

I had considered a much more substantial amendment, one which would double the antitrust budget, because I believe that kind of increase is necessary if we are to have continued vitality in the enforcement of the antitrust laws. But I am aware of the difficulty in gearing up the Division to use that kind of increase effectively in a short period of time. In addition, in view of the fact that a new Assistant Attorney General for the Antitrust Division has just been nominated. I believe we should first determine his own views regarding the task which he has been assigned. Thus, until we have some idea of his attitude toward vigorous enforcement of the antitrust laws, I think it would be inappropriate to commit a major new infusion of money.

For that reason, I have selected $2 million as a figure which will allow a substantial increase in the Division's manpower—approximately 50 to 75 professionals—this year. Such an increase could serve as a signal that we in the Congress expect and are prepared to support a major new effort toward effective enforcement of the antitrust laws. In addition, it provides the opportunity for the Division and its new chief to demonstrate a commitment toward such enforcement.

Anyone who examines the tasks assigned to the Antitrust Division can see that the need for additional resources is a major one.

RESPONSIBILITIES AND RESOURCES

The Antitrust Division enforces the spectrum of antitrust laws, including the 1890 Sherman Act, the 1914 Clayton Act—significantly amended in 1950—and the 1936 Robinson-Patman Act. Besides filing cases in Federal district courts, the Division is an antitrust advocate intervening before such Federal agencies as the Interstate Commerce Commission—as it did in the Penn Central and Northern Lines cases—the Federal Power Commission—for example, El Paso Natural Gas and Otter Tail—the Federal Communications Commission—the proposed ITT-ABC merger—and others. Under the 1966 Bank Merger Act it can file to enjoin a bank merger, approved by banking agencies, up to 30 days after the merger is tentatively approved. It reports to the President and Congress on anticompetitive developments connected with the Defense Production Act, Interstate Oil Compact, Small Business Administration, and identical bid program. The Antitrust Division has a business clearance program in which corporations reveal their future intentions in the effort to obtain prior antitrust clearance; the scheme was explained to Congress as follows:

Although the Department of Justice is not authorized to give advisory opinions to private parties, for several decades the Antitrust Division has been willing in certain circumstances to review proposed business conduct and state its enforcement intentions.

And finally, the Division answers congressional correspondence, which amounts to about 650 letters a year.

To accomplish these manifold objectives, the Antitrust Division is budgeted for the present fiscal year at $11,988,000. This provides for about 354 full-time professionals—316 lawyers and 38 economists—very few possess Ph. D.'s—who are located in Washington, D.C., and seven field offices around the country—Chicago, Los Angeles, Philadelphia, San Francisco, Cleveland, New York, Atlanta. Although this funding level is a 200-percent increase from 1950, the vast bulk of this increase has gone into higher salaries mandated by statutory pay increases. Since 1950 Division staff has only increased 12 percent, from 314 to 354, while during this same period the GNP increased 300 percent and the 200 top industrial corporations increased their ownership of manufacturing assets from 46 to 66 percent. In the late 1960's during the largest numerical merger wave in American history, the staff of the Anti-

trust Division barely increased at all. For a trillion-dollar-plus economy, with 245 firms having assets over a billion dollars, with 85,000 firms over 1 million in assets, and with some 1.5 million corporations in all, 354 corporate cops do not seem very many. Nor does the budget of $12 million, relatively speaking, which is one-twentieth of Procter & Gamble's advertising budget, one-tenth the cost of one C–5A cargo plane, one-fifth the appropriation of the Bureau of Commercial Fisheries, and as much money as General Motors grosses in 4 hours.

I feel that it is very obvious when we consider the extraordinary increase in the gross national product and the significant increase in assets of not only the 200 largest corporations, but let us say the largest 1,000 corporations, the Antitrust Division is significantly outgunned. It just does not have the manpower to do what it ought to be doing.

If one speaks privately to many of the Antitrust Division's lawyers about the problems they face, he will begin to realize that when they get into court they are usually outgunned 5 or 6 to 1 and sometimes 50 to 1 by corporate lawyers on the other side.

Despite its inadequate overtime, the Antitrust Division budget—unlike, say, that of the FBI or LEAA—seems immune to sharp increases. In part, this is due to the Congress itself. Former Attorney General Ramsey Clark has complained that congressional committees "had us so cowed that if we needed 100 lawyers, we would ask for 20 and hope to get five." Another factor may be that Antitrust Division chiefs and Attorneys General have been largely content with the static situation, unwilling to rock the budgetary boat by asking for more. And what is not requested, the Office of Management and Budget and Congress do not approve. If the agency which stands to benefit is too shy to take the initiative, it is up to Congress to determine whether in fact a dramatically increased budget is necessary for antitrust enforcement to even minimally succeed.

OBSTACLES

Some agencies can operate efficiently, receiving—or filing—many cases and resolving them quickly. Yet for others, massive efforts—and budgets—are necessary for them to meet their responsibilities. Thus, one measure of the adequacy of an agency's budget is the context in which it operates. Are there many obstacles or is enforcement expeditious?

Antitrust cases are among the most difficult enterprises that the Government undertakes. Because the basic laws are often intentionally vague—for example, restraints of trade—and the arguments economically sophisticated, the legal issues in antitrust cases are quite complex. If for no other reason than this, enforcement would be a long, slow process. But there are other reasons as well.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend.

The Senator from California may proceed.

Mr. TUNNEY. Mr. President, I can assure my colleagues that my statement will be brief. I have about another 5 minutes in which I would like to present to the Senate some of the reasons for my amendment. If Senators will just bear with me for those 5 minutes, I will greatly appreciate it.

INFORMATION GATHERING

Ferreting out the facts in an antitrust case is an art and a chore. Grand juries are the best investigative device, but they are only called when a criminal, rather than a civil, violation is suspected. Also, since the Antitrust Division does not like to call grand juries unless there is a high likelihood it will return an indictment, not many are called; there were 26 in fiscal year 1970 and 22 in fiscal year 1969. In civil cases there are civil "subpenas"—civil investigative demands—CID's—which legally compel the business recipient to respond. But CID's can only be served on firms "under investigation," which excludes other firms in the industry who might be sources of valuable information; there is also no provision for "oral" CID's, deposing the potential defendants and cross-examining them. Other information gathering devices include asking corporations to cooperate voluntarily, getting supplemental help from the FBI—whose agents lack the expertise to get anything but the most rudimentary of data—and scouring periodicals and trade press—antitrust offenders rarely admit their machinations.

Taking these mechanisms together, it is extremely difficult, time-consuming, and costly to uncover even the most basic industrial information. Even the market share of the investigated firm—often the key determinant of a violation—is difficult to determine.

DEFENSE COUNSEL

Antitrust laywers have made a legal art out of delay, as their clients profit by justice delayed. Slowing down proceedings has other benefits as well: Witnesses die, evidence and memory grow stale, markets change, and new administrations take over Washington—all of which can moot any relief or lead to dismissal. Defense counsel themselves admitted such motives to Ralph Nader's antitrust study group, as quoted in their impressively detailed study:

THE CLOSED ENTERPRISE SYSTEM

Antitrust is a game to private counsel. They think they can milk a client since they know it can take eight years for a resolution. They know no one will push them, so they take a free ride and travel around the country getting admissions and taking depositions—which alone can take three years.—Former Antitrust Divisions lawyer.

Delay—that's what they get paid for.—Antitrust Division trial lawyer.

Defense counsel tell their clients: if the Antitrust Division sues, you will lose, but you can still gain three to five years to make your profit or acquire know-how from the illegal merger. Delaying a government prosecution is justified on the theory of maybe getting a better deal next year. In private treble-damage suits the philosophy is consciously or semi-consciously to wear out the plaintiffs.—Former Division lawyer, New York City defense attorney.

The result of all of the above are enormous, unwieldy, and delayed proceedings. Examples are easy to find. The IBM-monopolization case has been filed for 3½ years and it is barely into pretrial discovery; in that case three Antitrust Division lawyers confront up to 30 IBM and private firm attorneys, many of whom attend a special computer school to comprehend the complex issues. The 1945 Alcoa case had 15,000 pages of documentary evidence and took 20 years to resolve, although at issue was a firm with 100 percent of the market. National Lead 2 years later had 1,400 exhibits to be identified and authenticated. Ferguson against Ford Motor Co., a private suit filed in 1948, entailed 100,000 pages of depositions from 173 witnesses, with some 700,000 pages of documents in all. The oil-cartel case of 1953 against the five biggest integrated oil companies accumulated 100,000 documents and took 13 years to decide—by a combination of ineffective decrees and dismissals; the case never did get out of pretrial proceedings. Longer yet is El Paso Natural Gas: Filed in 1957, it has been to the Supreme Court four times and is still unresolved. Suits against GM for its bus monopoly and its acquisition of Euclid each took a decade to settle, without any litigation. While these are extreme examples, no comfort can be taken from the average merger or monopolization case. Economist Kenneth Elzinga found that it took an average of 63.8 months—or over 5 years—from the time of an illegal merger to a final divestiture order. Law Professor Richard Posner found the average length of a monopolization suit to be about 8 years.

These delayed proceedings have distinct advantages for business, and they know it. For time is money to the businesses charged. Every day that an illegal scheme or merger can be continued means additional profits to that firm.

OUTPUT

Slender resources, and an obstacle course for an enforcement process, have led to a generally unimpressive enforcement record.

Except for occasional highs, like in 1940–42 or 1960, the number of cases filed annually has stayed quite similar over the years. The breakdown is as follows:

1940	96
1941	83
1942	97
1943	58
1944	22
1945	24
1946	26
1947	44
1948	34
1949	57
1950	71
1951	51
1952	30
1953	33
1954	32
1955	47
1956	48
1957	55
1958	54
1959	63
1960	86
1961	62
1962	73
1963	62
1964	64
1965	43
1966	44

1967	53
1968	50
1969	53
1970	59
1971	64

While the absolute numbers are similar, there has been a decrease in the number of criminal prosecutions—which means, therefore, a commensurate increase in civil cases. In 1940–49, 58 percent of the cases filed by the Antitrust Division were criminal; in 1950–59, 48 percent were criminal; and in 1960–69, 31 percent were criminal; in the last 2 years, 14 percent have been criminal.

Of civil cases filed, the majority are settled before trial. Eighty-three percent of all civil suits in the 1960's were resolved via consent decrees. When asked about the high prevalence of such settlements, antitrust enforcers invariably have two responses: The first is, "We got everything we could have if we had litigated," which is sometimes accurate and sometimes not; and the second is "We simply lack the resources to go to trial on many cases." The average of 13 trials annually over the last decade is the result of these beliefs.

There are three areas of Antitrust Division "output" which warrant praise. First, the Division has more than doubled the number of "major investigations instituted" during the 1960's. Second, especially since the tenure of Donald Turner as head of the Antitrust Division—1965–68—the agency has more actively intervened in regulatory proceedings as advocates of competition; this is reflected in the number of so-called kindred cases, which went from 114 in 1965 to 342 in 1968. And third, the pure "won-lost" record of the Antitrust Division, is impressive.

But all such statistics cannot ultimately shield the generic failure of antitrust enforcement. For example, what does it mean to "win" a case? Consent decrees count as wins, although many are drawn up by defense counsel and do not include divestiture of the subsidiary initially sought to be divested. But it is precisely because the Antitrust Division lacks the manpower to go confidently to the litigation mat that it is induced to settle cases at the semblance of success. In fact, the outgunning of the Division by the private antitrust bar—something they privately admit to, even boast about—leads to a whole series of "soft" enforcement decisions. Voluntary requests for information are preferred over formal CID's; business clearance letters over formal and independent investigations; consent decrees over litigated decrees; nolo contendere pleas over guilty pleas or criminal trials. In each the sting of enforcement is cushioned, and the antitrust laws begin to lose their teeth.

Perhaps the greatest cost of inadequate resources is the absence of serious antimonopoly cases. Small price-fixing and merger cases, which are relatively easy to handle, are very tempting targets for enforcers who have to tell Congress each year the number of cases filed. Not the impact of the cases but their number. A suit to horizontally deconcentrate General Motors or vertically break up Anaconda, however, would require massive manpower over a long period of time. Even if the Antitrust Division had the resolve to file such cases, which is far from evident, they privately blame their lack of staff as reason enough to abstain. The Antitrust Division's February 1969 budgetary proposal to the House Appropriations Subcommittee contained this complaint:

> Most of our resources in this subcategory must be committed to what could be termed responsive as opposed to affirmative action. . . . We have not been able to undertake, in the scope that would appear indicated, a sufficient number of the broadscale investigations and studies of the kind that lead to Section 2 cases against firms in monopolistic or tightly oligopolistic industries. The potential gains to competition in the economy and to the public interest in this area are enormous.

The spectacle of IBM's gargantian defense team, and of the statement by one GM executive that "If it—the Antitrust Division—tried to split off Chevrolet, it would be 10 years before the case even got to court," make the Division pause and then end even their thoughts about such antitrust cases.

The steady and small number of cases each year, the slow process of delayed proceedings, the frequency of compromise settlements, the lack of structural cases—all communicate a clear message to the American business community. As one Washington antitrust lawyer wrote in Dun's Review in the late 1960's—

> A key ingredient for compliance was often missing—the conviction of businessmen that the Antitrust Division would act. . . . As time passed, a growing suspicion spread among the business community that the Antitrust Division was a paper tiger.

And here lies the greatest cost of inadequate resources. The low level of enforcement simply does not deter antitrust violations. Said one San Francisco executive, speaking no doubt the mind of many of his colleagues:

> The government can't hit everyone, so a business goes ahead and does what it wants, if it isn't obviously crooked, and gambles that it won't get caught. There is no moral dimension to it. The odds are in your favor.

WHAT CAN BE DONE

The present tiny increase in the budget of the Antitrust Division simply prevents enforcement from falling further behind in its assigned task. A serious increase in its appropriations over the next 2 years such as I am proposing would go a long way toward enabling this agency to fulfill its obligations to American consumers. The uses to which the money could be put are obvious. Experienced economists, induced to work on major cases at GS–16 levels, could be hired; and more lawyers could be taken on. The benefits of this added manpower should also be evident: Innovative and important cases could be developed by industrial economists schooled in particular industries; teams of lawyers and economists, now needed to handle daily problems, could be freed to engage in intensive studies of creative cases in previously ignored areas—that is, the legal profession, trade associations, company towns, advertising-as-entry-barriers; innovative use could be made of computer studies to detect local price-fixing, comparing prices in a certain locales with competitive prices elsewhere; serious monopolization cases could be brought in major industries, finally testing the extent to which the Sherman Act's prohibitions include shared monopolies—oligopolies; additional field offices could be established, generating more citizen and business complaints and information, as well as working with local and State law enforcement agencies to combat antitrust crime; a vastly increased role could be played to insist that regulatory agencies not ignore the principles and benefits of competition; litigated cases would increase, consent decrees would decline, and remaining consent decrees would contain better settlements since defendants would realize that the Division would be willing and able to go to trial unless its demands for relief were met; staff resources could be devoted to systematic information gathering as well as to formation of a priority planning staff to determine where resources should best be devoted. Thus, both more cases and more important cases would be brought, to be resolved more vigorously. This can only help put the teeth back into the paper tiger, and businessmen, accordingly, cannot but take note.

The benefit to consumers could be incalculable. For too long we have considered antitrust as something deadingly abstract, of no immediate interest to our daily lives, esoterica to be unraveled by economists. As the closed enterprise system accurately notes:

> The concentration of industrial assets, the distribution and extent of our wealth, productivity, innovation, pollution, employment, racism, political contributions, and lobbying—all are issues of national pitch and moment, all are touched by antitrust policy. As our competitive economy goes, so goes our polity; the two are inseparable.

More specifically, antitrust violations and economic concentration, according to the best estimates, costs this country between $48 and $60 billion in lost production—due to monopoly restrictions of output—and approximately $23 billion in higher prices—due to monopoly overcharges. While a budget of $14 million cannot recoup all this loss, it can do far better than one of $12 million. It would also provide the first significant step toward a more substantial increase next year. And this area, particularly, is one where an ounce of prevention is worth a pound of cure, where a small investment of millions can save consumers literally billions in lost purchasing power. No doubt this proposal will meet with righteous indignation by many in industry, who are all for competition—for the other guy. But I cannot think of a better investment Congress can make.

Mr. COOK. Mr. President, I raise the point of order that the amendment of the Senator from California increases the appropriations; it is not only authorized, but it is not within the budget estimate.

I think the amendment is subject to a point of order, if I am not mistaken.

The PRESIDING OFFICER. The Chair is advised that this amount proposed in the pending amendment is in excess of the budget estimates——

Mr. TUNNEY. Mr. President, is it possible to speak to the point of order before the Chair makes its ruling?

The PRESIDING OFFICER. The Senator from California has the right to use all of his time before the point of order is made.

Mr. TUNNEY. I would just like to argue for a moment with respect to the point of order. I am perfectly willing to have the point of order made. I do not want to keep my colleagues here if the point of order is going to be sustained but I would like to argue it.

Mr. COOK. Mr. President, may I inquire how much time the Senator has remaining?

The PRESIDING OFFICER. The Senator from California has 12 minutes remaining.

Mr. COOK. Mr. President, I will withdraw the point of order until the Senator from California utilizes all of his time within the framework of the time limitation that he has in connection with his amendment.

Mr. TUNNEY. Mr. President, I have nothing further to say. I have completed my statement on the amendment I am offering. Inasmuch as I would not want to delay the business of the Senate, I would be perfectly willing to address the point of order now, if the Senator insists on making the point of order.

Mr. COOK. I will do so, but if the Senator wishes to utilize the remainder of his time in arguing against the point of order, he may do so, and then this Senator will take such action as he feels is necessary at the conclusion of the remarks by the Senator from California.

Mr. TUNNEY. Mr. President, back on November 23, 1971, a point of order was made by the Senator from Louisiana (Mr. ELLENDER) in connection with the Foreign Military Sales Act. He made the point of order that there was no authorization in the appropriation of moneys for the sale of aircraft to Israel.

Legislative counsel, Mr. Hugh C. Evans, senior counsel for the office of legislative counsel, wrote an opinion, for the Parliamentarian in which he stated:

The second reason for believing that section 501 is an authorization for appropriations is that the section authorizes the President to undertake certain acts. The enactment by Congress of a provision of law conferring authority upon the President to perform certain acts itself constitutes authority for the appropriation of funds to carry out those acts, in the absence of a clear legislative intent to the contrary. Otherwise, Congress would be engaging in a useless gesture of authorizing the President to act but not authorizing funds to accomplish that act.

This office has consistently taken the position that language specifically authorizing appropriations is unnecessary to authorize the appropriation of funds to carry out any legislative program enacted by the Congress. The same position is taken by Mr. Reed Dickerson in his book on *Legislative Drafting:*

The point simply is that Congress has enacted laws that set up the Department of Justice, and Congress has enacted laws establishing the Assistant Attorney General. We have passed the Clayton Antitrust Act and the Sherman Antitrust Act. The Justice Department is supposed to enforce those acts.

It seems to me to be clear that this is such an authorization as would comply with the opinion by the legislative counsel; that unless Congress clearly intended otherwise, a general authorization is sufficient for an appropriation of funds in the budget of a Cabinet department.

I think that it is clear in this particular case that an additional increase of $2 million to the Antitrust Division has been authorized in general law.

Does the Senator care to dispute that point?

Mr. COOK. It is not this Senator's desire to enter into debate on the merits. If the Senator from California wishes to interpret a prior opinion of Legislative Counsel, that is fine.

I think the point still prevails, and at the conclusion of the Senator's remarks I will make the point of order.

Mr. TUNNEY. But the opinion of the Legislative Counsel was confirmed by a vote of the Senate. We have a precedent.

Mr. COOK. May I say to the Senator I do not want to get into a debate with him. If the Senator wishes to appeal the point of order, that is within the prerogative of the Senator from California.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. I have finished my statement on the merits of my amendment and I am prepared, so that the Senate's business can be conducted, to have the decision on the point of order by the Chair.

Mr. COOK. Mr. President, I raise the point of order.

The PRESIDING OFFICER. The Chair is advised that this amount proposed is in excess of the budget estimates and is not authorized by law. Therefore, under rule XVI, paragraph 1, the amendment is not in order. The point of order is sustained.

Mr. TUNNEY. Mr. President, I appeal from the ruling of the Chair.

Mr. HANSEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. What is the question?

The PRESIDING OFFICER. The question is: Shall the ruling of the Chair stand as the judgment of the Senate?

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOK. Does a "yea" vote sustain the Chair?

The PRESIDING OFFICER. The Senator is correct.

Who yields time?

Do Senators yield back their time?

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

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

Mr. TUNNEY. Mr. President, I would like, before yielding back my time to indicate to my colleagues that if they sustain the ruling of the Chair it will be a terribly bad precedent for the Senate to be setting—saying that we cannot use general authorization laws that create Cabinet positions or create departments and allow for those departments or agencies to conduct their business that the Senate cannot add on money to appropriation bills, and therefore, allow the Office of Management and Budget to dictate to the Senate and to the Congress what the top level of appropriations is going to be.

I think that the dignity of the Senate demands that we overrule the ruling of the Chair, and follow the precedent established before in 1971 when we voted against the point of order of the Senator from Louisiana (Mr. ELLENDER) which would have prevented some $500 million for being appropriated for the sale of jets to Israel.

Mr. COOK. Mr. President, may I ask unanimous consent that my statement yielding back my time be rescinded?

Mr. TUNNEY. Mr. President, I will yield to the Senator from my time.

The PRESIDING OFFICER. Does the Senator make the request?

Mr. COOK. I make the request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky? The Chair hears none, and it is so ordered. The Senator from Kentucky.

Mr. COOK. Mr. President, may I say that the question is very simple. What the Senator from California is really saying is that, somehow or other, we are shattering precedent. As a matter of fact, if we do not sustain the ruling, that will be shattering precedent, because the request the Senator has made should have been made to the original appropriation bill. That is what he should have done. If there was great enthusiasm to add this sum, obviously that great enthusiasm must have prevailed at that time.

The only point I wish to make is that if we in fact pass these appropriation bills which Members of the Senate participate in and vote on, and then we come back, and engage in this process, then obviously we have overlooked our responsibility to increase the amount for the respective departments at the time and at the place where, in fact, it should have been done.

I only assert that we, somehow or other, do not move so fast that someone can plead it was overlooked or was not done at the time it should have been done. If we do this, and do it as a consistent precedent, then I might say we will be further out of balance than ever before, because once we pass the appropriation bills, we will then be back on the arduous task of adding on to authorization bills such tremendous sums of money that the fact that we have already passed and sustained appropriation bills will have been for naught and we will ultimately have reversed the process so that we will have to see that one attempts to keep up with the other.

So I would say the earth-shattering

precedent the Senator talks about is the one he attempts to make. It shatters precedent to the point where we can come along, after missing the opportunity when we should have done it, and seek to do it now. Therefore, I think the ruling of the Chair should be sustained.

If the Senator wishes to take this position, he should do it at the proper time and the proper place.

Mr. TUNNEY. Mr. President, may I say it would be a reversal of the precedent in 1971 in a precisely similar case where the decision of the Senate was that laws passed by Congress imposing duties upon the executive branch necessarily carry with them the authorization to appropriate moneys to carry out such duties.

It is quite clear that general authorization bills, such as setting up departments and agencies, imply an authorization of funds needed to carry out the duties imposed upon those departments and agencies. The point of order was sustained by the Chair because the Chair said there was not an authorization. I think it is very clear that there has been an authorization in setting up the Department of Justice, in setting up a system where we have an Assistant Attorney General for the Antitrust Division, and where we have passed the Sherman Antitrust Act, the Clayton Antitrust Act, the Robinson-Patman Act—all designed to enforce the antitrust policy of this country. That is the authorization.

It must be clear in this particular case, if Senators believe in the merits of the case, that they ought to overrule the ruling of the Chair. To do otherwise would mean that the decision of the Appropriations Committee on the size of the budget for any executive department is always final. I cannot believe that the Senate wishes to abdicate total control over the final size of a department's operational budget. Suppose the President only requested $10 for the Justice Department and the Appropriations Committee only voted $10. Are we to believe that the Senate could not increase that figure on the floor? That is the logical result if the Chair is sustained on this point.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. COOK. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. EAGLETON). The question is: Shall the decision of the Chair stand as the judgment of the Senate? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), 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 North Carolina (Mr. JORDAN), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Idaho (Mr. CHURCH) are absent on official business.

On this vote, the Senator from Georgia (Mr. GAMBRELL) is paired with the Senator from Connecticut (Mr. RIBICOFF). If present and voting, the Senator from Georgia would vote "yea" and the Senator from Connecticut would vote "nay."

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. FANNIN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

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

If present and voting, the Senator from Pennsylvania (Mr. SCOTT) would vote "yea."

The result was announced—yeas 51, nays 17, as follows:

[No. 216 Leg.]

YEAS—51

Aiken	Dole	Percy
Allen	Dominick	Proxmire
Allott	Eagleton	Randolph
Beall	Eastland	Roth
Bennett	Fong	Schweiker
Bentsen	Gurney	Smith
Bible	Hansen	Sparkman
Boggs	Hatfield	Spong
Brooke	Hollings	Stennis
Byrd, Harry F., Jr.	Hruska	Stevens
	Inouye	Symington
Byrd, Robert C.	Javits	Taft
Cannon	Jordan, Idaho	Talmadge
Case	Mansfield	Thurmond
Cook	Miller	Tower
Cooper	Montoya	Young
Cotton	Packwood	
Curtis	Pearson	

NAYS—17

Bayh	Hartke	Mondale
Burdick	Jackson	Nelson
Chiles	Kennedy	Pastore
Cranston	Magnuson	Pell
Ervin	McGee	Tunney
Harris	McGovern	

NOT VOTING—32

Anderson	Gravel	Moss
Baker	Griffin	Mundt
Bellmon	Hart	Muskie
Brock	Hughes	Ribicoff
Buckley	Humphrey	Saxbe
Church	Jordan, N.C.	Scott
Ellender	Long	Stafford
Fannin	Mathias	Stevenson
Fulbright	McClellan	Weicker
Gambrell	McIntyre	Williams
Goldwater	Metcalf	

The PRESIDING OFFICER (Mr. EAGLETON). The decision of the Chair stands as the judgment of the Senate, and the point of order is sustained.

Mr. ERVIN. Mr. President, I desire to offer an amendment in my own handwriting. I take no pride in my own handwriting. I ask unanimous consent that instead of the clerk stating the amendment, I be permitted to state it.

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

Mr. ERVIN. This is an amendment to the provision of the bill starting on line 10 and ending on line 11 on page 17. To understand the amendment, I should state what this provision of the bill provides.

Mr. MILLER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. MILLER. Mr. President, may we ask the Senator to repeat his remarks?

Mr. ERVIN. Mr. President, this is an amendment to the provision of the bill which apears on lines 10 to 21, inclusive, on page 17. It is the part that is printed in italics.

This provision of the bill, in substance, authorizes the Federal Buerau of Investigation to furnish what it calls identification records—which means criminal records—to officials of federally chartered or insured banking institutions, to enable them to comply with the statute which forbids them to employ any man in any of these banking institutions who has been convicted of a banking crime. That is the effect of the law. It also authorizes them to furnish these records to State or local governments for purposes of employment or licensing. The amendment would read as follows:

On page 17, line 21, change the period to a colon and add the following thereafter: *"Provided, however,* The Federal Bureau of Investigation is hereby forbidden to furnish officials of federally chartered or insured banking institutions or officials of any State or local government any identification or other record indicating that any person has been arrested on any criminal charge or charged with any criminal offense unless such record discloses that such person pleaded guilty or nolle contendere to or was convicted of such charge or offense in a court of justice."

In other words, I have some misgivings about the presence in the bill of the provision I seek to amend, on the theory that—perhaps it is legislation on an appropriation bill, but bypassing that—I think it would be better to confine the FBI to its allotted duty of investigating the commission of crime and investigating domestic subversion instead of furnishing employment information. But I am willing to forgo that conviction, provided the records that the FBI furnishes show not merely that the man has been arrested or has, in effect, pleaded guilty or has been convicted.

I think great injury can be done to a man in such a situation, because thousands of people—especially young people arrested in demonstrations in recent years—are arrested and then turned loose.

The reason I am concerned about this is that in conducting investigations for the Subcommittee on Constitutional Rights, a man came to me and told me that when he was about 16 years of age, attending high school, there was a theft from a locker in his high school gymnasium. He said he was taken to the police station, booked, fingerprinted, and a record was made of the arrest. Then they investigated and found that he was not guilty of anything, and they turned him loose. He went into the Army, served honorably for 20 years, retired after a record of honorable service to his country, came back into civilian life, and applied for a job in an industrial plant. He told me that apparently he had all the qualifications for the job for which he applied, but they would not give him the job and never would explain why.

Fortunately for him, he had a friend who worked in the plant; and this friend went to the personnel officer and found out that the reason they would not give this man employment was that they had this arrest record, which was 20 or 30 years old at that time—merely the fact that he had been arrested.

The dissemination of information, mere arrest, without any followup as to whether there was a conviction, has caused great difficulty to many Americans. I just want this amendment adopted to make certain that if the FBI furnishes this information, they have to furnish a record of what happened as a result of the arrest or the charge and show that the man either was convicted or pleaded guilty. I think everybody is entitled to that kind of protection.

I send this amendment to the desk, and I hope the manager of the bill will accept it.

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

Mr. ERVIN. I yield.

Mr. MILLER. From the Senator's explanation, it sounds to me as though he has a meritorious amendment. I wish to make a suggestion for a slight modification.

The amendment, as I understand it, reads only in the case of a person who has been convicted or has pleaded guilty. I would suggest that the Senator add "or pleaded nolo contendere," because, as the Senator well knows, that is the equivalent of a guilty plea. I think we ought to cover those pleas.

Mr. ERVIN. I think the Senator has a valid point.

Mr. President, I modify the amendment so as to insert that the record shall not be disseminated by the FBI unless such record discloses that such person pleaded guilty or nolo contendere to such charge or offense or was convicted of the charge or offense in a court of justice.

I think the Senator's point is well taken, and I so modify the amendment.

The PRESIDING OFFICER. The amendment is modified to include "nolo contendere."

Mr. HOLLINGS. Mr. President, we are prepared to accept this amendment without a record vote. I have discussed it with the Senator from Maine (Mrs. SMITH) and the Senator from Nebraska (Mr. HRUSKA) and others who have worked on this measure in the Judiciary Committee, and with respect to arrest records generally, with the FBI.

I ask unanimous consent to have printed in the RECORD a statement as to the history of non-Federal applicant fingerprint program of the FBI.

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

HISTORY OF NON-FEDERAL APPLICANT FINGERPRINT PROGRAM

Since 1937 the FBI Identification Division has, in accordance with statutory authority augmented by executive orders and Attorney General instructions, processed fingerprints of applicants for employment in law enforcement agencies and correctional institutions, employment in Federally chartered or insured banking institutions, and for licensing and local employment if fingerprinting for such licensing and employment was required by local ordinance or official regulation. The demands for this service have grown steadily since 1937 as local regulatory agencies consider identification records vital to the public interest in many diverse areas of employment and licensing.

In 1971 the Government's authority to disseminate arrest information in response to non-Federal applicant fingerprints was challenged in the courts for the first time. In the case Michael Stuart v. John N. Mitchell, et al, Civil Action 70-2756-R, U.S. District Court, Los Angeles, California, (Judge Manuel L. Real) ruled that Section 534, Title 28, U.S. Code, does provide authority for the FBI to disseminate arrest information in response to non-Federal applicant fingerprints. In a second case, Menard v. Mitchell, 328 F. Supp. 718 (D.D.C. 1971), U.S. District Judge Gerhard A. Gesell, District of Columbia, handed down a Memorandum Opinion in which he noted "Thus the court finds that the Bureau (FBI) is without authority to disseminate arrest records outside the Federal Government for employment, licensing and related purposes." Judge Gesell indicated that the FBI needs legislative guidance and there must be a national policy developed in this area which will have built into it adequate sanctions and administrative safeguards. As a result of this June 15, 1971, decision, the FBI promptly discontinued disseminating identification records for local employment and licensing, except law enforcement positions, until December 26, 1971, when the President approved Public Law 92-184. This was an appropriations measure which authorized dissemination of identification records to Federally chartered or insured banking institutions and, if authorized by state statute and approved by the United States Attorney General, to officials of state and local governments for the purpose of employment and licensing. This temporary authority was provided by Senate action and grew out of widespread appeals from many different constituency interests for restoration of this vital service. In establishing the temporary authority, the Senate wisely recognized that abuse of the privilege was possible and accordingly placed responsibility upon each state to submit only applicant and licensing prints for which there is a requirement clearly covered by state law. As a result, the volume existing before the Gessell decision (including a plethora of types of employment, some of which had been of questionable vital public interest) was sharply reduced. This vital service cannot be discharged by the states themselves as there is only one national repository of arrest records and fingerprints. Felons with extensive records using an alias to gain employment in a bank or a security house can thus only be detected through a check of his fingerprints in the national file. The FBI uncovers such situations almost on a daily basis, which serves as justification by the states to insist upon this service.

The insertion of language in the fiscal year 1973 Departmental Appropriations Act similar to that included in Public Law 92-184, is to provide for continuing this service on a temporary basis until the Congress can receive, deliberate, and act upon proposed permanent legislation that has been prepared by the Department of Justice and delivered to the Office of Management and Budget for approval. As soon as such approval is forthcoming, it will be referred to the Congress. It is then that all ramifications can be explored and suitable legislation enacted if deemed appropriate. In the meanwhile, however, it is deemed essential that this service, which serves significant interests in the various states, not be again disrupted. If it is, an avalanche of protests can be expected from state civil service systems, financial institutions, gun licensing authorities, school boards, gaming license authorities, etc.

PENDING BILLS AFFECTING PROGRAM

(1) To authorize the Attorney General to exchange criminal record information with certain state and local agencies—S. 2545 (Bible), H.R. 11548 (Sikes), H.R. 13209 (Chappell).

This bill would amend Section 534 of Title 28, US Code, to permit the dissemination of identification records to any non-law enforcement official or agency of any state or city if the laws (including regulations) of such state or city authorize or require such official or agency to acquire criminal record information in the performance of his duties. If enacted, this bill would restore dissemination practices prior to the Menard case

(2) Criminal Justice Information Systems Security and Privacy Act of 1971—S. 2546 (Hruska), H.R. 10789 (McCulloch, et al.), H.R. 10892 (Celler).

This legislation restricts the dissemination of arrest information to law enforcement agencies for law enforcement purposes or for such additional lawful purposes necessary to the proper enforcement or administration of other provisions of law as the Attorney General may prescribe, by regulations. While this bill deals specifically with a computerized criminal justice information system funded by the Law Enforcement Assistance Administration, its provisions could, if made applicable to the present FBI manual system, result in a curtailment of services in connection with local licensing and employment.

(3) Nullification and Restrictions on Dissemination of Certain Criminal Records—S. 2732 (Burdick).

This legislation provides for the nullification of arrest records not followed by valid convictions and restricts the dissemination of arrest records for direct law enforcement purposes. In addition, this bill prohibits the dissemination of arrest records without valid convictions for purposes of bonding, licensing, and employment unless the employment directly affects the national security or the public trust in any industry or agency where the nature of the offense compromising such records is sensitive to such position.

IMPACT ON FBI IDENTIFICATION DIVISION OF DISSEMINATING RECORDS WITHOUT CONVICTIONS

The FBI has on file some twenty million identification records. Many contain numerous arrest entries and the dispositions to some of these are unknown because the arresting agencies have failed to forward same to the FBI. To review and analyze each record disseminated to determine if there is a conviction for each arrest and prepare a new record containing only entries with convictions would be exceedingly costly and time consuming. It is not a system that could be instituted overnight, in view of recruiting and training of large blocs of employees and acquiring space to house them. In the event the FBI were required to disseminate one type of record for law enforcement purposes and

another for employment and licensing, this would necessitate the maintenance of two different records with subsequent dual postings and would impose unworkable conditions on the manual system in the FBI Identification Division which primarily serves law enforcement needs throughout the country.

The question of withholding information concerning an arrest in which a conviction is not shown should be carefully considered. Many dispositions of arrest do not appear on records simply because the trial has been delayed. In others, cases are not adjudicated for reasons other than lack of evidence to convict. A typical example is a case involving child molestation in which the parents of the victim will not allow the child to participate in court action. Some records will contain several arrests for indecent exposure or other similar charge with no convictions recorded. To withhold such information concerning an applicant for a schoolteacher position does not appear to be in the best interests of the public. The same would hold true in a case where an individual has been arrested several times for larceny or embezzlement but not convicted and he applies for a position in a banking institution.

Irrespective of the action that Congress may take in connection with the non-Federal applicant fingerprint program, careful consideration should be given to any proposal that would interfere with the maintenance and dissemination of criminal arrest information which are essential tools in preserving the peace and protecting society from the violence of crime.

Mr. HOLLINGS. Mr. President, various State agencies, national banks, persons making application to receive a firearm, school bus drivers, persons who work in casinos, persons who work in racetracks, have all depended on the FBI furnishing these records. J. Edgar Hoover said at the time he appeared before our committee, as a result of the interim authorization within the appropriation bill, since the decision of the court striking it down, that in no instance has he ever furnished it to a State or local agency if there has been any abuse. The fact is, it indicated such was the intent of about 21 or 22 and he would not furnish those records to them. He had the very same this year, in fairness to the FBI, that the Senator from North Carolina has. The very form itself has on the frontispiece, in the largest language possible, indicating that the records are not conclusive or final records; and in large language it says "Where disposition is not shown, or further explanation of charge or disposition is desired, communicate with agency contributing those fingerprints."

So the agency has had the same misgiving about putting out a record indicating that someone was a criminal or involved in a crime, when the facts were otherwise, really, that they have been arrested and there was no plea, and certainly no conviction.

The Senator from Nevada (Mr. BIBLE) has been a leader in this matter and will provide this information for the State and local agencies. I have discussed it thoroughly with him. Perhaps he would like to comment on it now.

Mr. BIBLE. Mr. President, I thank the distinguished Senator from South Carolina. We have had further discussion about refinement of this amendment which the Senator from North Carolina (Mr. ERVIN) has offered. It is a good refinement. I would hope that the Judiciary Committee—I do not know whether they can do it this year, as they have had such a busy year—but early next year I would hope that they would have some hearings on the legislation on this subject now pending before them, because the present provision is in the nature of a stopgap.

In my judgment, the committee provision is not subject to a point of order, because related language came to us from the House. Whether it is subject or not to a point of order, and I do not believe that it is, this matter should be dealt with squarely in full fledged hearings. I would hope that we would be able to do that next year.

The purpose of the provision in question is to make it clear that the Federal Bureau of Investigation is authorized to use its funds to continue its long-standing program of providing criminal records identification services to federally chartered and insured banking institutions and, where authorized by State law and approved by the Attorney General of the United States, to State and local officials for their official use in checking the background of persons seeking to be licensed or employed in sensitive businesses or occupations.

Such services have been performed by the FBI under authority contained in every Department of Justice appropriations act since 1921, including the Supplemental Appropriations Act for 1972 in which the Congress approved a specific restatement of that authority.

Mr. President, I cannot overemphasize the importance of this provision. Without it, these essential FBI criminal records services will have to be terminated at the end of this month.

Not only federally chartered and insured banking institutions—which have an obvious need to screen prospective employees—but official agencies of State and local governments all across the country will be denied access to criminal records information they need in order to carry out their own responsibilities under a variety of State laws.

According to a nationwide survey, which I understand is now being conducted by the FBI, at least 32 States, the District of Columbia, and Puerto Rico have statutes on their books requiring fingerprint checks in connection with licensing and/or employment in sensitive businesses and occupations.

The survey is incomplete, and the details are not yet available. However, the businesses, occupations, professions, and activities for which a fingerprint record check is often—and, I think, properly—considered essential for the protection of the public include:

The legalized gambling industry in my own State of Nevada. This is a prime example. Nevada law requires a thorough screening and background investigation of all who seek to be licensed or employed in her gaming industry. This sensitive industry is closely monitored by State authorities in order to assure honest operations, and an FBI record check is indispensable if screening is to be thorough.

The liquor industry is another case in point. Many, if not all, States have special statutory requirements for the screening of persons who seek licensing or employment to handle alcoholic beverages. The National Conference of State Liquor Administrators—a nationwide organization of alcoholic beverage control officials—is deeply concerned because the termination of FBI records service would seriously undermine the States' ability to prevent persons with disqualifying criminal records from entering the liquor industry.

Some of the States require criminal records checks before licensing persons for the practice of medicine, law, pharmacy, and other professions. Others require full background investigations of those who would be private investigators, securities dealers, real estate salesmen, taxicab drivers, and others.

The FBI is the only available central clearinghouse for criminal records information. I say again, if the services covered by this provision were not available, it would be impossible—or at least exceedingly difficult—for public officials throughout the States to meet their own statutory obligations to obtain criminal records checks in connection with their licensing and employment functions.

And there is another aspect of this that warrants special notice. We are all concerned about the crime problem; the infiltration of legitimate business by organized crime; the gun control problem.

Title IX of the Crime Control Act of 1970 was enacted to curb the infiltration of legitimate business by organized criminals and racketeers. How can this be done if State and local officials responsible for screening entry into sensitive industries and occupations cannot get a criminal records check on people applying to enter such activities?

Section 922(g) of the Gun Control Act of 1968 makes it unlawful for an ex-felon to receive firearms or ammunition that has been moved in interstate or foreign commerce. Many, if not all, the States also prohibit at least handgun ownership by ex-felons. How can this kind of prohibition be made effective if local public officials administering gun control laws cannot get a criminal records check on people who apply to purchase weapons?

Mr. President, these are very real problems. This has to be viewed as a crime prevention matter. State and local public officials must be able to obtain FBI criminal records information for official use. Otherwise, their ability to protect the public against the criminal element will be seriously impaired.

I think that in this age of computers and the rapid gathering and dissemination of information, the Government has an obligation to take every reasonable precaution to see that its information functions include safeguards to protect individual rights.

I also agree that, in view of concerns expressed by the President's Commission on Law Enforcement and Administration of Justice and recent court decisions, this is a matter ripe for congressional review.

But it is essential that these services be continued while that process goes forward.

In the meantime, certain safeguards have been built into this bill. The services involved would be available only to public officials authorized by State law to request them—for their official use only—subject to the approval of the Attorney General. And under language approved by the House, the service would be subject to cancellation if dissemination is made outside the receiving department or agency.

As I have said, this is an essential crime prevention service. The Congress has spoken loudly for crime control. State and local officials all across the country charged with the responsibility to screen applicants for sensitive businesses and occupations are an integral part of our national crime control effort. And it makes no sense at all to deny them access to the only available national clearinghouse for criminal records information. To do so would be to place officials throughout the country in a position where they would not be able to meet their own statutory obligations.

I urge acceptance of the provision as modified by the amendment of the Senator from North Carolina.

Mr. BURDICK. Mr. President, if the distinguished Senator will yield, the Subcommittee on Penitentiaries has had hearings and is holding hearings on that subject right now——

Mr. BIBLE. I am happy to hear that.

Mr. BURDICK. We are not only dealing with the arrest record, but also first convictions. We are going into the whole field.

Let me say that I am heartily in support of the pending amendment.

Mr. BIBLE. I appreciate that. Certainly I, too, consider this to be a good amendment. It should be agreed to.

Mr. HRUSKA. Mr. President, I concur with the acting chairman and manager of the bill that it would be well to take this amendment to conference and work out of it what we can.

I have discussed one or two features of this with the Senator from North Carolina (Mr. ERVIN). They are not so serious but what they can, if necessary, be adjusted in conference. If not, I would be willing to review other legislation pending or in process. I go along with the suggestion of the chairman that we approve the amendment and take it to the conference.

Mr. HOLLINGS. Mr. President, I yield back my time on the amendment.

Mr. ERVIN. Mr. President, I yield back my time on the amendment.

The PRESIDING OFFICER (Mr. EAGLETON). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from North Carolina (Mr. ERVIN).

The amendment was agreed to.

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

AMENDMENT NO. 1235

Mr. HRUSKA. Mr. President, I call up my amendment, No. 1235, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 52, line 10, strike the following: "925,000" and insert in lieu thereof "1,100,000".

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

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. HRUSKA. Mr. President, this amendment would restore $175,000 to the appropriations requested by the office of the Special Representative for Trade Negotiations. If the money is restored, it will enable that office to provide for the six new positions which they requested. It would not, however, allow any further funds to establish an office in Geneva, which has already been included in the larger request. That part of the request is not included in my amendment. Now even a quick look at the rapidly expanding responsibilities and activities of the office suggests the need for expanded financing. In this regard, it is the opinion of this Senator that the funding approved by the committee would not be sufficient to meet the requirements of the STR Office.

First, in the aftermath of the Smithsonian Agreement the STR Office has begun the difficult process of exacting the commitment of our major trading partners to short-term agreements improving the U.S. trade position.

Second, it has pushed forward with longer term arrangements for a major overhaul of the international trade and monetary systems. As a result, Japan, the European Community, and many other countries of the world are now publicly committed to international discussion and negotiation—beginning in 1973 if possible—of such critical trade problems as agricultural protectionism, nontariff barriers to trade, and preferential trading arrangements.

American farmers have a lot at stake in these negotiations. No sector of our economy depends so heavily on the export market for its products. And no sector has received less satisfaction from past efforts to reduce trade barriers.

In Europe, for example, farmers are now guaranteed nearly twice the world price for all the wheat they can produce. A variable levy on imports assures that European mills will use all the Common Market's production before our grains can be used. Export subsidies, financed from the proceeds of levies on our grains, permit Common Market farm products to compete with ours in markets as far away as Taiwan. These policies apply not just to wheat but to other grains, meats, sugar, dairy products, and a host of other farm products we produce.

Our farmers need these markets. They are not going to get them unless we can get back to the bargaining table with a tough set of demands for removing these trade restrictions. The agreements we have with Japan and the Common Market to begin a new series of negotiations will give us a new opportunity to present these demands. Of course, extensive preparations will be necessary. A trade bill must be prepared for consideration by the Congress. Various private groups, farmers among them, must be consulted to assure broad backing for our objectives. A case must be made for what we want. And, finally, a competent team must be assembled to conduct the negotiations. The Office of Special Trade Representative realizing this responsibility have placed two competent agriculture-oriented Deputy Special Representatives for Trade Negotiations on their staff. Ambassador Hal Malgren participated in the Kennedy round negotiations on grains and Ambassador William R. Pearce is a knowledgeable grain industry leader. Both have been confirmed by the Senate.

Third, it is now the responsibility of the STR Office to prepare for this major round of upcoming talks on trade and related matters. It must develop a set of goals which reflects the economic interests of the country at a time when we must bargain forcefully. It must, in close consultation with Congress, develop a set of legislative proposals which reflect those broad economic interests and it must undertake the task of negotiating with our trading partners on the basis of the program which will emerge from our consideration of trade legislation.

It is in the very nature of the tasks performed by the Office of the Special Representative for Trade Negotiations that some years will be far more demanding upon its resources than others. Given the present worldwide commitment to a rethinking and a reformation of the present unparalleled opportunity to achieve some long-needed improvements which can be of enormous benefit to all Americans. At this particularly crucial moment, it would be pennywise and pound-foolish to leave this agency underfinanced.

Our trading partners know that there are billions of dollars of potential trade at stake, and they assign large and knowledgeable teams to these negotiations. The U.S. negotiating effort draws on the talents of several agencies of the Government, but the overall responsibility for planning, coordination, and negotiation lies, as legislated by Congress, in the Trade Expansion Act of 1962, in the Office of the Special Representative for Trade Negotiations. I urge the Senate to grant to the office the funds requested to get its most important job done.

I hope this amendment can be accepted.

Mr. HOLLINGS. Mr. President, we would be glad to accept the amendment. I have discussed it with my distinguished colleague from Nebraska. Originally, of course, the amendment called for the institution of a Geneva office, but when we went over the hearing record, we realized that it was not justified at this time. We will willingly go along with an additional $175,000 which will finance the cost of six additional positions, none of which is to be used to set up the Geneva office or the experts needed with respect to the office, because of the increased responsibilities. They can obtain these experts from the Department of State, as has been done in the past, on a nonreimbursable basis.

Mr. President, unless there is further discussion on this amendment, I am prepared to yield back my time.

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

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to amendment No. 1235 of the Senator from Nebraska (Mr. HRUSKA).

The amendment was agreed to.

AMENDMENT NO. 1236

Mr. HRUSKA. Mr. President, I call up my amendment No. 1236 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 5, line 25, strike the following: "effective January 1, 1973, and thereafter" and insert in lieu thereof "after December 31, 1973,".

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

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. HRUSKA. Mr. President, I commence my explanation of the amendment which I propose by first stating that I believe the U.S. contribution to the United Nations is too high.

I believe that the contribution of the United States should be reduced, and should be reduced substantially.

Furthermore, it should be reduced at the earliest possible time.

It would be my thought, as it seems to be in the other body, to require a limit of a 25-percent assessment against the United States for any operating budget of the United Nations. That figure is perfectly satisfactory to me, an amount not to exceed 25 percent.

However, the change and the reduction from the present 31.52 percent should be effected in an orderly way.

Let me explain that under the provisions of the Charter of the United Nations, and the Participation Act enacted by Congress initially, the process of funding the United Nations is done in this wise. There is a budget set. Then there is a negotiation among the representatives on the committee to assess the respective nations according to an agreement that can be reached

When an agreement is reached as to the percentage of each nation, an agreement covering a 3-year period—a period not less than 3 years—is made for the purpose of approving the budget and also of fixing the assessments of the respective nations.

The latest such negotiation was held in December of 1970, at which time an agreement was entered into for 3 years—calendar years 1971, 1972, and 1973.

The percentage for the United States was fixed at 31.52 percent. Thereby, upon approval of that budget and that assessment, there arose and was created a legal and moral responsibility on the part of this country to pay in an amount equal to 31.52 percent of the operating budget for 1973 and the 2 preceding calendar years.

Now the language in the bill that we have before us provides that, effective on January 1, 1973, and thereafter, no appropriation is authorized and no payment shall be made in excess of 25 percent.

That is 6.52 percent, less than the agreement to which we are bound by law and by the morals of the situation.

The amendment that is pending would do this. It would provide that after December 31, 1973, no appropriation is authorized and no payment shall be made in excess of 25 percent. That would enable the payment of the 1973 contribution pursuant to the agreement that was made in December 1970.

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

Mr. HRUSKA. Mr. President, I yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. AIKEN. Mr. President, as a member of the Commission on the United Nations which was headed by Ambassador Lodge, I favored a reduction in our share of the costs of the United Nations from about 31 percent to 25 percent. However, I do not favor a blanket reduction for all of the auxiliary agencies of the United Nations, believing they should be considered one by one, each on its own merits.

Inasmuch as this committee amendment in the bill is applicable not only to the United Nations, but also to all agencies, with two exceptions, I feel that the amendment now offered by the Senator from Nebraska is a good amendment and that it will give us another year in which to consider not only what we want to do about the United Nations—whether we want to reduce it to 25 percent all at once or do it more gradually—but also to consider auxiliary organizations, some of which I think operate very distinctly to the advantage of the United States.

Therefore, I support the amendment of the Senator from Nebraska.

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

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I thank the Senator. I just need a small amount of time.

We are all sophisticated here. We know that even if we do something that is right in principle, we have to do it in the proper way. And that is what the Senator from Nebraska is giving us an opportunity to do, to do this right.

I asked our Ambassador to the United Nations, George Bush, to give me an analysis of how the U.N. contribution works. I am in receipt of a telegram from him. I ask unanimous consent that that telegram be printed in the RECORD.

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

Senator J. K. JAVITS,
Old Senate Office Building,
Washington, D.C.

Per your request for information re U.N. scale of assessments, present scale in which United States assessed at 31.52 percent for U.N. regular budget covers calendar years 1971–1973. This scale was established in 1970 by U.N. General Assembly acting on recommendation of U.N. expert committee on contributions which included a U.S. expert as one of its members. Only at its next session in May and June 1973 will committee on contributions basis of guidelines provided by General Assembly formulate a new scale of assessments for period 1974–1975 and recommend such a scale for approval by assembly at its 28th session in fall of 1973. Consequently 27th session of assembly this fall is appropriate time to attempt to obtain decision by assembly to establish a new 25 percent ceiling on highest contributor and to instruct committee on contributions on method of achieving this objective. Accordingly we propose at 27th session to attempt to secure such a decision by assembly which will reduce U.S. contribution to 25 percent. In future years we must recognize that whether or not there is full reduction to 25 percent in 1974–1976 scale of assessments will depend very largely upon timing of admission of new member states to U.N. organization. If U.S. attempts to reduce U.S. assessments percentage unilaterally to 25 percent for year 1972 and 1973 (that is prior to establishment of a new scale for 1974–1976) and funds for those years appropriated only at 25 percent level United States will be in arrears for those years in amounts representing difference between appropriations at 31.52 percent level and 25 percent level (at present U.N. budget levels this means about $13,000,000 per year) I urge that United States not be placed in position of defaulting on payment of assessed contributions called for by our treaty obligation under U.N. charter. Appreciate your continued interest in U.N. and any assistance you can provide in support of amendment.

GEORGE BUSH.

Mr. JAVITS. Mr. President, this is the way it works. In this fall the United States delegation will ask the General Assembly to reduce our contribution to 25 percent in future years. Ambassador Bush is confident that can be done over a period of time providing we do not approach it on a coercive basis.

That is what the Senator from Nebraska has in mind. At the time the General Assembly so acts—and he has no doubt that it will—after the 3 years is over, we will reduce our contribution. To act alone and stop payments will not help. We will still owe the money and we will have a big assessment at the U.N. We should not go against our treaty and contract obligations and reverse those rules. Nothing is really accomplished by that action.

So for the very fundamental reason that this is the right thing to do and the right way in which to do it, I hope very much that the Senate will accept the amendment that has been offered to us in a very statesmanlike way by the Senator from Nebraska.

I thank my colleague for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield myself the time I will require.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I will try to be as brief as possible. I will try to emphasize that we have not overskirted the corporations or taken into consideration the very language we put in there. In a deliberate fashion, instead of the broad sweep that the Senator from Nebraska is concerned about, we excluded the International Atomic En-

ergy Commission and also the International Civil Aviation Organization.

Let us talk about principle and agreement and a few other things. The very basis that the Senator from Nebraska draws his principle from is none other than what we call the Assessment Committee of the United Nations itself, which under the beginning charter, under article XVII, pertaining to committee matters, says that every 3 years they assess a certain percentage.

Interestingly enough this committee met in 1964 and said that as a matter of principle no one should pay over 30 percent. Why was that? It was because they did not want the tail wagging the dog.

That is the trouble with the dear old United States of America now. We are buying everything. They say, "We don't want to be bought. As a matter of principle, no one can pay over 30 percent."

However, the very same committee keeps on taking us on account of arrearages owed by other nations. What have we tried to do? We have tried to get the other nations to pay.

The Soviet Union is some $102 million behind right now.

France itself is $22 million behind.

Other nations owe $150 million in arrearages now. And the more they get in arrearages, the more we pick up.

What is the contract and the agreement that the Senator referred to in December 1970?

I say it is false. They have a contribution committee. However, what is the actual budget, the budget is similar to what we consider in the Congress? We operate on a fiscal basis. From July 1 of this particular year—in a couple of weeks, July 1, 1972—until the end of June 1973 is our fiscal year. And each Congress comes into office. One Congress does not bind the other.

What is the contractual obligation at the present moment? Under the contribution committee's direction, yes, we are obligated until the end of this calendar year. I say to the Senator from Nebraska that we are obligated until December 31, **1972.**

There is no budget for the United Nations for the year 1973. That direction is just this specific. They have a committee that they call the fifth committee. One has to be an FBI man to find out these facts. He will not find them from the State Department.

I tried to find out what the contract was. I talked to the Ambassador and to assistant secretaries and to everyone else in the Department. However, they could not give us the full information.

The budget goes to the fifth committee. When? It goes to them in December. And after the fifth committee agrees on what the budget is, then they will do it for next year, and that is the mechanism contractually, as to what our agreement is.

What about our history for the past 22 years? Look at what the committee said in 1950 in the appropriations bill report:

> Every effort will be made to reduce the unusually high percentage of contributions which, in all too many instances, our country is called upon to make. The high percentage of contributions of the United States should be reduced just as quickly as they can.
>
> The committee will examine carefully this item next year to determine what progress has been made by the Department in making such judgment.

Mr. President, we have gone down from 39.89 percent to 31.52 percent. However, we have stayed at 31 percent, plus, for 7 years.

Here is what the Appropriations Committee found:

> The committee believes that every effort must be made by the department to reduce the unusually high percentage of contributions which the United States is called upon to make for most of these organizations.

That is the Lodge Commission, the commission of former Ambassador Lodge, who said it should be no more than 25 percent. He said that last year.

But that group that is going to meet says, "We are going to do this in an orderly way, we are going to adhere to principles." They say, "You keep paying the piper and voting them in and out."

At the time they discussed this in the House of Representatives, Representative FRANK BOW, the distinguished Representative from Ohio was there in Geneva when they discussed these matters. I have before me the CONGRESSIONAL RECORD of May 18, just last month, at page 18028 where it is stated:

> Stay firm on limitations on international organization funds. Many of our friends here in Switzerland agree with our position. We shall have the respect of many nations that will support us. You may quote me on the floor.
>
> FRANK T. BOW,
> *Member of Congress.*

The President in February said 25 percent. The Lodge Commission said 25 percent. We have been saying that for 22 years. What is wrong with Congress? We keep talking about these matters. You presidential candidates know about that. We keep on saying things that sound pretty, but where is the result? When are we going to do it?

We have fulfilled our obligation under the contract. In the subcommittee we voted, and it was almost unanimous in the Committee on Appropriations. The House cut it back automatically to the end of this year. We said no. We are obliged under the budget of this fiscal year 1972, so we said up to January 1, 1973, we will pay at the present rate of 31.52 percent and thereafter 25 percent.

That is the contract. When we come right down to it there is no provision in the United Nations Charter for arrearages other than stating that they vote a country out if they do not pay their dues after 2 years. They have not voted out anybody but I do not think we should get behind. We had to use this particular approach in connection with the International Labor Organization, the Senator from New York knows that. We got in arrears and we stayed there. We had to pay our dues so they would recognize us when we walked in the front door. The junior Senator from New York put this in the bill and the Senate adopted it last fall in the foreign authorization bill. It was knocked out in conference.

I say to the Senator from Vermont, we went over all of these organizations. We excluded the International Atomic Energy and the International Civil Aviation Organization, after discussing them all, and what the cut would mean down to 25 percent after January 1, 1973.

Mr. President, the committee opposes the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from South Carolina yield to me for 5 minutes?

Mr. HOLLINGS. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I am impressed with the argument made by the distinguished Senator from South Carolina. I support the position of the Committee on Appropriations. As the Senator from South Carolina pointed out the Senate itself went on record last fall as favoring a reduction to 25 percent in the contributions to the United Nations.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, as the Senator from South Carolina also pointed out, too frequently has Congress, the Senate and the House, made statements to the American people and then gone back on their statements.

I think the time has come to meet this issue head on. The Committee on Appropriations certainly has been fair. The Committee on Appropriations went beyond what the House of Representatives wanted to do. The House voted to make the reduction effective the end of this month or beginning the first day of next month, July 1.

The Committee on Appropriations thought that was too precipitate and the Committee on Appropriations recommends that the reduction to 25 percent take effect January 1, next year.

The amendment offered by the distinguished Senator from Nebraska would postpone it for an additional year beyond that. It seems to me the Committee on Appropriations has gone into this matter carefully and has recommended to the Senate January 1, 1973, and I think the committee should be sustained. I shall vote to sustain the action of the committee.

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I believe I am correct in saying that the action of the Committee on Appropriations might have been predicated upon the report made by the Lodge Commission. The Senator from Vermont (Mr. AIKEN) served on that commission. I also served on that commission as did several other Members of the Senate. In that report it is stated, and I quote:

> Affirm its intention to maintain and increase its total contributions to the UN, but that, as part of a redistribution of responsibilities, it will seek over a period of years to reduce its current contribution of 31.52 percent to the assessed regular budget of the Organization so that eventually its share will not exceed 25 percent.

Every year at the U.N. a specially constituted budget commission meets and

largely upon the basis of gross national product they agree upon a figure of assessment against each country. Our share of the budget has been reduced over a period of years. It is down to 31.52 percent and will be reduced to 25 percent.

I am not clear from the amendment if this was directed solely to the budget of the United Nations or if it embraces also the other organizations, such as the Children's Fund, the FAO, World Health Organization and the Food and Agricultural Organization, and other agencies of the U.N. Is it directed solely to the U.N. budget?

Mr. HOLLINGS. All organizations except the International Atomic Energy Commission and the International Civil Aviation Organization. It includes the United Nations Educational, Scientific and Cultural Organization, World Health Organization, the Food and Agricultural Organization, and the World Meteorological Organization.

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

Mr. HRUSKA. Mr. President, I yield 3 minutes to the Senator from Kentucky.

Mr. COOPER. I thank the Senator.

It exempts those two organizations, then. But if this cut is directed to all of them you are seriously crippling important agencies such as the Children's Fund, the FAO, which deals with food, Palestinian refugees, who are now in dire need as a result of cuts.

I hope very much that the amendment of the Senator from Nebraska will be agreed to so that a reduction to 25 percent can be worked out. We should not cut off the humane activities of the United Nations and our participation in them in the pursuit of the 25 percent figure. Our total contribution to the United Nations, and that includes population activities, is now less than $300,000,000. I think it is a mistake to do it this way. We are involved directly or indirectly in wars all over the world at great cost of tens of billions of dollars; I think it is good that we are involved in some peaceful activities such as the U.N. and voluntary agencies that contribute so much to settle the lot of mankind.

I hope the amendment of the Senator from Nebraska is agreed to.

Mr. HOLLINGS. Mr. President, I yield myself just 1 minute.

The distinguished Senator from Kentucky puts it in terms of being humane or inhumane. The Lodge Commission, upon which he served, and upon which the distinguished Senator from Vermont also served, reported on April 26, 1971, over a year ago, that the commission thinks that no State should pay any less than $200,000, that no State should pay less than one-tenth of 1 percent.

The commission recommends that the United States reduce its current contribution to the regular budget of 31.52 percent down to 25 percent, but it also recommends an increase of voluntary budgets and funds for other purposes so we will still be contributing, but on the regular budget—and I emphasize this—"but on the regular budget—it is unwholesome and unsound for any country to pay more than 25 percent."

So to some it might not be humane, but to others it might be unwholesome and unsound to pay more. We found that out a year ago and we have not done anything about it.

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

Mr. HOLLINGS. I yield.

Mr. ALLOTT. I have been reading this language. It is unfortunate that we did not go into this closer in the committee, but I do have a question. As this language is written, it says that no appropriation is authorized and no payment shall be made to the United Nations or any affiliated agency in excess of 25 percent except the three that are enumerated. Now the Senator is quoting the Lodge report, which gives an exception to the agencies the Senator from Kentucky was talking about.

I do not think our contribution to the regular assessments has been reduced very much. My recollection runs that it went from 39 percent and a fraction in 1946 to perhaps 31 percent today. That is the most it has been reduced, and I am not satisfied with that reduction, I must say; but, on the other hand, I do not think we should vote upon this matter upon the basis that the committee amendment—not the Senator's but the committee amendment; we all adopted it in the committee—would permit an assessment for any of these other agencies—WHO, Children's organizations, Palestinian refugees—of more than 25 percent.

I must say I am not sympathetic particularly to the amendment of the Senator from Nebraska, but it does have that going for it—that the committee amendment would lock out everything, and I mean everything, except the three organizations.

Mr. HOLLINGS. Mr. President, responding, and yielding myself that much time, this was not done willynilly. The fact of the matter is that they are in the report, I just listened to the Senator from Kentucky, to the World Health Organization, the Educational Scientific and Cultural Organization, World Meteorological Organization, and not the International Atomic Agency, or the International Civil Aviation Organization, which are exempt.

The House, after hearing, saw fit to exempt those 2 agencies, and the Senate did also.

So we did not just put it down and not give any meaning or thought to other organizations. This is under the section of the bill having to do with international organizations and contributions to those international organizations. We considered the amount and have listed just exactly what it would mean. But we went back to our own Congress, which started with this matter 22 years ago, and which thought it was too high then, and, having done nothing, we got to the Lodge Commission.

I believe the Senator from Colorado was off the floor a minute ago when I used the language "But on the regular budget it is unwholesome and unsound for any country to pay more than 25 percent."

Mr. ALLOTT. No; I was here.

Mr. HOLLINGS. And we followed the President, who stated in his message this year, that the most we ought to pay to these organizations is 25 percent. So the Congress is proceeding on what the President and the Congress have recommended. So we have appropriated for that amount.

Mr. ALLOTT. Mr. President, will the Senator yield for just a minute?

Mr. HOLLINGS. I yield.

Mr. ALLOTT. I want to say, first of all, to keep the record clear, that the Senator from Colorado was on the floor when the Senator read the Lodge report. I am fully acquainted with what is in it.

I do not think my point has gotten quite through, or perhaps I do not understand the Senator's point, and that is that by this amendment the committee cuts everything. It is a drastic thing—it cuts everything except the three items mentioned in the United Nations heretofore. I was a delegate to the United Nations in 1962 and served up there almost 6 months steadily. In the United Nations we have contributed this set amount—I believe 31 or 32 percent now. I am not sure of the exact fraction, but it was that amount for the regular assessment. Then we also contributed about 40 percent to the ancillary organizations.

In general principle, I agree that 25 percent is as much as the United States should contribute to the whole thing, but I do not think, if I understand the Senator correctly, that, as the language is written, it exempts anything but the three specifically named organizations.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I yield myself just 2 minutes.

The position of the manager of the bill is sound. I agree with 90 percent of it. The only thing with which I do not agree is the opposition to this amendment and the vote that he is going to cast against it. But when he said that the Lodge Commission found it was "unwholesome and unsound" for any nation to pay more than 25 percent, I agree with him. I support him. When he says that we have said a lot of things here and we have talked about doing something about it and nothing happens, I agree with him. I think he is right.

The point is that this time we are making a change not where it does not count, but where it does count. It does not count to have it in the Lodge report. It does not count to have it in the committee report. It does count to put it in the form of a statute, and the amendment, as modified by my amendment, will effect the change. It will effect the change as early as we can do it in keeping with national honor, law, and morals, and that is when we carry out our 3-year contract to pay out 31.52 percent. That 3-year contract is prescribed by the Charter of the United Nations, because the assessment made by each nation is to be made under an agreement that will be for a period of not less than 3 years. That is why this is so.

The President is for the reduction. The Department of State is for the reduction.

George Bush, the Ambassador to the United Nations, is for the reduction. This Congress, in my judgment, is for the reduction. The question is, How do we achieve it?

The President says we must proceed in an orderly way in reaching this goal. It is unrealistic to state that it can be done immediately. We ought to carry out our contract. We made an agreement. It is a lawful agreement. It is a binding agreement. We ought not to break it, or we will be damaging our national honor and our ultimate success in working out a negotiation, not in an abrasive process, or not based on intimidation or sheer force, but to keep our agreement and then negotiate to bring our contribution down to 25 percent, under the law, starting with January 1, 1974, which will limit the authority, and limit it to the 25 percent.

So I suggest again, all the representations and arguments made by the Senator from Virginia and by the Senator from South Carolina are true and are right, and I am for them, but let us do it the right way.

Let us adopt the Hruska amendment to the amendment of the committee.

On June 13, I wrote to Mr. Clark MacGregor on the President's White House staff concerning my intention to propose this amendment. Yesterday I received a response from him indicating President Nixon's support for this amendment. I ask unanimous consent, Mr. President, to have these two letters printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., June 13, 1972.

MR. CLARK MACGREGOR,
The White House,
Washington, D.C.

DEAR CLARK: I am writing with regard to the Senate Appropriations Committee's recommendation that appropriations for contribution to the United Nations and its affiliated agencies be limited to 25 percent of total assessments effective January 1, 1973, and thereafter. I am aware that the President has already informed the Congress of his policy to negotiate a reduction of the U.S. contribution ceiling to 25 percent. The President, however, also stated in his February 9, 1972, statement "we must proceed in an orderly way in reaching this goal. It is unrealistic to expect that it can be done immediately."

This Senator is one of those who supports the reduction in the United States contribution to a figure not in excess of 25 percent. I voted last year for the provision urging the President to arrange such a reduction.

However, I am informed that the United Nations has traditionally established assessments for three-year periods. The present three-year segment will not expire until December 31, 1973. This procedure has been well-established by long practice based on the United Nations Participation Act, has been approved by our Ambassador to the U.N., and acquiesced in by the Congress. To this Senator it would appear that we have a legal and moral obligation to abide by the present assessment until the end of Calendar 1973.

Accordingly, if the President desires, I am considering the introduction of an amendment that would make the Senate proviso effective after December 31, 1973. This amendment would allow the United States to observe due process in negotiating a reduction in its rate of assessment to 25 percent, or less. If you believe the above course of action would be desirable, please let me know. I understand the Senate vote on the Committee's bill will take place on Thursday, June 15.

Sincerely,

ROMAN L. HRUSKA,
U.S. Senator of Nebraska.

THE WHITE HOUSE,
Washington, D.C., June 14, 1972.

HON. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR ROMAN: Thank you for your constructive letter of June 13, 1972 regarding United States contributions to the United Nations and its affiliated agencies.

As you have noted, the President approves the goal of establishing a 25% ceiling on our contributions to the regular assessed budgets of the UN and its specialized agencies, since we think it unwise for the UN to be overly dependent financially on any one country. We intend, through discussions with other UN members, to work vigorously to reduce our contribution to 25% as soon as we can, consistently with our international obligations.

However, as the President has said, "We must proceed in an orderly way in reaching this goal. It is unrealistic to expect that it can be done immediately."

You are also correct in your understanding of the fact that, under legal and long-standing UN procedures, assessments run for three years, and that the present period expires on December 31, 1973. Thus, there is indeed a legal and moral obligation on the United States to abide by the existing assessment until the end of calendar 1973.

For these reasons we strongly urge you to introduce the amendment you are considering, which would make the Senate limitation on our regular budgetary contribution effective only after December 31, 1973.

Sincerely,

CLARK MACGREGOR,
Counsel to the President for Congressional Relations.

Mr. HOLLINGS. Mr. President——

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. HOLLINGS. I yield myself such time as I may require.

Mr. President, he says he is for it, the President is for it, Congress is for it, and everything; how do we do it?

What does he propose to do? He says "do it." And when does he propose to do it?

His amendment says to do it on December 31, 1973, which is beyond the purview of this bill. As I read the title of the bill, it says: "Making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1973."

So his way of doing business is to do it 6 months beyond the next fiscal year. I say the way to do it is refer it to the committee and then let the committee report, at the end of this calendar year, December 31, 1972.

Mr. KENNEDY. Mr. President, I support the amendment of the Senator from Nebraska to delay for an additional year the deadline for reducing the U.S. regular contribution to the United Nations to 25 percent of the total cost.

I believe that any deadline is inadvisable but it would appear that this step by the Senator from Nebraska is the minimum action necessary to preserve our traditional compliance with our treaty obligations.

If we were to set the date contained within the committee bill, it would foreclose the possibility of negotiating a reduction in the assessment with the accord of the other member nations.

The United Nations General Assembly currently is scheduled to reassess the financial requirements on each nation in the spring of 1973 and to establish the assessment ceilings for the following 3 years.

By accepting the amendment proposed by the Senator from Nebraska, we will have retained our freedom of action to review the United Nations actions. However, at the same time, we will have upheld our treaty obligations. A unilateral reduction at this time not only calls into question our credibility but also severely damages important on-going United Nations programs.

For example, the proposed amendment would have the effect of reducing in calendar year 1973, our contribution to the world health organization by some $5.5 million.

It seems almost absurd to consider a substantial reduction of that kind in a program whose aims are so clearly in the best interest of the citizens of this country as well as people throughout the world.

It would mean reducing WHO programs in health manpower development, in the health aspects of environmental population and in the field of drug abuse.

I traveled with the health subcommittee to England, to Sweden, to Israel, and to Denmark and found that as one might expect, no nation has a monopoly on the skills and understanding to solve the health problems affecting the peoples of the world.

We can learn much from what is being done in other nations and it makes no sense for the United States to unilaterally reduce our contribution to a program such as the WHO which is clearly in our national interest.

Nor does it seem in our interest unilaterally to reduce our contribution to UNESCO which provides such important services in the areas of education, scientific, and cultural activities.

Similarly, I would question reducing contributions to the food and agricultural organization. FAO has led in developing the research and techniques of the green revolution bringing food to communities throughout the underdeveloped world.

And I would challenge any Member to justify reducing our contributions to UNICEF which continues to provide food, clothing, and shelter to countless orphans and abandoned children around the world.

At the same time, when one examines the history of the United Nations and the history of the U.S. contribution, it seems evident that we have successfully negotiated reductions in our contribution over the years. Originally, the United States paid nearly 40 percent of the total cost of operating the United Nations. Subsequently, successive reductions occurred in 1948, 1957, 1963, 1965, 1968, and 1971.

I believe that the same process of negotiations will achieve our ultimate objective and that it is far, far better to achieve the goal through negotiations than through unilateral action.

SUPPORT FOR U.N. OBLIGATIONS

Mr. BROOKE. Mr. President, I wish to lend my strong support to the amendment offered by the distinguished Senator from Nebraska (Mr. HRUSKA) regarding the U.S. contribution to the United Nations.

For some time, Members of Congress and private citizens have expressed concern that the United States was paying more than its fair share of U.N. expenses. In some cases, it has been pointed out, this country pays 30 percent or more of the budget of the U.N. and its specialized agencies. For this reason, the House of Representatives voted to limit our contribution to 25 percent of the budget of any U.N. organ, effective July 1, 1972.

Responding to objections that such a deadline was too precipitate, the Senate Appropriations Committee, upon which I serve, voted to extend the deadline to January 1, 1973. I welcome this extension, but regarded it as inadequate.

At the time that the United States and other nations negotiated their financial commitments to the United Nations, these commitments were scheduled to extend through calendar year 1973. The present assessment will thus expire on December 31, 1973. New agreements on the financial commitments of all nations will be renegotiated within the year.

Mr. President, the United States, as the world's principal democracy and the leader of the free world, has an unprecedented responsibility to show respect for international agreements. The assessments for financial responsibility to the U.N. were achieved through the democratic process. Any refinements or revisions in those assessments should likewise be the product of democratically reached agreements among the member states.

No nation, and particularly not this Nation, should unilaterally abrogate any part of its treaties or commitments to the world organization. Such lack of respect for our word abroad is both unseemly and a denial of our principles as a nation. It is also, in my judgment, unnecessary at a time when relief is imminent.

Next spring, the U.N. Committee on Contributions will hold its regularly scheduled meeting to reassess the contributions of member states. The U.S. share of the U.N. budget, which has undergone constant downward revision over the last several years, will almost certainly be set at 25 percent during the course of these negotiations. This is exactly the share desired by both the House and Senate committees, and it can be obtained within the year without resorting to the undesirable expedient of unilateral abrogation of our commitments.

Mr. President, I urge Senators to give their support to the amendment of the distinguished Senator from Nebraska (Mr. HRUSKA) which would set the U.S. contribution to the United Nations and its agencies at 25 percent effective after December 31, 1973.

Mr. STEVENSON. Mr. President, what is the real issue posed by the effort to make a unilateral reduction in our contribution to the United Nations and its voluntary agencies?

The real issue is not whether we are paying more than our fair share—and viewed as a percentage of our gross national product our contributions are less than those of 41 other nations.

The real issue is not whether we should try to negotiate a reduction in our contributions—the Congress, the administration and the Lodge Commission are already on record in favor of such negotiations.

The real issue is whether we should force the United States to renege on a legally binding obligation we have freely assumed under articles 17 and 21 of the United Nations Charter; or, to put it another way, whether the Congress of the United States regards the United Nations Charter as a living covenant with 131 other member nations, or as a scrap of paper.

For over a decade we have castigated other nations—notably the Soviet Union and France—for refusing to honor financial commitments to the United Nations. Against this background, a unilateral reduction to 25 percent is an act of rank hypocrisy which will do incalculable damage to our already waning ability to exercise responsible leadership within the United Nations.

By thus lashing out against the United Nations in its hour of need, we could help cause that body to go the way of the League of Nations. We could set back the prospects of effective international peacekeeping mechanisms. And, without a doubt, we will discredit ourselves in the global community more effectively than our worst enemies could hope to do.

Mr. HOLLINGS. My remaining time is yielded back.

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

The PRESIDING OFFICER (Mr. PROXMIRE). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Nebraska (Mr. HRUSKA). On this question, 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 New Mexico (Mr. ANDERSON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), 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 North Carolina (Mr. JORDAN), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. MUSKIE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Idaho (Mr. CHURCH) are absent on official business.

On this vote, the Senator from Alaska (Mr. GRAVEL) is paired with the Senator from Georgia (Mr. GAMBRELL).

If present and voting, the Senator from Alaska would vote "yea" and the Senator from Georgia would vote "nay."

I further announce that, if present and voting, the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. FANNIN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

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

If present and voting, the Senator from Pennsylvania (Mr. SCOTT) would vote "yea."

The result was announced—yeas 39, nays 28, as follows:

[No. 217 Leg.]

YEAS—39

Aiken	Curtis	Miller
Allott	Dole	Mondale
Bayh	Dominick	Nelson
Beall	Eagleton	Packwood
Bennett	Fong	Pearson
Boggs	Hansen	Pell
Brooke	Harris	Percy
Burdick	Hatfield	Proxmire
Case	Hruska	Schweiker
Chiles	Javits	Stevens
Cook	Jordan, Idaho	Taft
Cooper	Kennedy	Tunney
Cranston	McGee	Young

NAYS—28

Allen	Gurney	Roth
Bentsen	Hartke	Smith
Bible	Hollings	Sparkman
Byrd, Harry F., Jr.	Inouye	Spong
Byrd, Robert C.	Jackson	Stennis
Cannon	Magnuson	Symington
Cotton	Mansfield	Talmadge
Eastland	Montoya	Thurmond
Ervin	Pastore	Tower
	Randolph	

NOT VOTING—33

Anderson	Gravel	Metcalf
Baker	Griffin	Moss
Bellmon	Hart	Mundt
Brock	Hughes	Muskie
Buckley	Humphrey	Ribicoff
Church	Jordan, N.C.	Saxbe
Ellender	Long	Scott
Fannin	Mathias	Stafford
Fulbright	McClellan	Stevenson
Gambrell	McGovern	Weicker
Goldwater	McIntyre	Williams

So Mr. HRUSKA's amendment was agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ALLOTT. I move to lay that motion on the table.

The motion was agreed to.

PROBATION OFFICERS

Mr. BURDICK. Mr. President, I wish to commend the Committee on Appropriations, and the subcommittee which considered the bill before us, for its recommendation that the authorized number of U.S. probation officers be significantly increased.

The U.S. Probation Service performs a vital function for the federal system of criminal justice, preparing presentence reports for the courts, and providing supervision in the community for convicted offenders on probation and parole.

The need for more officers can be justified solely on the basis of numbers. The load on the criminal justice system is increasing, and so the number of officers must be increased.

At present, the U.S. Probation Service has 45,000 convicted offenders under supervision, and is preparing presentence reports at the rate of 26,000 per year.

Based upon the standard applied by the President's Commission on Law Enforcement and the Administration of Justice, the appropriation pending here today should provide for approximately 1,500 officers, instead of only 876.

As we can see, the recommendation of the Appropriations Committee is a very modest one. I not only urge its approval, but also urge that if it is approved by the Senate, the conference committee accept nothing less than the Senate figure in the final bill.

I believe that our Nation is coming to realize something important about the correction of convicted offenders—that probation and parole are a better means for the rehabilitation of many, and at less cost to the taxpayer. Professionals in the field of corrections have testified to this before the Subcommittee on National Penitentiaries, but other citizen groups such as the U.S. Chamber of Commerce have also told us so.

The appropriation bill before us today provides some of the means necessary to provide adequate supervision for these former offenders, and I urge final adoption of nothing less than what the Appropriations Committee has recommended.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. TUNNEY. Mr. President, before we act on this appropriation bill, I wish to comment on the money in this bill for the Law Enforcement Assistance Administration. Contained in this bill are funds totaling $850.6 million for LEAA for the coming fiscal year.

This figure is a major part of a total of over $2 billion which the President has estimated will be the Federal outlays in the coming year for the reduction of crime.

By any standard, that is a massive amount of money being spent in combating crime. But I believe it is essential that as we appropriate such funds we take an increasingly hard look at how those funds are being spent. There is a tendency, common I suspect among all of us, to think that simply by pouring huge amounts of money into anticrime programs we can meet our responsibilities to the demand of all our citizens for safe homes and safe streets.

But we are fast approaching the point when simply uncritical support for massive funding is no longer enough.

The time is fast approaching when the citizens of this country are going to ask us what we have to show for the billions which we have appropriated. It has been 5 years since the President's Commission on Law Enforcement and Administration of Justice issued its 10-volume report on crime in the United States. It has been almost 5 years since we enacted the Omnibus Crime Control and Safe Streets Act which established LEAA.

During the next session of Congress we will be faced with the task of reevaluating that legislation and making a determination of what has worked and what has not. As a member of the Senate Judiciary Committee, I expect to take an active part in that process. And, therefore, I believe it is critical that a major part of the effort this year by LEAA should be directed toward developing the information and the evaluation methods by which those judgments can be made.

For that reason, I want to address these comments to a specific part of this bill—funding for the National Institute of Law Enforcement and Criminal Justice. The Institute is intended to be the research and development of LEAA. And it is the Institute which can and must develop the capacity to provide the information and the evaluation necessary for effective use of the massive funds we are now spending.

The vital importance of the Institute has been underscored from the inception of the LEAA program. Even before the LEAA was created, the President's Crime Commission—whose recommendation inspired the legislation which created LEAA—stated that:

It is essential that the new Justice Department program embody a major research component, if it is not simply to perpetuate present failures in many areas. This is particularly important at the outset when difficult decisions must be made about what meets the standards justifying Federal aid. There is too little research now being done in this field and very few skilled researchers to do it (p. 277). (Italic added.)

* * * * *

. . . The Commission believes the Federal Government should provide support for a number of institutes, specifically dedicated to research into crime and criminal justice. . . .

These institutes would serve as the foundation for the other parts of the Federal program described here, both in the substance of the research they undertook and in the availability of their staff members as top-level consultants. They could provide training, through special seminars or degree courses, for senior administrators and specialist personnel. They could undertake studies of the effectiveness of various education and training programs. They could provide much of the data needed to conduct organization and operations studies, and seek and test new techniques for implementation. They could take major responsibility for analyzing data developed by the national information systems and they would propose and evaluate important consulting services (pp. 287–288). (Italic added.)

The Senate Judiciary Committee's report on the 1968 Omnibus Crime Control and Safe Streets Act clearly summarizes the legislative intent behind the Institute's establishment:

The Institute, which is authorized to establish a central research facility to create and develop comprehensive programs to carry out the programs described in this section (on Title I), would be modeled along the lines of the National Institutes of Health and the National Academy of Sciences—(S. Rept. 90–1097, p. 36).

Since its formation, the Institute has unfortunately fallen far short of this admittedly ambitious aim.

It has not served as the intended foundation. The law enforcement officers with whom I have been in touch are frustrated, by and large, by the lack of leadership so far provided. This is not intended as hostile criticism. I believe these goals remain vital and I am committed to assist in whatever constructive action is possible to see that these goals are fulfilled.

I believe that the following comments by Attorney General John Mitchell, during hearings before the Senate Judiciary Subcommittee on Criminal Laws and Procedures, in the 91st Congress illustrate some of the problems.

Mr. Mitchell was asked the following question:

When the legislation was initially passed in 1968, it was felt that the National Institute ought to have approximately 10 percent of the funding, and now it was down to about 1 percent, could he comment on how significant and important this Institute is in terms of what needs to be done in the fight against crime?

His response was this:

Senator, *it is very important.* As I have said back a while ago, our criminal justice system is related to the 18th and 19th Century, and *we must find ways of* not doing more of the same, but of *doing things better and differently.*

The Institute is an area in which we can make these advancements, as well as in the grants that we provide to the States and their localities, which also do research and development with the grants. I feel that the Institute can help this program and provide the technical leadership that is needed from the Federal Government in order to bring the States and the localities along.

We did request those additional funds, but I must admit that *the activities of the Institute to date,* while they have made reasonable progress, *have not been outstanding,* and I think that we have to develop it further, to bring to bear, hopefully, new abilities and techniques if we can find them and to upgrade it as fast and as quickly as possible. (p. 557)

These problems were due in large part to the fact that the Institute was drastically underfunded during its initial

years—$2.9 million was appropriated for fiscal 1969, and $7.5 million for fiscal years 1970 and 1971. Here the fault lay not with the administration, but with the Congress. In each case, the figure granted was considerably lower than the request. The only time the full amount requested was appropriated was in fiscal 1972, a sum of $21 million.

An additional $10 million has been requested for fiscal 1973, of which $6 million is to be used for a demonstration program to suppress drug trafficking, and not by the Institute itself. LEAA Administrator Jerris Leonard was explicit about this at the House Appropriations hearings:

The actual increase for the Institute, for our research and demonstration and development, is $4 million, from $21 million to $25 million.

In the House-passed bill, $4 million has been transferred from the total $10 million appropriation to another segment of the LEAA program. Assuming that the Institute does receive its requested $25 million, $10 million of this has been scheduled for use exclusively on the High Impact Program, aimed at reducing specific crimes in eight target cities. This leaves a total of $15 million, of which a good portion appears to be earmarked for hardware research.

It is my belief that additional funds should be allocated to the Institute from the LEAA budget and that those funds should be used primarily toward the ends of a. improving LEAA's evaluation capability and b. the dissemination of information to law enforcement agencies. This would begin with intensive work on the development of goals and priorities, in conjunction with the National Advisory Commission on Criminal Justice Standards and Goals appointed by LEAA Administrator Jerris Leonard last October. The development of evaluative techniques and dissemination of information on the success or failure of various LEAA-funded programs should also be given top priority.

Former LEAA Administrator Charles Rogovin suggested some of the activities the Institute should be pursuing with greater attention in his recent testimony before the Legal and Monetary Affairs Subcommittee of the House Government Operations Committee:

The Institute was created to do highly directed, practical research on important issues in the criminal justice system. It was designed to provide policy leadership and innovation to other parts of the program. It does none of this. By this time, the Institute should have developed evaluation methods to be used by State planning agencies, and by LEAA itself. *It has not, and so there is no evaluation of anybody's efforts—at the State, local, or Federal levels.* The Institute should have been measuring progress in achieving the goals of LEAA, and helping to set new ones.

In milder but similar language, former Attorney General John Mitchell expressed some of the same ideas in testimony before a House Judiciary subcommittee:

One of the functions that the Institute can be most helpful in is to see, by evaluation and research projects that lead to evaluation, that this money is being spent for various programs in our total concept by the States and municipalities, particularly the kind of programs, are worthy the money that they cost and produce the results that we expect that they should produce.

I agree with both of these statements, and would like to stress that what is being talked about here is not so much experimental research—much as that is needed—but the successful implementation of the entire LEAA program.

Th solution however is not simply the infusion of more money. What is really required is a substantial refocusing of effort on the part of LEAA as a whole upon the role which the Institute can and must plan if the entire program is to be anything more than a gigantic Federal pork barrel.

For this reason, although I was prepared to offer an amendment to add additional funds to the LEAA budget for the Institute, I decided not to do so at this time. There would be something ludicrous about asking the Senate to add $5 or $10 million to a budget which now totals over $850 million so that LEAA can spend that $850 effectively.

Somewhere in that massive amount of money there has got to be enough funds to do the job which I am proposing and to do it right.

CRIMINAL JUSTICE ACT APPLIES TO THE DISTRICT OF COLUMBIA

Mr. ERVIN. Mr. President, I support the Senate Appropriations Committee's amendment to H.R. 14989 which begins at line 25 on page 42 and which extends through line 4 on page 43. That amendment simply restores the funds for paying Criminal Justice Act compensation in the District of Columbia. When the House Appropriations Committee considered this matter a few weeks ago, a puzzling but prevailing belief emerged that District of Columbia courts were not eligible for such funds after the District of Columbia Court Reorganization Act of 1970 took effect.

Mr. President, I do not understand how the House Appropriations Committee could have arrived at that conclusion in light of the plain language of the law Congress passed in 1970. That language precisely spelled out the applicability of the Criminal Justice Act to the District of Columbia and, in my judgment, the intent of Congress could not have been any clearer.

I am pleased to note that the Comptroller General shares my view in a ruling on this matter on May 26, 1972. That ruling followed House action on the appropriations bill by some 8 days and removes any conceivable room for doubt about the applicability of the act to the District. It is now clear that the act applies here and that the funds deleted under the earlier House interpretation should be returned to the bill.

Restoring these funds for Criminal Justice Act compensation in the District of Columbia means nothing less than insuring continued applicability of the sixth amendment right to counsel in the District. To do otherwise would undermine one of the most fundamental elements of our criminal justice system. I urge support for the changes proposed by the Senate Appropriations Committee.

Mr. SCOTT. Mr. President, H.R. 14989 appropriates money for some very important law enforcement and criminal justice activities in my Commonwealth of Pennsylvania. Among these are the construction of a new metropolitan correctional center in the Philadelphia-New Jersey area and an increase in the number of probation officers assigned to each of Pennsylvania's three Federal court districts.

The administration's budget request for the fiscal year 1973 included the new construction of the Philadelphia-New Jersey area metropolitan correctional center. I am pleased that both the House of Representatives and the Senate Appropriations Committee have agreed to appropriate $9.5 million toward this construction. Hopefully, the Senate itself will concur in this recommendation, since it is vital to the Federal Bureau of Prisons' continuing effort to reform the prison system.

Furthermore, there will be additional appropriations here for a top-priority item—the expansion of the narcotic addict treatment program. The administration requested $3.4 million for this activity, which will cover the cost of treatment of narcotic addicts while in institutions and provide for aftercare treatment services after the inmate is released.

Under existing Federal law, the various U.S. district courts maintain the probation system. Several classes of offenders against Federal laws who are not confined are supervised by probation officers who are appointed by the district court and directly responsible to it.

For a probation officer to be truly effective, he should be assigned no more than 35 offenders. However, at the present time, each officer is faced with a supervision caseload of 100, which is three times more than he can realistically handle. Recognizing this serious problem, the Judicial Conference requested 348 additional probation officer positions for the fiscal year 1973.

As an example of what this proposed increase in probation officers would mean, seven of these new officers would be assigned to the U.S. district court for the western district of Pennsylvania. In a letter to me, the U.S. Attorney for that district, Richard L. Thornburgh, pointed out that—

The recent addition of more Federal investigators, prosecutors and judges in this judicial district plus a growing emphasis on probation over incarceration has substantially increased the pre-sentence, investigative and supervisory work performed by this probation office. The demand for probation service will continue to escalate with the criminal caseload in this district.

Unfortunately, the House of Representatives allowed for the appointment of only 100 new probation officers, an inadequate number when compared to the demonstrated need. Our Senate Appropriations Committee has reconsidered that amount and has agreed to provide for 236 probation officers, a good increase since it would permit, for example. Five new positions in Pennsylvania's western district. That is somewhat more than half of what the district needs.

It is important to single out one of the special programs in which probation officers are involved. The Narcotic Addict Rehabilitation Act of 1966 established a comprehensive treatment program for narcotic addicts both in the institution

and in the community. Probation officers provide community supervision for those persons sentenced under title II of the act. The aftercare program combines intensive supervision by the probation officers and counseling in a suitable clinic. This drug treatment program will assume even greater stature since the recent enactment of a measure providing care for narcotic addicts who are placed on probation, released on parole, or mandatorily released. With this additional caseload, the need for more probation officers becomes even more apparent.

Mr. President, subject to the final appropriation figures exacted by Congress, the Department of Justice expects to spend nearly $70 million in the Commonwealth of Pennsylvania during the next fiscal year. Almost half of those funds, $32.5 million, will be allocated by the Law Enforcement Assistance Administration. And about half of that amount, $18 million, will come from the Bureau of Prisons for new facilities and improvements in the Federal penal system. Following is a table of the Justice Department's estimated obligations in Pennsylvania during the fiscal year 1973:

PENNSYLVANIA—ESTIMATED OBLIGATIONS BY DEPARTMENT OF JUSTICE DURING FISCAL YEAR 1973

Criminal Division	$469,000
United States Attorneys and Marshals	2,821,000
Community Relations Service	149,000
Federal Bureau of Investigation	10,792,000
Immigration and Naturalization Service	1,587,000
Bureau of Prisons	18,079,000
Law Enforcement Assistance Administration [1]	32,503,000
Bureau of Narcotics and Dangerous Drugs	2,022,000
Total	68,422,000

[1] Exclusive of Discretionary funds.

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 was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HOLLINGS. I yield back the remainder of my time.

Mr. FONG. I yield back the remainder of my time.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

I also announce that the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Idaho (Mr. CHURCH) are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. GAMBRELL), 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 South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from New Jersey (Mr. WILLIAMS), would each vote "yea."

Mr. COTTON. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. FANNIN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

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

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

If present and voting, the Senator from Pennsylvania (Mr. SCOTT) would have voted "yea."

The result was announced—yeas 64, nays 1, as follows:

[No. 218 Leg.]

YEAS—64

Aiken	Dole	Montoya
Allen	Dominick	Nelson
Allott	Eagleton	Packwood
Bayh	Eastland	Pastore
Beall	Ervin	Pearson
Bennett	Fong	Pell
Bentsen	Gurney	Percy
Bible	Hansen	Proxmire
Boggs	Hartke	Randolph
Brooke	Hatfield	Schweiker
Burdick	Hollings	Smith
Byrd, Harry F., Jr.	Hruska	Sparkman
Byrd, Robert C.	Inouye	Spong
Cannon	Jackson	Stennis
Case	Javits	Stevens
Chiles	Jordan, Idaho	Symington
Cook	Kennedy	Taft
Cooper	Magnuson	Talmadge
Cotton	Mansfield	Thurmond
Cranston	McGee	Tower
Curtis	Miller	Tunney
	Mondale	

NAYS—1

Roth

NOT VOTING—35

Anderson	Griffin	Moss
Baker	Harris	Mundt
Bellmon	Hart	Muskie
Brock	Hughes	Ribicoff
Buckley	Humphrey	Saxbe
Church	Jordan, N.C.	Scott
Ellender	Long	Stafford
Fannin	Mathias	Stevenson
Fulbright	McClellan	Weicker
Gambrell	McGovern	Williams
Goldwater	McIntyre	Young
Gravel	Metcalf	

So the bill (H.R. 14989) was passed.

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

The motion was agreed to; and the Presiding Officer (Mr. ALLEN) appointed Mr. MCCLELLAN, Mr. ELLENDER, Mr. PASTORE, Mr. HOLLINGS, Mr. FULBRIGHT, Mrs. SMITH, Mr. HRUSKA, Mr. FONG, and Mr. YOUNG conferees on the part of the Senate.

THE FOREIGN ASSISTANCE ACT OF 1972

The PRESIDING OFFICER (Mr. ALLEN). In accordance with the previous order, the Chair now lays before the Senate the unfinished business which the clerk will please report.

The assistant legislative clerk read as follows:

S. 3390, to amend the Foreign Assistance Act of 1961, and for other purposes.

The PRESIDING OFFICER. What is the will of the Senate?

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 assistant 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.

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

REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention on International Liability for Damage Caused by Space Objects, signed at Washington, London, and Moscow on March 29, 1972—Executive M, 92d Congress, second session—and the 1969 International Convention on Tonnage Measurements of Ships, signed for the United States at London June 23, 1969—Executive N, 92d Congress, second session—transmitted to the Senate today by the President of the United States, and that the two conventions, with accompanying papers, be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the RECORD.

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

The messages from the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a copy of the Convention on International Liability for Damage Caused by Space Objects, signed at Washington, London and Moscow on March 29, 1972. The report of the Department of State concerning the Convention is also transmitted.

This Convention is designed to provide American citizens, as well as those of other States which are parties to the agreement, with an assurance that fair compensation will be paid promptly for injury or damage caused by the space objects of other States which are parties to this Convention. As Admiral Alan Shepard said to the United Nations General Assembly on November 29 of last year, this is "a sound treaty based on realistic perceptions of mutual interest and mutual benefit."

The Liability Convention is a fitting companion to the Outer Space Treaty and the Astronaut Rescue Agreement. The Senate gave its consent to these earlier treaties in the field of space activities by unanimous votes. I hope the Senate will also give its strong endorsement to this latest Convention.

RICHARD NIXON.

THE WHITE HOUSE, *June 15, 1972.*

To the Senate of the United States:

The 1969 International Convention on Tonnage Measurement of Ships was signed for the United States at London June 23, 1969, and I am transmitting it today for the advice and consent of the Senate. I am also transmitting the report of the Department of State with respect to the Convention and the official report of the United States delegation to the International Conference on Tonnage Measurement of Ships in 1969, which recommends acceptance of the Convention by the United States.

The Convention which embodies uniform principles and rules with respect to the determination of tonnage of ships on international voyages, is designed to establish a system of measurement acceptable to all States. In addition to eliminating duplication in the work of measuring vessels engaged in international voyages, the Convention should simplify the movement of vessels in and out of the ports of the world and avoid economic inequities among ships of various nationalities.

I recommend that the Senate give its advice and consent to acceptance of the new Convention subject to the understanding proposed by the Department of State with respect to its application to Panama Canal tolls.

RICHARD NIXON.

THE WHITE HOUSE, *June 15, 1972.*

ORDER FOR ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE OF S. 3645 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, following the recognition of the two leaders under the standing order, or their designees, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate S. 3645, a bill to further amend the U.S. Information and Educational Exchange Act of 1948.

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

Mr. ROBERT C. BYRD. Mr. President, at the direction of the distinguished majority leader, and with the concurrence of the distinguished senior Senator from Vermont (Mr. AIKEN), I ask unanimous consent that time on the bill, S. 3645, be limited to 30 minutes rather than 1 hour as previously agreed to.

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

ORDER FOR TIME LIMITATION ON PUBLIC WORKS APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the bill making appropriations for public works is called up and made the pending business, there be a time limitation thereon of 2 hours, the time to be equally divided between the distinguished junior Senator from Mississippi (Mr. STENNIS) and the distinguished senior Senator from Oregon (Mr. HATFIELD); that the time on any amendment, debatable motion, or appeal in relation thereto be limited to 30 minutes, to be equally divided between the mover of such and the distinguished manager of the bill, except in those instances in which the manager of the bill may support such, in which case the time in opposition thereto be under the control of the distinguished Republican leader or his designee.

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

REVISION OF ORDER FOR LIMITATION OF TIME ON SENATE RESOLUTION 299—ESTABLISHMENT OF SELECT COMMITTEE TO STUDY QUESTIONS RELATING TO SECRET AND CONFIDENTIAL GOVERNMENT DOCUMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time on Senate Resolution 299 to be limited to 1½ hours instead of the 2 hours as previously agreed to.

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

ORDER FOR LIMITATION OF TIME ON PRODUCT SAFETY BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 3419, the so-called product safety bill, is called up and made the pending business before the Senate, the time on that bill be limited to 2 hours to be equally divided between the able senior Senator from Washington (Mr. MAGNUSON) and the distinguished senior Senator from New Hampshire (Mr. COTTON); that the time on an amendment to be offered by the Senator from New Hampshire (Mr. COTTON) be limited to 3 hours, to be equally divided between the mover of that amendment and the distinguished senior Senator from Washington (Mr. MAGNUSON); that the time on an amendment to be offered by the able Senator from Florida (Mr. GURNEY) be limited to 2 hours, to be equally divided between the mover of the amendment, the Senator from Florida (Mr. GURNEY) and the distinguished Senator from Washington (Mr. MAGNUSON); that debate on any other amendment, debatable motion, or appeal be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill, unless the manager of the bill supports such, in which case the time in opposition be under the control of the distinguished Republican leader or his designee.

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

ORDER FOR LIMITATION OF TIME ON APPROPRIATION BILL FOR THE TREASURY AND POST OFFICE DEPARTMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the bill making appropriations for the Treasury and Post Office is called up and made the pending business before the Senate, the time be limited to 2 hours on the bill, the time to be equally divided between and controlled by the distinguished junior Senator from New Mexico (Mr. MONTOYA) and the distinguished senior Senator from Delaware (Mr. BOGGS); that the time on any amendment, debatable motion, or appeal in relation thereto be limited to one-half hour, to be equally divided between the mover of such and the distinguished manager of the bill, the Senator from New Mexico (Mr. MONTOYA), except that in the event the Senator from New Mexico (Mr. MONTOYA), the manager of the bill, should favor such, the time in opposition thereto then to be under the control of the Republican leader or his designee.

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

ORDER FOR YIELDING OF TIME ON PUBLIC WORKS APPROPRIATION, TREASURY AND POST OFFICE APPROPRIATION, AND PRODUCT SAFETY BILLS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators in control of the time on any of the following bills, a bill making appropriations for Public Works, a bill making appropriations for Treasury and Post Office, and S. 3419, the Product Safety bill may yield therefrom to any Senator on any amendment, debatable motion or appeal in relation thereto.

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

Mr. ROBERT C. BYRD. Mr. President, may I say for the RECORD that in each case I have cleared these requests with the managers of the respective bills and the ranking minority members thereof.

and I have apprised the distinguished majority leader before making the requests.

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 second assistant 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.

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

ORDER FOR RECESS TO 9 A.M. ON TUESDAY, WEDNESDAY, THURSDAY, AND FRIDAY NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday, Tuesday, Wednesday, and Thursday of next week it stand in recess, respectively, until the hour of 9 a.m. on Tuesday, Wednesday, Thursday, and Friday.

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

ORDER FOR SENATE RESOLUTION 299 TO BE LAID BEFORE THE SENATE ON THURSDAY, JUNE 22, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the prayer on Thursday, June 22, 1972, the Chair lay before the Senate, Senate Resolution 299. This request has been cleared with Mr. HRUSKA and Mr. JAVITS.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 o'clock a.m. There will be routine morning business for not to exceed 15 minutes, after which the Senate will take up S. 3645, Radio Free Europe, under a limitation of 30 minutes. A rollcall vote will occur on S. 3645. That rollcall vote could occur conceivably as early as 10:30 a.m. tomorrow.

Next, the Senate will consider the amendment by Mr. ALLOTT to S. 3390, the Foreign Aid Act—Amendment No. 1241. There is a time limitation on that amendment of 1 hour. A rollcall vote will occur.

Next, the Senate will take up H.R. 5066, the Flammable Fabrics Act, under a time limitation. At least one rollcall vote will likely occur thereon.

Finally, H.R. 15097, a bill making appropriations for the Department of Transportation, will be called up under a time limitation agreement. A rollcall vote will occur on final passage thereof.

Therefore, Mr. President, I would anticipate something like at least four yea-and-nay votes, and hopefully no more tomorrow. I would also anticipate—and hope—that action on all of the foregoing measures can be completed by not later than 3 p.m. tomorrow.

ADJOURNMENT TO 10 A.M.

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 10 a.m. tomorrow.

The motion was agreed to; and at 8:22 p.m. the Senate adjourned until tomorrow, Friday, June 16, 1972, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 15, 1972:

INTERSTATE COMMERCE COMMISSION

Rodolfo Montejano, of California, to be an Interstate Commerce Commissioner for the remainder of the term expiring December 31, 1972, vice Laurence Walrath, resigned.

IN THE COAST GUARD

The following-named commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of captain:

Robert M. Bissey	James H. Lipscomb III
Ralph C. Bohn	James H. C. Lowe
Stephen Daniels	Thomas M. McKeithen
Ralph J. Diverio	Peter L. Murphy, Jr.
David Gaber	Joseph J. O'Rourke
Richard J. Gaedtke	Harold Perkins
Herbert K. Heasley	Oliver E. Thorpe, Jr.
Walter E. Johnson	George T. Vogel
Audrey H. Jones	Michael F. Walsh
James M. Kennelly, Jr.	Marion L. Weiss

IN THE ARMY

The following-named officers for temporary appointment in the Army of the United States to the grades indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

MEDICAL CORPS

To be major general

Brig. Gen. Richard Ray Taylor, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general

Col. Robert Wesley Green, [redacted], Medical Corps, U.S. Army.

Col. Marshall Edward McCabe, [redacted], Medical Corps, U.S. Army.

Col. Charles Calvin Pixley, [redacted], Medical Corps, U.S. Army.

IN THE NAVY

The following-named lieutenant commanders of the line and staff corps of the Navy for temporary promotion to the grade of commander pursuant to title 10, United States Code, section 5787, while serving in, or ordered to, billets for which the grade of commander is authorized and for unrestricted appointment to the grade of commander when eligible pursuant to law and regulation subject to qualification therefor as provided by law:

LINE

Calhoun, John F.	Musgrove, Robert W.
Davis John D.	Rasmussen, John D.
Dellwo, Richard E.	Taylor, Bruce A., Jr.
Dorsey, Edward B.	Trout, Michael D.
Epley, James M.	Walker, Dodson D., Jr.
Giese, Carl E., Jr.	Zeller, Raymond G.
McCarty, Kenneth R.	

SUPPLY CORPS

Morgart, James A.

U.S. CIRCUIT COURTS

Levin H. Campbell, of Massachusetts, to be a U.S. circuit judge, first circuit, vice Bailey Aldrich, retiring.

U.S. DISTRICT COURTS

Robert L. Carter, of New York, to be a U.S. district judge for the southern district of New York, vice Thomas F. Croake, retired.

Thomas P. Griesa, of New York, to be a U.S. district judge for the southern district of New York, vice a new position created by Public Law 91–272, approved June 2, 1970.

Whitman Knapp, of New York, to be a U.S. district judge for the southern district of New York, vice Walter R. Mansfield, elevated.

Charles E. Stewart, Jr., of New York, to be a U.S. district judge for the southern district of New York, vice Sidney Sugarman, retired.

MISSISSIPPI RIVER COMMISSION

Subject to qualifications provided by law, the following for appointment as a Member of the Mississippi River Commission:

Rear Adm. Allen L. Powell, Director, National Ocean Survey, National Oceanic and Atmospheric Administration.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 15, 1972:

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be Members of the Board of Directors of the Corporation for Public Broadcasting for terms expiring March 26, 1978:

Michael A. Gammino, Jr., of Rhode Island.
Joseph D. Hughes, of Pennsylvania.
Gloria L. Anderson, of Georgia.
Theodore W. Braun, of California.
Neal Blackwell Freeman, of New York.

U.S. POSTAL SERVICE

John Y. Ing, of Hawaii, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1972.

IN THE COAST GUARD

Coast Guard nominations beginning George F. Martin, to be lieutenant commander, and ending Paul J. Balzer, to be chief warrant officer, W–2, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 1972.

HOUSE OF REPRESENTATIVES—*Thursday, June 15, 1972*

The House met at 12 o'clock noon.

Rabbi Steven M. Dworken, Congregation Shaarey Tphiloh, Portland, Maine, offered the following prayer:

Our Father in Heaven, as another session of Congress opens, we turn to You for guidance in the discharge of its weighty and grave responsibilities. May this august body, through its legislation, further the ideals of equality, liberty, and justice for all upon which our beloved country is founded. May tranquility, peace, and harmony reign within our borders, and may we be the harbingers of universal brotherhood.

Grant us of Your wisdom so that we may be leaders in promulgating the idea that the conference table is a far better