H.R. 15709. A bill to amend the Federal Property and Administrative Services Act of 1949 to prohibit the making available of Government procurement sources to Federal grantees and contractors; to the Committee on Government Operations.

By Mr. ASHLEY:

H.R. 15710. A bill to amend section 401(a)(8) of the Internal Revenue Code of 1954 to allow multiple employer jointly trusteed plans to allocate forfeitures; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia:

H.R. 15711. A bill to amend title 5, United States Code, to correct certain inequities in the prohibition on the concurrent payment of compensation for disablity because of a civilian work injury and of reduced retired or retirement pay based on service in the U.S. Armed Forces, and for other purpose; to the Committee on Post Office and Civil Service.

By Mr. HULL:

H.R. 15712. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON of California:

H.R. 15713. A bill to impose a duty on imported montan wax if a product of any Communist country; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mrs. ABZUG, Mr. BINGHAM, Mr. BRASCO, Mr. BURTON, Mr. CLARK, Mr. COLLINS of Illinois, Mr. CORMAN, Mr. DENHOLM, Mr. DOW, Mr. HALPERN, Mr. HELSTOSKI, Mr. LEGGETT, Mr. MITCHELL, Mr. ROSENTHAL, and Mr. SCHEUER):

H.R. 15714. A bill to authorize the Secretary of the Interior to establish and administer a program of direct Federal employment to improve the quality of the environment, the public lands, Indian reservations, and commonly owned and shared resources through a program of recreational development, reforestation and conservation management, and for other purposes; to the Committee on Education and Labor.

By Mr. KOCH (for himself, Mrs. ABZUG, Mr. BINGHAM, Mr. BRASCO, Mr. BURTON, Mr. CLARK, Mr. COLLINS of Illinois, Mr. CONYERS, Mr. DOW, Mr. HALPERN, Mr. HELSTOSKI, Mr. LEGGETT, Mr. MITCHELL, Mr. ROSENTHAL, and Mr. SCHEUER):

H.R. 15715. A bill to establish a National Human Resources Conservation Corps to rehabilitate persons convicted of violating certain narcotic drug laws and persons who volunteer for membership in such Corps and to improve the quality of the environment; to the Committee on Education and Labor.

Mr. MCKAY (for himself and Mr. LLOYD):

H.R. 15716. A bill to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah; to the Committee on Interior and Insular Affairs.

By Mr. PATTEN:

H.R. 15717. A bill to improve judicial machinery by providing benefits for survivors of Federal judges comparable to benefits received by survivors of Members of Congress, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PELLY:

H.R. 15718. A bill to amend the Sockeye Salmon Fisheries Act of 1947 to authorize the restoration and extension of the Sockeye and Pink Salmon Stocks of the Fraser River system, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PEYSER (by request):

H.R. 15719. A bill to authorize the hiring of employees of detective agencies for other than investigative services; to the Committee on Post Office and Civil Service.

By Mr. RHODES:

H.R. 15720. A bill to provide a practicable precipitation management program for the Nation; to the Committee on Interior and Insular Affairs.

By Mr. WARE (for himself, Mr. COUGHLIN, Mr. ESHLEMAN, Mr. FREY, Mr. GOODLING, Mr. JOHNSON of Pennsylvania, Mr. ROONEY of Pennsylvania, Mr. BIESTER, Mr. HEINZ, Mr. KEMP, Mr. HORTON, Mr. BARRETT, Mr. GAYDOS, Mr. DANIEL of Virginia, Mr. SCOTT, Mr. MORGAN, Mr. HOGAN, Mr. HASTINGS, Mr. MILLS of Maryland, Mr. MOORHEAD, Mr. NIX, Mr. BYRNE of Pennsylvania, Mr. YATRON, and Mr. FLOOD):

H.R. 15721. A bill to amend the Disaster Relief Act of 1970 to increase the forgiveness advantage contained in sections 231 and 232 of such act; to the Committee on Public Works.

By Mr. MAHON:

H.J. Res. 1236. Joint resolution making a supplemental appropriation for disaster relief; to the Committee on Appropriations.

By Mr. MORGAN (for himself, Mr. SAYLOR, Mr. FLOOD, Mr. GAYDOS, Mr. NIX, Mr. BIESTER, Mr. VIGORITO, Mr. ESHLEMAN, Mr. CONOVER, Mr. ROONEY of Pennsylvania, Mr. GREEN of Pennsylvania, Mr. COUGHLIN, Mr. DENT, Mr. MOORHEAD, Mr. WILLIAMS, Mr. GOODLING, Mr. HEINZ, Mr. JOHNSON of Pennsylvania, Mr. YATRON, Mr. EILBERG, Mr. WARE, Mr. SCHNEEBELI, Mr. BARRETT, Mr. MCDADE, and Mr. BYRNE of Pennsylvania):

H.J. Res. 1237. Joint resolution making certain urgent supplemental appropriations for disaster relief, and for other purposes; to the Committee on Appropriations.

By Mr. CONYERS (for himself, Mr. CLAY, Mr. DELLUMS, Mr. FAUNTROY, and Mr. STOKES):

H. Con. Res. 636. Concurrent resolution to create a joint congressional committee for the purpose of conducting an investigation of the Federal Bureau of Investigation; to the Committee on Rules.

By Mr. DELLENBACK (for himself, Mr. RUNNELS, Mr. DONOHUE, Mr. YOUNG of Florida, Mr. FORSYTHE, Mr. SEBELIUS, Mr. LONG of Maryland, Mr. BOB WILSON, Mr. FRENZEL, Mr. RHODES, Mr. BROWN of Michigan, Mr. QUIE, Mr. WYMAN, Mr. ARCHER, Mr. COLLINS of Texas, Mr. PEYSER, Mr. DU PONT, Mrs. GRASSO, Mr. ANDERSON of Illinois, and Mr. SMITH of New York:

H. Con. Res. 637. Concurrent resolution calling upon all parties to the 1949 Geneva Convention Relative to the Treatment of prisoners of War to insure respect for that Convention by persuading North Vietnam to fulfill its obligations under the Convention; to the Committee on Foreign Affairs.

By Mr. DELLENBACK (for himself, Mr. WYATT, Mrs. GREEN of Oregon, Mr. FISH, Mr. ANDREWS of North Dakota, Mr. STUCKEY, Mr. SATTERFIELD, Mr. HANSEN of Idaho, Mr. WINN, Mr. DAVIS of Wisconsin, Mr. HELSTOSKI, Mr. SCHWENGEL, Mr. WYDLER, Mr. SYMINGTON, Mr. JONES of North Carolina, Mr. HALPERN, Mr. J. WILLIAM STANTON, Mr. HASTINGS, Mr. DINGELL, Mr. CLARK, Mr. DERWINSKI, Mr. STEIGER of Wisconsin, Mr. HOSMER, Mr. EILBERG, and Mr. ERLENBORN):

H. Con. Res. 638. Concurrent resolution calling upon all parties to the 1949 Geneva Convention Relative to the Treatment of Prisoners of War to insure respect for that Convention by persuading North Vietnam to fulfill its obligations under the Convention; to the Committee on Foreign Affairs.

By Mr. FRASER (for himself and Mr. HALPERN):

H. Con. Res. 639. Concurrent resolution urging establishment of a United Nations Voluntary Fund for the Environment; to the Committee on Foreign Affairs.

By Mr. MCKINNEY:

H. Res. 1029. Resolution amending the rules of the House by adding rule XLV on House-authorized Federal budget; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM:

H.R. 15722. A bill for the relief of David H. Stoll; to the Committee on the Judiciary.

By Mr. BROYHILL of Virginia:

H.R. 15723. A bill for the relief of Jane M. Vida; to the Committee on the Judiciary.

By Mr. DIGGS:

H.R. 15724. A bill for the relief of Mr. Abedin Sulejmani; to the Committee in the Judiciary.

By Mr. EDMONDSON:

H.R. 15725. A bill for the relief of Dr. Julio De La Fuente and his wife, Berta Leticia De La Fuente; to the Committee on the Judiciary.

By Mr. ICHORD:

H.R. 15726. A bill for the relief of David C. Y. Huang; to the Committee on the Judiciary.

SENATE—*Tuesday, June 27, 1972*

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

Lord God of Hosts, who has watched over this Nation from the beginning even until now, we thank Thee for mighty men of lofty vision, high idealism, and mature wisdom who have arisen in every generation to serve the common good. We pray that Thou wilt bless our present leadership with grace and strength for their days. Prosper the deliberations of Thy servants in this Chamber to the end that they may legislate wisely and, in concert with their colleagues elsewhere, ameliorate the ills which beset us and so enlarge the opportunities of the people that we may have prosperity and justice at home and a secure and permanent peace abroad. Guide the Members of this body through the labor of this day until the evening comes, then in Thy mercy give them a peaceful rest and renewal of body and soul.

We pray in Thy holy name. Amen.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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 second assistant legislative clerk read the following letter:

U.S. SENATE,
President pro tempore,
Washington, D.C., June 27, 1972.

To the Senate:

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

ALLEN J. ELLENDER,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, June 26, 1972, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

MRS. FERNANDE M. ALLEN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the construction of Calendar No. 861, H.R. 5318.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 5318, for the relief of Mrs. Fernande M. Allen.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to a third reading, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-901), explaining the purposes of the measure.

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

STATEMENT

The facts of this case, as contained in House Report 92-90, are as follows:

Mrs. Fernande M. Allen is the widow of James F. Allen, a veteran, who served in World War II, died on January 3, 1954. On August 20, 1954, the widow, Fernande M. Allen, was advised that her claim for service-connected death compensation, filed May 10, 1954, was denied because the accidental death of the veteran was not due to service. She was also advised that she was not eligible for non-service-connected death pension because the veteran did not at death have a disability due to service. At that time, a service-connected disability was required for payment of non-service-connected death pension based on World War II service.

Effective July 1, 1960, the law was liberalized to authorize payment of pension without regard to existence of a service-connected disability at death. As is noted in the Veterans' Administration report, pursuant to an application filed in the Veterans' Administration on June 8, 1962, death pension was awarded to Mrs. Allen effective that date, and is currenty being paid to her at the rate of $70 per month.

This bill would make it possible for Mrs. Allen to receive an amount equal to the benefits she would have received as the widow of a veteran of World War II on the basis of an application made on October 1, 1960. Mrs. Allen states that she was not aware of the change in the law which made her eligible for widows benefits until October 1960. She then sought the assistance of Alpena County Counsel of Veterans' Affairs, Mr. William A. McNeil, in connection with an application for those benefits. An affidavit by Mr. McNeil has been filed with the committee. He states that in November of 1960 he processed an application for death pension benefits on behalf of Mrs. Fernande M. Allen of Alpena, Mich. Upon completion of the application, Mr. McNeil states that she forwarded it to the Veterans' Administration regional office in Detroit, Mich. Mrs. Allen stated that after many inquiries concerning the delay, Mr. McNeil had her execute a new application in May of 1962. She has stated that the new application was in the nature of a reminder to the Veterans' Administration, and she would receive retroactive benefits. As is noted in the Veterans' Administration report, she made a request for such retroactive benefits on the basis of the earlier application. However, a comprehensive search of the records of the regional office failed to reveal any evidence of receipt of a claim on behalf of Mrs. Allen in 1960, or any time thereafter prior to June 8, 1962. The Veterans' Administration took the position that the identified county official was not an agent of the Veterans' Administration and any application filed with him could not be considered as having been received by that agency. Consequently, the widow's request for retroactive benefits was denied.

The governing law (old 38 U.S.C. 3004(a); current 38 U.S.C. 3010(a)) provides in substance that the effective date of an award of pension based upon a claim reopened after final adjudication shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of the latter application. Two applications were recognized by the Veterans' Administration as received in this case. Inasmuch as the first application (May 10, 1954) was properly disallowed, the action awarding pension effective on the date of the second application (June 8, 1962) was correct. There exists no legal basis for payment of pension for any prior period. This evaluation of course ignores the application by Mrs. Allen filed in the fall of 1960. There appears to be no question concerning Mrs. Allen's status as a widow eligible for benefits under the law as of that date. Obviously she was included within the statutory categories of persons meant to be benefited by the provisions for the widows of veterans. Even with the enactment of this bill, a determination by the Veterans' Administration would be required as to whether Mrs. Allen met the income and corpus of estate (net worth) requirements of the pension law during the pertinent period. If it were ascertained that her net worth was not such as to bar benefits, and that her annual countable income did not exceed $1,800, additional pension would be payable under the bill. The monthly rate to be so paid from October 1960 through June 7, 1962, would be $60, $45, or $25 as related to statutory income brackets of $0 to $600; $601 to $1,200; $1,201 to $1,800.

Notwithstanding the adverse position of the Veterans' Administration on this bill, the committee has found that this case merits relief. The facts attested to by Mr. McNeil and by Mrs. Allen herself established that an application was in fact executed by Mrs. Allen in 1960. While it is impossible to ascertain how the application was lost or failed to be processed by the Veterans' Administration, it seems unfair to penalize the veterans' widow under these circumstances. It is recommended that the bill be considered favorably.

The committee believes that Mr. William A. McNeil's statement that he did in fact file an application is more persuasive that it was in fact filed, than is the statement that a search of the records of the regional office of the Veterans' Administration has failed to find an application is that it was not in fact filed.

ORDER TO LAY BEFORE THE SENATE TOMORROW THE ECONOMIC OPPORTUNITY AMENDMENTS OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately following disposition of the amendment of the distinguished Senator from Alabama (Mr. SPARKMAN) and the distinguished Senator from Pennsylvania (Mr. SCOTT), the Senate proceed to the consideration of the Economic Opportunity Amendments of 1972 and that the unfinished business be temporarily laid aside and remain temporarily laid aside until that bill is disposed of, or until the close of business on tomorrow, whichever is the earlier.

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

ORDER FOR CONSIDERATION OF CALENDAR NO. 805, S. 1861, TO AMEND THE FAIR LABOR STANDARDS ACT OF 1938, UPON RECONVENING OF THE SENATE ON JULY 17, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to proceed, at any time following the Senate's return, this session, on July 17, 1972, to the consideration of Calendar No. 805, S. 1861, to amend the Fair Labor Standards Act of 1938.

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

QUORUM CALL

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished acting Re-

publican leader desire recognition at this time?

Mr. BOGGS. Not at this time.

FOREIGN ASSISTANCE ACT OF 1972

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business, S. 3390, which the clerk will report.

The legislative clerk read as follows:

Calendar No. 789 (S. 3390), a bill to amend the Foreign Assistance Act of 1961, and for other purposes.

The Senate continued with the consideration of the bill.

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

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

ORDER FOR CONSIDERATION ON FRIDAY OF PUBLIC WORKS-AEC APPROPRIATIONS BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, June 30, immediately after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of H.R. 15586, the Public Works-AEC appropriations bill, and that the unfinished business remain in a temporarily laid-aside status until the disposition of the Public Works-AEC appropriations bill or until the close of business on Friday, whichever is the earlier.

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

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business with statements limited therein to 3 minutes.

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

Is there morning business to be transacted at this time?

QUORUM CALL

Mr. ROBERT C. BYRD. 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. ERVIN. 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.

(The remarks that Mr. ERVIN made at this point when he introduced S. 3750, dealing with surveillance on civilians by the Armed Forces, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PUBLICATION ENTITLED "WORLD POWER DATA, 1969"

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "World Power Data, 1969" (with an accompanying document); to the Committee on Commerce.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Enforcement of Housing Codes: How It Can Help To Achieve Nation's Housing Goal", Department of Housing and Urban Development, dated June 26, 1972 (with an accompanying report); to the Committee on Government Operations.

REPORT ON BLACK LUNG BENEFITS PROGRAM

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the administration of Part B of Title IV of the Federal Coal Mine Health and Safety Act of 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A joint resolution of the Legislature of the State of California; to the Committee on Interior and Insular Affairs:

"SENATE JOINT RESOLUTION No. 10

"Whereas, Congressman Alphonzo Bell has introduced a bill in the Congress of the United States to create a national park in the Santa Monica area of Los Angeles County; and

"Whereas, The inclusion in this park of a system of parkways would enhance its value and utility; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California jointly, That the Legislature of the State of California respectfully requests Congressman Bell to amend his bill to include in it provisions for parkways; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact Congressman Bell's park bill; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California; to the Committee on Veterans' Affairs:

"ASSEMBLY JOINT RESOLUTION No. 29

"Relative to a veterans hospital for northern California

"Whereas, At the present time veterans living in the northern part of this state must travel at great inconvenience to San Francisco to receive hospital treatment; and

"Whereas, The northern counties of California have a large and increasing number of veterans, many of whom are disabled and suffer great hardship in being forced to travel great distances for treatment; and

"Whereas, The nearest Veterans Administration hospital facility for veterans residing in the 16 northern counties of this state involves a distance of between 200 and 400 miles of travel each way; and

"Whereas, The need for a Veterans Administration hospital to service this great area has been clearly demonstrated, and, in addition, such a facility would serve much of southern Oregon as well as northern California; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to undertake a study of the feasibility of constructing a Veterans' Administration hospital in the vicinity of the City of Redding to serve the needs of veterans in northern California and southern Oregon; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A concurrent resolution of the Legislature of the State of Louisiana; to the Committee on Interior and Insular Affairs:

"HOUSE CONCURRENT RESOLUTION No. 9

"A concurrent resolution to urge, encourage and request the Louisiana Delegation in Congress to introduce and sponsor and the Congress of the United States to enact legislation providing the coastal states a 37½ per cent share of the revenue from offshore mineral deposits outside of state boundaries

"Whereas, Louisiana and the other coastal states are required to provide roads, education, police and fire protection and other costly necessary services for residents who supervise and work in offshore drilling and producing operations and for members of their families, and

"Whereas, for Louisiana alone, it is estimated that during 1970 education, health, police, recreation, library and other services were provided to 67,644 persons employed to make productive the offshore fields, and to members of their families, at a cost to the state and its subdivisions of some $79.7 million, and

"Whereas, the coastal parishes of Louisiana are required to provide roads, education, police and fire protection, recreational facilities, sewerage and other sanitary services, capital expenditures for additional public buildings, and other costly necessary services to residents who supervise and work in offshore drilling and producing operations and for members of their families, and the revenues of these coastal parishes are being severely strained, and

"Whereas, in addition to expenditures of state and local funds for these services, Louisiana and other coastal states have made capital expenditures of many millions of dollars to provide highways, marinas and other facilities without which the offshore oil fields could not be worked, a particular instance, in the case of Louisiana, of such capital expenditures being a four lane highway constructed by the governing authority of the parish of Plaquemines at a cost of more than $48 million from Belle Chasse to Venice, at the head of the passes, the major use of which is in transport of men and supplies needed in offshore work, and

"Whereas, according to figures obtained from the Bureau of Land Management of the United States Department of Interior, mineral production from the outer continental shelf placed in the federal treasury in the

fiscal year 1970 more than $1.272 billion, and

"Whereas, the federal government could not have realized this income unless the coastal states had rendered the essential government services for the men and women who work in offshore mineral production and their families and provided capital expenditures in roads and other facilities essential to such production, and

"Whereas, interior states receive a substantial share of the revenues produced from inshore federal lands within their borders, and

"Whereas, the injustice done to coastal states from the burdens imposed upon them by the offshore minerals production and the inequity between the coastal and interior states as to the sharing of revenue from federal lands can be alleviated by prompt and simple action by the Congress of the United States.

"Now, therefore, be it resolved by the House of Representatives of the Louisiana Legislature, the Senate thereof concurring, does hereby respectfully urge, encourage and request the Louisiana Congressional delegation to introduce and sponsor and the Congress of the United States to enact legislation which will allocate to the coastal states a share of the revenues derived from offshore mineral deposits outside of state boundaries in the amount of 37½ per centum of such revenues.

"Be it further resolved that a certified copy of this resolution shall be transmitted by the Clerk of the House of Representatives to the presiding officers of the Senate and House of Representatives of the United States Congress, to each member of the Louisiana Delegation in the Congress and to the governor of each of the coastal states of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 15586. An act making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1973, and for other purposes (Rept. No. 92–923).

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare, with amendments:

H.R. 9936. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for a current listing of each drug manufactured, prepared, propagated, compounded, or processed by a registrant under that Act, and for other purposes (Rept. No. 92–924).

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

S. 2577. A bill to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry (Rept. No. 92–925) (Together with supplemental views).

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

H.R. 6479. A bill to provide for the licensing of personnel on certain vessels (Rept. No. 92–926).

EXECUTIVE REPORTS OF COMMITTEES

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

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

Hiram H. Ward, of North Carolina, to be a U.S. district judge for the middle district of North Carolina;

J. Clifford Wallace, of California, to be a U.S. circuit judge, ninth circuit;

Marion T. Bennett, of Maryland, to be an associate judge of the U.S. Court of Claims;

Samuel P. King, of Hawaii, to be a U.S. district judge for the district of Hawaii;

Thomas E. Kauper, of Michigan, to be an Assistant Attorney General;

A. William Olson, Jr., of California, to be an Assistant Attorney General; and

Harlington Wood, Jr., of Illinois, to be an Assistant Attorney 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. ERVIN:

S. 3750. A bill to prohibit any civil or military officer of the United States using the land or naval forces of the United States or the militia of any State to execute civil laws against civilians or to exercise surveillance of civilians except where such forces or militia are actually engaged in repelling invasion or suppressing rebellion, insurrection, or domestic violence pursuant to the Constitution or laws of the United States. Referred, by unanimous consent, to the Committee on the Judiciary; and, if and when reported by the Committee on the Judiciary, to the Committee on Armed Services.

By Mr. BENTSEN (for himself and Mr. TOWER):

S. 3751. A bill to amend the Federal Aid Highway Act (23 U.S.C. 110, 138) to clarify the law relating to what constitutes a formal contract between the Secretary of Transportation and a State highway department and stating further circumstances by which a State highway department will be permitted to refuse said aid. Referred to the Committee on Public Works.

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. CRANSTON, Mr. DOMINICK, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, and Mr. TAFT):

S. 3752. A bill to extend programs for assistance to medical libraries. Referred to the Committee on Labor and Public Welfare.

By Mr. GOLDWATER:

S. 3753. A bill for the relief of Jack and Barbara Collins. Referred to the Committee on Finance.

By Mr. METCALF (for himself and Mr. BELLMON):

S. 3754. A bill authorizing the Secretary of the Interior to issue certain obligations and to utilize the revenues therefrom to acquire additional wetlands. Referred to the Committee on Finance.

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

S. 3755. A bill to amend the Airport and Airway Development Act of 1970 to increase the United States share of allowable project costs under such Act; to amend the Federal Aviation Act of 1958 to prohibit certain State taxation of persons in air transportation, and for other purposes. Referred to the Committee on Commerce.

By Mr. HRUSKA:

S. 3756. A bill for the relief of Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, and F. Clyde Wilkinson. Referred to the Committee on Post Office and Civil Service.

By Mr. MATHIAS:

S. 3757. A bill for the relief of Jorge N. Birnios. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ERVIN:

S. 3750. A bill to prohibit any civil or military officer of the United States using the land or naval forces of the United States or the militia of any State to execute civil laws against civilians or to exercise surveillance of civilians except where such forces or militia are actually engaged in repelling invasion or suppressing rebellion, insurrection, or domestic violence pursuant to the Constitution or laws of the United States. Referred, by unanimous consent, to the Committee on the Judiciary; and, if and when reported by the Committee on the Judiciary, to the Committee on Armed Services.

PROHIBITION OF THE ARMED FORCES FROM COLLECTING INFORMATION OR CONDUCTING SURVEILLANCE ON CIVILIANS

Mr. ERVIN. Mr. President, I introduce for appropriate reference a bill to protect the constitutional rights of American citizens by prohibiting the Armed Forces from collecting information or conducting surveillance on persons unaffiliated with the Armed Forces.

The introduction of this legislation has become necessary at this time by the decision of the Supreme Court in the case of Tatum against Laird, just decided. In that case, the Court unwisely and wrongly ignored the very serious harm that military surveillance has caused and continues to cause to the liberties of Americans. The decision is a most disappointing one not only because it leaves Americans unprotected when they seek to vindicate these rights in the courts, but also because the Supreme Court did not explain or justify the basis for its decision in any convincing way. Unfortunately, the opinion, in almost as many words, says merely that the plaintiffs have suffered no legal harm of which the Court can take cognizance. But it makes this declaration by ignoring the complaint which alleges that plaintiffs have indeed suffered such harm. In my opinion, the plaintiffs and the Justices in dissent have made very clear the legal harm involved, and the firm line of precedents supporting their position. Even more essential, the plaintiffs have made clear the constitutional harms to themselves, to the American people and to the Bill of Rights. The opinion is just not persuasive.

The weight of the opinion is also weakened because the Court by no means has decided that military surveillance is constitutional. It has merely ruled that this case does not qualify as one which prop-

erly presents the issue to the Court. Finally, of course, the decision is by a narrow 5-to-4 vote.

Although in my judgment the opinions of Judge Wilkey in the Court of Appeals and by Justice Douglas in dissent are by far the more consonant with the Constitution and with our traditions of liberty, there is one thing upon which the majority opinion and I agree. The Chief Justice says that this is a situation which Congress can and should resolve by legislative means. It is appropriate that Congress fulfill its responsibility to the people under the Constitution by enacting legislation to insure that this sort of surveillance by the military never again happens. It is for that reason that I introduce such legislation at this time.

That Congress has this responsibility does not mean that the Court has none. The Court does have a special obligation to defend citizens against harm to their first amendment rights which is caused by unlawful governmental action. That is why I argued this case before the Supreme Court on behalf of a number of religious associations. While the courts do not have an obligation to act as "virtually continuing monitors of the wisdom and soundness of executive action," to cite the Chief Justice's words, they do have the obligation to protect citizens against unconstitutional and unauthorized action by the executive which infringes upon the first amendment. That the Supreme Court has failed to do in this case. It is now the responsibility of the Congress to act.

The Constitutional Rights Subcommittee, which has been investigating this surveillance for 2½ years, is prepared to act expeditiously on this legislation and I hope that the bill will be referred to the Judiciary Committee for that reason.

Mr. President, so that the actions of the Supreme Court on this matter will be familiar to the Senate and the American people, I ask unanimous consent that the opinions in the Tatum case both in the Supreme Court and in the Court of Appeals be printed in the Record together with the text of the bill.

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

S. 3750

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

Section 1. As used in this statute, the following terms have the following meanings:

(a) The term "land forces of the United States" includes the Army, the Air Force, and their respective reserve components;

(b) The term "naval forces of the United States" includes the Navy, the Marine Corps, and their respective reserve components;

(c) The term "State" includes any State, district, territory, commonwealth, or possession of the United States;

(d) The term "militia of a State" includes the National Guard and any other State military forces, which the President is empowered to call forth to execute the laws of the United States, or to suppress insurrections, or to repel invasions, and,

(e) The term "defense facility" includes any area, structure, ship, aircraft, or other place or instrumentality where persons are employed to discover, design, test, manufacture, maintain, or store weapons or munitions of any kind for the United States or any nation which procures weapons or munitions from the United States.

Sec. 2. Except to the extent specified in the next succeeding section of this statute, no civil or military officer of the United States shall use the land or naval forces of the United States or the militia of any State to execute the civil laws of the United States or any State against civilians or to exercise surveillance, either covert or overt, of civilians. Any civil or military officer of the United States who willfully violates this statute shall be imprisoned not more than two years, or fined not more than $10,000, or both.

Sec. 3. Notwithstanding the provisions of the preceding section of this statute, it shall not be unlawful to use the land or naval forces of the United States or the militia of a State (a) to do anything necessary or appropriate to enable such forces or militia to accomplish their mission after they have been actually and publicly assigned by the President to the task of repelling invasion or suppressing rebellion, insurrection, or domestic violence pursuant to the Constitution or Section 331, Section 332, or Section 333 of title 10 of the United States Code, or (b) to protect real or personal property committed to the custody of the land or naval forces of the United States or the militia of any State from destruction, damage, theft, unlawful seizure, or trespass, or (c) to determine whether the employment or retention in employment of any individual seeking or enjoying employment by the land or naval forces of the United States or the militia of any State or in any defense facility is consistent with the interests of national security.

Sec. 4. Nothing in this statute shall apply (a) to the militia of any State while it is under the command or control of the Governor or other authorities of the State; or (b) to impair the authority of the President to obtain by command or request any information or intelligence gathered by the Federal Bureau of Investigation or any other civil investigatory agency of the United States or any law-enforcement agency of any State, which he deems necessary or appropriate to enable him to determine whether invasion, rebellion, insurrection, or domestic violence of the nature described in the Constitution or the aforesaid statutes of the United States is likely to occur.

[Supreme Court of the United States, Syllabus]

LAIRD, SECRETARY OF DEFENSE, ET AL. *v.* TATUM ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 71-288. Argued March 27, 1972—Decided June 26, 1972.

Prior to its being called upon in 1967 to assist local authorities in quelling civil disorders in Detroit, Michigan, the Department of the Army had devleoped only a general contingency plan in connection with its limited domestic mission under 10 U. S. C. § 331. In response to the Army's experience in the various civil disorders it was called upon to help control during 1967 and 1968, Army Intelligence established a data-gathering system which respondents describe as involving the "surveillance of lawful civilian political activity." *Held:* Respondents' claim that their First Amendment rights are chilled, due to the mere existence of this data-gathering system, does not constitute a justiciable controversy on the basis of the record in this case, disclosing as it does no showing of objective harm or threat of specific future harm. Pp. —— ——.

444F. 2d 947, reversed.

Burger, C. J., delivered the opinion of the Court, in which White, Blackmun, Powell, and Rehnquist, JJ., joined. Douglas, J., filed a dissenting opinion in which Marshall, J., joined. Brennan, J., filed a dissenting opinion in which Stewart and Marshall, JJ., joined.

[Supreme Court of the United States, No. 71-288, June 26, 1972]

MELVIN R. LAIRD, SECRETARY OF DEFENSE, ET AL., PETITIONERS, *v.* ARLO TATUM ET AL.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit.

Mr. Chief Justice Burger delivered the opinion of the Court.

Respondents brought this class action in the District Court seeking declaratory and injunctive relief on their claim that their rights were being invaded by the Army's alleged "surveillance of lawful civilian political activity." The petititoners in response describe the activity as "gathering by lawful means, . . . [and] maintaining and using in their intelligence activities, . . . information relating to potential or actual civil disturbances [or] street demonstrations." In connection with respondents' motion for a preliminary injunction and petitioners' motion to dismiss the complaint, both parties filed a number of affidavits with the District Court and presented their oral arguments at a hearing on the two motions. On the basis of the pleadings,[1] the affidavits before the court, and the oral arguments advanced at the hearing, the District Court granted petitioners' motion to dismiss, holding that there was no justiciable claim for relief.

On appeal, a divided Court of Appeals reversed and ordered the case remanded for further proceedings. We granted certiorari to consider whether, as the Court of Appeals held, respondents presented a justiciable controversy in complaining of a "chilling" effect on the exercise of their First Amendment rights where such effect is allegedly caused, not by any "specific action of the Army against them, [but] only [by] the existence and operation of the intelligence gathering and distributing system, which is confined to the Army and related civilian investigative agencies." 444 F. 2d 947, 953. We reverse.

(1)

There is in the record a considerable amount of background information regarding the activities of which respondents complained; this information is set out primarily in the affidavits that were filed by the parties in connection with the District Court's consideration of respondents' motion for a preliminary injunction and petitioners' motion to dismiss. See Rule 12(b), Fed. Rules Civ. Proc. A brief review of that information is helpful to an understanding of the issues.

The President is authorized by 10 U.S.C. § 331[2] to make use of the armed forces to quell insurrection and other domestic violence if and when the conditions described in that section obtain within one of the States. Pursuant to those provisions, President Johnson ordered federal troops to assist local authorities at the time of the civil disorders in Detroit, Michigan, in the summer of 1967 and during the disturbances that followed the assassination of Dr. Martin Luther King. Prior to the Detroit disorders, the Army had a general contingency plan for providing such assistance to local authorities, but the 1967 experience led Army authorities to believe that more attention should be given to such preparatory planning. The data-gathering system here involved is said to have been established in connection with the development of more detailed and specific contingency planning designed to permit the Army when called upon to assist local authorities, to be able to respond effectively with a minimum of force. As the Court of Appeals observed,

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Footnotes at end of article.

"In performing this type function the Army is essentially a police force or the back-up of a local police force. To quell disturbances or to prevent fuurther disturbances the Army needs the same tools and, most importantly, the same information to which local police forces have access. Since the Army is sent into territory almost invariably unfamiliar to most soldiers and their commanders, their need for information is likely to be greater than that of the hometown policeman.

"No logical argument can be made for compelling the military to use *blind* force. When force is employed it should be intelligently directed, and this depends upon having reliable information—in time. As Chief Justice John Marshall said of Washington, 'A general must be governed by his intelligence and must regulate his measures by his information. . . .' So we take it as undeniable that the military, i.e., the Army, need a certain amount of information in order to perform their constitutional and statutory missions." 444 F. 2d, at 953 (footnotes omitted).

The system put into operation as a result of the Army's 1967 experience consisted essentially of the collection of information about public activities that were thought to have at least some potential for civil disorder, the reporting of that information to Army Intelligence headquarters at Fort Holabird, Maryland, the dissemination of these reports from headquarters to major Army posts around the country, and the storage of the reported information in a computer data bank located at Fort Holabird. The information itself was collected by a variety of means, but it is significant that the principal sources of information were the news media and publications in general circulation. Some of the information came from Army Intelligence agents who attended meetings that were open to the public and who wrote field reports describing the meetings, giving such data as the name of the sponsoring organization, the identity of speakers, the approximate number of persons in attendance, and an indication of whether any disorder occurred. And still other information was provided to the Army by civilian law enforcement agencies.

The material filed by the Government in the District Court reveals that Army Intelligence has field offices in various parts of the country; these offices are staffed in the aggregate with approximately 1,000 agents, 94% of whose time[3] is devoted to the organization's principal mission,[4] which is unrelated to the domestic surveillance system here involved.

By early 1970 Congress became concerned with the scope of the Army's domestic surveillance system; hearings on the matter were held before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary. Meanwhile, the Army, in the course of a review of the system, ordered a significant reduction in its scope. For example, information referred to in the complaint as the "blacklist" and the records in the computer data bank at Fort Holabird were found unnecessary and were destroyed, along with other related records. One copy of all the material relevant to the instant suit was retained, however, because of the pendency of this litigation. The review leading to the destruction of these records was said at the time the District Court ruled on petitioners' motion to dismiss to be a "continuing" one (App., at 82), and the Army's policies at that time were represented as follows in a letter from the Under Secretary of the Army to Senator Sam J. Ervin, Chairman of the Senate Subcommittee on Constitutional Rights:

"[R]eports concerning civil disturbances will be limited to matters of immediate concern to the Army—that is, reports concerning outbreaks of violence or incidents with a high potential for violence beyond the capability of state and local police and the National Guard to control. These reports will be collected by liaison with other Government agencies and reported by teletype to the Intelligence Command. They will not be placed in a computer. . . . These reports are destroyed 60 days after publication or 60 days after the end of the disturbance. This limited reporting system will ensure that the Army is prepared to respond to whatever directions the President may issue in civil disturbance situations and without watching lawful activities of civilians." (App., at 80.)

In briefs for petitioners filed with this Court, the Solicitor General has called our attention to certain directives issued by the Army and the Department of Defense subsequent to the District Court's dismissal of the action; these directives indicate that the Army's review of the needs of its domestic intelligence activities has indeed been a continuing one and that those activities have since been significantly reduced.

The District Court held a combined hearing on respondents' motion for a preliminary injunction and petitioners' motion for dismissal and thereafter announced its holding that respondents had failed to state a claim upon which relief could be granted. It was the view of the District Court that respondents failed to allege any action on the part of the Army that was unlawful in itself and further failed to allege any injury or any realistic threats to their rights growing out of the Army's actions.[5]

In reversing, the court of Appeals noted that respondents "have some difficulty in establishing visible injury." They "freely admit that they complain of no specific action of the Army against them. . . . There is no evidence of illegal or unlawful surveillance activities. We are not cited to any clandestine intrusion by a military agent. So far as is yet shown, the information gathered is nothing more than a good newspaper reporter would be able to gather by attendance at public meetings and the clipping of articles from publications available on any newsstand." 444 F. 2d, at 953.

The court took note of petitioners' argument "that nothing [detrimental to respondents] had been done, that nothing is contemplated to be done, and even if some action by the Army against [respondents] were possibly foreseeable, such would not present a presently justiciable controversy." With respect to this argument, the Court of Appeals had this to say:

"This position of the appellees [petitioners] does not accord full measure to the rather unique argument advanced by appellants [respondents]. While appellants do indeed argue that in the future it is possible that information relating to matters far beyond the responsibilities of the military may be misused by the military to the detriment of these civilian appellants, yet appellants do not attempt to establish this as a definitely foreseeable event, or to base their complaint on this ground. Rather, appellants contend that the *present existence of this system* of gathering and distributing information, allegedly far beyond the mission requirements of the Army, constitutes an impermissible burden on appellants and other persons similarly situated which exercises a *present inhibiting effect* on their full expression and utilization of their First Amendment rights. . . ." 444 F. 2d, at 954. (Emphasis in original.)

Our examination of the record satisfies us that the Court of Appeals properly identified the issue presented, namely, whether the jurisdiction of a federal court may be invoked by a complainant who alleges that the exercise of his First Amendment rights is being chilled by the mere existence, without more, of a governmental investigative and data-gathering activity that is alleged to be broader in scope than is reasonably necessary for the accomplishment of a valid governmental purpose. We conclude, however, that having properly identified the issue, the Court of Appeals decided that issue incorrectly.[6]

In recent years this Court has found in a number of cases that constitutional violations may arise from the deterrent, or "chilling," effect of governmental regulations that fall short of a direct prohibition against the exercise of First Amendment rights. *E.g., Baird* v. *State Bar of Arizona*, 401 U. S. 1 (1971); *Keyishian* v. *Board of Regents*, 385 U. S. 589 (1967); *Lamont* v. *Postmaster General*, 381 U. S. 301 (1965); *Baggett* v. *Bullitt*, 377 U. S. 360 (1964). In none of these cases, however, did the chilling effect arise merely from the individual's knowledge that a governmental agency was engaged in certain activities or from the individual's concomitant fear that, armed with the fruits of those activities, the agency might in the future take some *other* and additional action detrimental to that individual. Rather, in each of these cases, the challenged exercise of governmental power was regulatory, proscriptive, or compulsory in nature, and the complainant was either presently or prospectively subject to the regulations, proscriptions, or compulsions that he was challenging.

For example, the petitioner in *Baird* v. *State Bar of Arizona* had been denied admission to the bar solely because of her refusal to answer a question regarding the organizations with which she had been associated in the past. In announcing the judgment of the Court, Mr. Justice Black said that "a State may not inquire about a man's views or associations solely for the purpose of withholding a right or benefit because of what he believes." 401 U. S., at 7. Some of the teachers who were the complainants in *Keyishian* v. *Board of Regents* had been discharged from employment by the State, and the others were threatened with such discharge, because of their political acts or associations. The Court concluded that the State's "complicated and intricate scheme" of laws and regulations relating to teacher loyalty could not withstand constitutional scrutiny; it was not permissible to inhibit First Amendment expression by forcing a teacher to "guess what conduct or utterances" might be in violation of that complex regulatory scheme and might thereby "lose him his position." 385 U. S., at 604. *Lamont* v. *Postmaster General* dealt with a governmental regulation requiring private individuals to make a special written request to the Post Office for delivery of each individual mailing of certain kinds of political literature addressed to them. In declaring the regulation invalid, the Court said: "The addressee carries an affirmative obligation which we do not think the Government may impose on him." 381 U. S., at 307. *Baggett* v. *Bullitt* dealt with a requirement that an oath of vague and uncertain meaning be taken as a condition of employment by a governmental agency. The Court said: "Those with a conscientious regard for what they solemnly swear or affirm, sensitive to the perils posed by the oath's indefinite language, avoid the risk of loss of employment, and perhaps profession, only by restricting their conduct to that which is unquestionably safe. Free speech may not be so inhibited." 377 U. S., at 372.

The decisions in these cases fully recognize that governmental action may be subject to constitutional challenge even though it has only an indirect effect on the exercise of First Amendment rights. At the same time, however, these decisions have in no way eroded the "established principle that to entitle a private individual to invoke the judicial power to determine the validity of executive or legislative action he must show that he has sustained or is immediately in danger of sustaining a direct injury as the result of that action. . . ." *Ex parte Levitt*, 302 U.S. 633, 634 (1937).

Footnotes at end of article.

The respondents do not meet this test; their claim, simply stated, is that they disagree with the judgments made by the Executive Branch with respect to the type and amount of information the Army needs and that the very existence of the Army's data-gathering system produces a constitutionally impermissible chilling effect upon the exercise of their First Amendment rights. That alleged "chilling" effect may perhaps be seen as arising from respondents' very perception of the system as inappropriate to the Army's role under our form of government, or as arising from respondents' beliefs that it is inherently dangerous for the military to be concerned with activities in the civilian sector, or as arising from respondents' less generalized yet speculative apprehensiveness that the Army may at some future date misuse the information in some way that would cause direct harm to respondents.[7] Allegations of a subjective "chill" are not an adequate substitute for a claim of specific present objective harm or a threat of specific future harms; "the federal courts established pursuant to Article III of the Constitution do not render advisory opinions." *United Public Works* v. *Mitchell*, 330 U.S. 75, 89 (1947).

Stripped to its essentials, what respondents appear to be seeking is a broad scale investigation, conducted by themselves as private parties armed with the subpoena power of a federal district court and the power of cross-examination to probe into the Army's intelligence-gathering activities, with the district court determining at the conclusion of that investigation the extent to which those activities may or may not be appropriate to the Army's mission. The following excerpt from the opinion of the Court of Appeals suggests the broad sweep implicit in its holding:

"Apparently in the judgment of the civilian head of the Army not everything being done in the operation of this intelligence system was necessary to the performance of the military mission. *If the Secretary of the Army can formulate and implement such judgment based on facts within his Departmental knowledge, the United States District Court can hear evidence, ascertain the facts and decide what, if any, further restrictions on the complained-of activities are called for* to confine the military to their legitimate sphere of activity and to protect appellants' allegedly infringed constitutional rights." 444 F. 2d 947, 958. (Emphasis added.)

Carried to its logical end, this approach would have the federal courts as virtually continuing monitors of the wisdom and soundness of Executive action; such a role is appropriate for the Congress acting through its committees and the "power of the purse"; it is not the role of the judiciary, absent actual present or immediately threatened injury resulting from unlawful governmental action.

We, of course, intimate no view with respect to the propriety or desirability, from a policy standpoint, of the challenged activities of the Department of the Army; our conclusion is a narrow one, namely, that on this record the respondents have not presented a case for resolution by the courts.

The concerns of the Executive and Legislative Branches in response to disclosure of the Army surveillance activities—and indeed the claims alleged in the complaint—reflect a traditional and strong resistance of Americans to any military intrusion into civilian affairs. That tradition has deep roots in our history and found early expression, for example, in the Third Amendment's explicit prohibition against quartering soldiers in private homes without consent and in the constitutional provisions for civilian control of the military. Those prohibitions are not directly presently by this case, but their philosophical underpinnings explain our traditional insistence on limitations on military operations in peacetime. Indeed, when presented with claims of judicially cognizable injury resulting from military intrusion into the civilian sector, federal courts are fully empowered to consider claims of those asserting such injury; there is nothing in our Nation's history or in this Court's decided cases, including our holding today, that can properly be seen as giving any indication that actual or threatened injury by reason of unlawful activities of the military would go unnoticed or unremedied.

Reversed.

FOOTNOTES

[1] The complaint filed in the District Court candidly asserted that its factual allegations were based on a magazine article: "The information contained in the foregoing paragraphs numbered five through thirteen [of the complaint] was published in the January 1970 issue of the magazine *The Washington Monthly* . . ."

[2] "Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, and use such of the armed forces, as he considers necessary to suppress the insurrection."

The constitutionality of this statute is not at issue here; the specific authorization of such use of federal armed forces, in addition to state militia, appears to have been enacted pursuant to Art. IV, § 4, of the Constitution, which provides that "[t]he United States . . . shall protect each of [the individual States] . . . on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence."

In describing the requirement of 10 U.S.C. § 331 for the use of federal troops to quell domestic disorders, Attorney General Ramsey Clark made the following statements in a letter sent to all state governors on August 7, 1967:

"There are three basic prerequisites to the use of Federal troops in a state in the event of domestic violence:

"(1) That a situation of serious 'domestic violence' exists within the state. While this conclusion should be supported with a statement of factual details to the extent feasible under the circumstances, there is no prescribed wording.

"(2) That such violence cannot be brought under control by the law enforcement resources available to the governor, including local and State police forces and the National Guard. The judgment required here is that there is a definite need for the assistance of Federal troops, taking into account the remaining time needed to move them into action at the scene of violence.

"(3) That the legislature or the governor requests the President to employ the armed forces to bring the violence under control. The element of request by the governor of a State is essential if the legislature cannot be convened. It may be difficult in the context of urban rioting, such as we have seen this summer, to convene the legislature.

"These elements should be expressed in a written communication to the President, which of course may be a telegram, to support his issuance of a proclamation under 10 U.S.C. § 334 and commitment of troops to action. In case of extreme emergency, receipt of a written request will not be a prerequisite to Presidential action. However, since it takes several hours to alert and move Federal troops, the few minutes needed to write and dispatch a telegram are not likely to cause any delay.

"Upon receiving the request from a governor, the President, under the terms of the statute and the historic practice, must exercise his own judgment as to whether Federal troops will be sent, and as to such questions as timing, size of the force, and federalization of the National Guard.

"Preliminary steps, such as altering the troops, can be taken by the Federal government upon oral communications and prior to the governor's determination that the violence cannot be brought under control without the aid of Federal forces. Even such preliminary steps, however, represent a most serious departure from our traditions of local responsibility for law enforcement. They should not be requested until there is a substantial likelihood that the federal forces will be needed."

This analysis of Attorney General Clark suggests the importance of the need for information to guide the intelligent use of military forces and to avoid "overkill."

[3] Translated in terms of personnel, this percentage figure suggests that the total intelligence operation concerned with potential civil disorders hardly merits description as "massive," as one of the dissents characterizes it.

[4] That principal mission was described in one of the documents filed with the District Court as the conducting of "investigations to determine whether uniformed members of the Army, civilian employees [of the Army] and contractors' employees should be granted access to classified information." (App., at 76–77.)

[5] In the course of the oral argument, the District Judge sought clarification from respondents' counsel as to the nature of the threats perceived by respondents; he asked what exactly it was in the Army's activities that tended to chill respondents and others in the exercise of their constitutional rights. Counsel responded that it was "precisely the threat in this case that *in some future civil disorder* of some kind, the Army is going to come in with its list of troublemakers . . . and go rounding up people and putting them in military prisons somewhere." (Emphasis added.) To this the court responded that "we still sit here with the writ of habeas corpus." At another point, counsel for respondents took a somewhat different approach in arguing that *"we're not quite sure exactly what they have in mind* and that is precisely what causes the chill, the chilling effect." (Emphasis added.)

[6] Indeed, the Court of Appeals noted that it had reached a different conclusion when presented with a virtually identical issue in another of its recently decided cases, *Davis* v. *Ichord*, 422 F. 2d 1207 (CADC 1970). The plaintiffs in *Davis* were attacking the constitutionality of the House of Representatives Rule under which the House Committee on Internal Security conducts investigations and maintains files described by the plaintiffs as a "political blacklist." The court noted that any chilling effect to which the plaintiffs were subject arose from the mere existence of the Committee and its files and the mere possibility of the misuse of those files. In affirming the dismissal of the complaint, the court concluded that allegations of such a chilling effect could not be elevated to a justiciable claim merely by alleging as well that the challenged House Rule was overly broad and vague.

In deciding the case presently under review, the Court of Appeals distinguished *Davis* on the ground that the difference in the source of the chill in the two cases—a House Committee in *Davis* and the Army in the instant case—was controlling. We cannot agree that the jurisdictional question with which we are here concerned is to be resolved on the basis of the identity of the parties named as defendants in the complaint.

[7] Not only have respondents left somewhat unclear the precise connection between the mere existence of the challenged system and their own alleged chill, but they have

also cast considerable doubt on whether they themselves are in fact suffering from any such chill. Judge MacKinnon took cogent note of this difficulty in dissenting from the Court of Appeals' judgment, rendered as it was "on the facts of the case which emerge from the pleadings, affidavits and the admissions made to the trial court." 444 F. 2d, at 959. At the oral argument before the District Court, counsel for respondents admitted that his clients were "not people, obviously, who are cowed and chilled"; indeed, they were quite willing "to open themselves up to public investigation and public scrutiny." But, counsel argued, these respondents must "represent millions of American not nearly as forward [and] courageous" as themselves. It was Judge MacKinnon's view that this concession "constitutes a basic denial of practically their whole case." *Ibid.* Even assuming a justiciable controversy, if respondents themselves are not chilled, but seek only to represent those "millions" whom they believe are so chilled, respondents clearly lack that "personal stake in the outcome of the controversy" essential to standing. *Baker* v. *Carr*, 369 U.S. 186, 204 (1962). As the Court recently observed in *Moose Lodge No. 107* v. *Irvis*,——U.S.——, a litigant "has standing to seek redress for injuries done to him, but may not seek redress for injuries done to others."

SUPREME COURT OF THE UNITED STATES

No. 71-288

Melvin R. Laird, Secretary of Defense, et al., Petitioners, versus Arlo Tatum et al., on Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit.

[June 26, 1972]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE MARSHALL concurs, dissenting.

I

If Congress had passed a law authorizing the armed services to establish surveillance over the civilian population, a most serious constitutional problem would be presented. There is, however, no law authorizing surveillance over civilians, which in this case the Pentagon concededly had undertaken. The question is whether such authority may be implied. One can search the Constitution in vain for any such authority.

The start of the problem is the constitutional distinction between the "militia" and the Armed Forces. By Art. I, § 7, of the Constitution the militia is specifically confined to precise duties: "to execute the laws of the union, suppress insurrections and repel invasions."

This obviously means that the "militia" cannot be sent overseas to fight wars. They are purely a domestic arm of the governors of the several States,[1] save as they may be called under Art. I § 8, of the Constitution into the federal service. Whether the "militia" could be given powers comparable to those granted the FBI is a question not now raised. For we deal here not with the "militia" but with "armies." The Army, Navy, and Air Force are comprehended in the constitutional term "armies." Art. I, § 7, provides that Congress may "raise and support armies," and "provide and maintain a navy," and make "rules for the government and regulation of the land and naval forces." And the Fifth Amendment excepts from the requirement of a presentment or indictment of a grand jury "cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

Acting under that authority, Congress has provided a code governing the Armed Services. That code sets the procedural standards for the Government and regulation of the land and naval forces. It is difficult to imagine how those powers can be extended to military surveillance over civilian affairs.[2]

The most pointed and relevant decisions of the Court on the limitation of military authority concern the attempt of the military to try civilians. The first leading case was *Ex parte Milligan*, 4 Wall. 2, 124, where the Court noted that the conflict between "civil liberty" and "martial law" is "irreconcilable." The Court which made that announcement would have been horrified at the prospect of the military—absent a regime of martial law—establishing a regime of surveillance over civilians. The power of the military to establish such a system is obviously less than the power of Congress to authorize such surveillance. For the authority of Congress is restricted by its power to "raise" armies, Art. I, § 7; and, to repeat, its authority over the Armed Forces is stated in these terms, "To make rules for the government and regulations of the land and naval forces."

The Constitution contains many provisions guaranteeing rights to persons. Those include the right to indictment by a grand jury and the right to trial by a jury of one's peers. It includes the procedural safeguards of the Sixth Amendment in criminal prosecutions; the protection against double jeopardy, cruel and unusual punishments—and of course the First Amendment. The alarm was sounded in the Constitutional Convention about the dangers of the armed services. Luther Martin of Maryland said, ". . . when a government wishes to deprive its citizens of freedom and reduce them to slavery, it generally makes use of a standing army."[3] That danger, we have held, exists not only in bold acts of usurpation of power, but in gradual encroachments. We held that court-martial jurisdiction cannot be extended to reach any person not a member of the Armed Forces at the times both of the offense and of the trial, which eliminates discharged soldiers. *Toth* v. *Quarles*, 350 U.S. 11. Neither civilian employees of the Armed Forces overseas, *McElroy* v. *Guagliardo*, 361 U.S. 281; *Grisham* v. *Hajan*, 361 U.S. 278, nor civilian dependents of military personnel accompany them overseas, *Kinsella* v. *Singleton*, 361 U.S. 234; *Reid* v. *Covert*, 354 U.S. 1, may be tried by court martial. And even as respects those in the Armed Forces we have held that an offense must be "service connected" to be tried by court-martial rather than by civilian tribunals. *O'Callhan* v. *Parker*, 395 U.S. 258, 272.

The upshot is that the Armed Services—as distinguished from the "militia"—are not regulatory agencies or bureaus that may be created as Congress desires and granted such powers that seem necessary and proper. The authority to provide rules "governing" the Armed Services means the grant of authority to the Armed Services to govern themselves, not the authority to govern civilians. Even when "martial law" is declared, as it often has been, its appropriateness is subject to judicial review, *Sterling* v. *Constantin*, 287 U.S. 378, 401, 403–404.[4]

Our tradition reflects a desire for civilian supremacy and subordination of military power. The tradition goes back to the Declaration of Independence in which it was recited that the King "has affected to render the military independent of and superior to the civil power." Thus we have the "militia" restricted to domestic use, the restriction of appropriations to the "armies" to two years, Art. I, § 7, and the grant of command over the armies and the militia when called into actual service of the United States to the President, our chief civilian officer. The tradition of civilian control over the Armed Forces was stated by Chief Justice Warren:[5]

"The military establishment is, of course, a necessary organ of government; but the reach of its power must be carefully limited lest the delicate balance between freedom and order be upset. The maintenance of the balance is made more difficult by the fact that while the military services the vital function of preserving the existence of the nation, it is, at the same time, the one element of government that exercises a type of authority not easily assimilated in a free society . . .

"In times of peace, the factors leading to an extraordinary deference to claims of military necessity have naturally not been as weighty. This has been true even in the all too imperfect peace that has been our lot for the past fifteen years—and quite rightly so, in my judgment. It is instructive to recall that our Nation at the time of the Constitutional Convention was also faced with formidable problems. The English, the French, the Spanish, and various tribes of hostile Indians were all ready and eager to subvert or occupy the fledgling Republic. Nevertheless, in that environment, our Founding Fathers conceived a Constitution and Bill of Rights replete with provisions indicating that determination to protect human rights. There was no call for a garrison state in those times of precarious peace. We should heed no such call now. If we were to fail in these days to enforce the freedom that until now has been the American citizen's birthright, we would be abandoning for the foreseeable future the constitutional balance of powers and rights in whose name we arm."

Thus, we have until today consistently adhered to the belief that

"[i]t is an unbending rule of law, that the exercise of military power, where the rights of the citizen are concerned, shall never be pushed beyond what the exigency requires." *Raymond* v. *Thomas*, 91 U.S. 712, 716.

It was in that tradition that *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579, was decided in which President Truman's seizures of the steel mills in the so-called Korean War was held unconstitutional. As stated by Justice Black:

"The order cannot properly be sustained as an exercise of the President's military power as Commander in Chief of the Armed Forces. The Government attempts to do so by citing a number of cases upholding broad powers in military commanders engaged in day-to-day fighting in a theater of war. Such cases need not concern us here. Even though 'theater of war' be an expanding concept, we cannot with faithfulness to our constitutional system hold that the Commander in Chief of the Armed Forces has the ultimate power as such to take possession of private property in order to keep labor disputes from stopping production. This is a job for the Nation's lawmakers, not for its military authorities." *Id.*, 587.

Madison expressed the fear of military dominance:[6]

"The veteran legions of Rome were an overmatch for the undisciplined valor of all other nations, and rendered her the mistress of the world.

"Not the less true is it, that the liberties of Rome proved the final victim to her military triumphs; and that the liberties of Europe, as far as they ever existed, have, with few exceptions, been the price of her military establishments. A standing force, therefore, is a dangerous, at the same time that it may be a necessary, provision. On the smallest scale it has its inconveniences. On an extensive scale its consequences may be fatal. On any scale it is an object of laudable circumspection and precaution. A wise nation will combine all these considerations; and whilst it does not rashly preclude itself from any resource which may become essential to its safety, will exert all its prudence in diminishing both the necessity and the danger of resorting to one which may be inauspicious to its liberties.

"The clearest marks of this prudence are stamped on the proposed Constitution. The

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Footnotes at end of article.

Union itself, which it cements and secures, destroys every pretext for a military establishment which could be dangerous. America united, with a handful of troops, or without a single soldier, exhibits a more forbidding posture to foreign ambition than America disunited, with a hundred thousand veterans ready for combat."

As Chief Justice Warren has observed, the safeguards in the main body of the Constitution did not satisfy the people on their fear and concern of military dominance: [7]

"They were reluctant to ratify the Constitution without further assurances, and thus we find in the Bill of Rights Amendments 2 and 3, specifically authorizing a decentralized militia, guaranteeing the right of the people to keep and bear arms, and prohibiting the quartering of troops in any house in time of peace without the consent of the owner. Other Amendments guarantee the right of the people to assemble, to be secure in their homes against unreasonable searches and seizures, and in criminal cases to be accorded a speedy and public trial by an impartial jury after indictment in the district and state wherein the crime was committed. The only exceptions made to these civilian trial procedures are for cases arising in the land and naval forces. Although there is undoubtedly room for argument based on the frequently conflicting sources of history, it is not unreasonable to believe that our Founders' determination to guarantee the preeminence of civil over military power was an important element that prompted adoption of the Constitutional Amendments we call the Bill of Rights."

The action in turning the "armies" loose on surveillance of civilians was a gross repudiation of our traditions. The military, though important to us, is subservient and restricted purely to military missions. It even took an Act of Congress to allow a member of the Joint Chiefs of Staff to address the Congress; [8] and that small step did not go unnoticed but was in fact viewed with alarm by those respectful of the civilian tradition. Walter Lippman has written that during World War II, he was asked to convey a message to Winston Churchill, while the latter was in Washington together with his chiefs of staff. It was desired that Churchill should permit his chiefs of staff to testify before Congress as to the proper strategy for waging the war. Lippmann explains, however, that he "never finished the message. For the old lion let out a roar demanding to know why I was so ignorant of the British way of doing things that I could dare to suggest that a British general should address a parliamentary body.

"As I remember it, what he said was 'I am the Minister of Defense and I, not the generals, will state the policy of His Majesty's government.'" Lippmann, The Intervention of the General, Washington Post, April 27, 1967.[9]

The act of turning the military loose on civilians even if sanctioned by an Act of Congress, which it has not been, would raise serious and profound constitutional questions. Standing as it does only on brute power and Pentagon policy, it must be repudiated as a usurpation dangerous to the civil liberties on which free men are dependent. For, as Senator Sam Ervin has said, "this claim of an inherent executive branch power of investigation and surveillance on the basis of people's beliefs and attitudes may be more of a threat to our internal security than any enemies beyond our borders." Ervin, Privacy and Government Investigations, 1971 U. Ill. L. F. 137, 153 (1971).

II

The claim that respondents have no standing to challenge the Army's surveillance of them and the other members of the class they seek to represent is too transparent for serious argument. The surveillance of the Army over the civilian sector—a part of society hitherto immune from their control—is a serious charge. It is alleged that the Army maintains files on the membership, ideology, programs, and practices of virtually every activist political group in the country, including groups like the Southern Christian Leadership Conference, Clergy and Laymen United Against the War in Vietnam, The American Civil Liberties Union, Womens Strike for Peace, and the National Association for the Advancement of Colored People. The Army uses undercover agents to infiltrate these civilian groups and to reach into confidential files of students and other groups. The Army moves as a secret group among civilian audiences, using cameras and an electronic ear for surveillance. The data it collects are distributed to civilian officials in state, federal, and local governments and to each military intelligence unit and troop command under the Army's jurisdiction (both here and abroad); and these data are stored in one or more data banks.

Those are the allegations; and the charge is that the purpose and effect of the system of surveillance is to harass and intimidate the respondents and to deter them from exercising their rights of political expression, protest, and dissent "by invading their privacy, damaging their reputations, adversely affecting their employment and their opportunities for employment and in other ways." Their fear is that "permanent reports of their activities will be maintained in the Army's data bank, and their 'profiles' will appear in the so-called 'Blacklist' and that all of this information will be released to numerous federal and state agencies upon request."

Judge Wilkey, speaking for the Court of Appeals, properly held that this Army surveillance "exercises a present inhibiting effect on their full expression and utilization of their First Amendment rights." 444 F. 2d, at ——. That is the test. The "deterrent effect" on First Amendment rights by government oversight marks an unconstitutional intrusion, *Lamont* v. *Postmaster General*, 381 U. S. 301, 307. Or as stated by MR. JUSTICE BRENNAN, "inhibition as well as prohibition against the exercise of precious First Amendment rights is a power denied to government." *Id.*, at 309. When refusal of the Court to pass on the constitutionality of an Act under the normal consideration of forbearance "would itself have an inhibitory effect on freedom of speech" then the Court will act. *United Staes* v. *Raines*, 362 U. S. 17 32.

As stated by the Supreme Court of New Jersey, "there is good reason to permit the strong to speak for the weak or the timid in First Amendment matters." *Anderson* v. *Sills*, 56 N.J. 210, 220 (1970).

One need not wait to sue until he loses his job or until his reputation is defamed. To withhold standing to sue until that time arrives would in practical effect immunize from judicial scrutiny all surveillance activities regardless of their misuse and their deterrent effect. As stated in *Flast* v. *Cohen*, 392 U.S. 83, 101, ". . . in terms of Article III limitations on federal court jurisdiction, the question of standing is related only to whether the dispute sought to be adjudicated will be presented in an adversary context and in a form historically viewed as capable of judicial resolution." Or as we put it in *Baker* v. *Carr*, 369 U.S. 186, 204, the gist of the standing issue is whether the party seeking relief has "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions."

The present controversy is not a remote, imaginary conflict. Respondents were targets of the Army's surveillance. First, the surveillance was not casual but massive and comprehensive. Second, the intelligence reports were regularly and widely circulated and were exchanged with reports of the FBI, state and municipal police departments, and the CIA. Third, the Army's surveillance was not collecting material in public records but staking-out teams of agents, infiltrating undercover agents, creating command posts inside meetings, posing as press photographers and newsmen, posing as TV newsmen, posing as students, shadowing public figures.

Finally, we know from the hearings conducted by Senator Ervin that the Army has misused or abused its reporting functions. Thus Senator Ervin concludes that reports of the Army have been "taken from the Intelligence Command's highly inaccurate civil disturbance teletype and filed in Army dossiers on persons who have held, or were being considered for, security clearances, thus contaminating what are supposed to be investigative reports with unverified gossip and rumor. This practice directly jeopardized the employment and employment opportunities of persons seeking sensitive positions with the federal government or defense industry." [10]

Surveillance of civilians is none of the Army's constitutional business and Congress has not undertaken to entrust it with any such function. The fact that since this litigation started the Army's surveillance may have been cut back is not an end of the matter. Whether there has been an actual cutback or whether the announcements are merely a ruse can be determined only after a hearing in the District Court. We are advised by an *amicus* brief filed by a group of former Army Intelligence Agents that Army surveillance of civilians is rooted in secret programs of long standing.

"Army intelligence has been maintaining an unauthorized watch over civilian political activity for nearly 30 years. Nor is this the first time that Army intelligence has, without notice to its civilian superiors, overstepped its mission. From 1917 to 1924, the Corps of Intelligence Police maintained a massive surveillance of civilian political activity which involved the use of hundreds of civilian informants, the infiltration of civilian organizations and the seizure of dissenters and unionists, sometimes without charges. That activity was opposed—then as now—by civilian officials on those occasions when they found out about it, but it continued unabated until post-war disarmament and economies finally eliminated the bureaucracy that conducted it."

This case is a cancer in our body politic. It is a measure of the disease which afflicts us. Army surveillance, like Army regimentation, is at war with the principles of the First Amendment. Those who already walk submissively will say there is no cause for alarm. But submissiveness is not our heritage. The First Amendment was designed to allow rebellion to remain as our heritage. The Constitution was designed to keep government off the backs of the people. The Bill of Rights was added to keep the precincts of belief and expression, of the press, of political and social activities free from surveillance. The Bill of Rights was designed to keep agents of government and official eavesdroppers away from assemblies of people. The aim was to allow men to be free and independent and to assert their rights against government. There can be no influence more paralyzing of that objective than Army surveillance. When an Intelligence Officer looks over every nonconformist's shoulder in the library or walks invisibly by his side in a picket line or infiltrates his club, the America once extolled as the voice of liberty heard around the world no longer is cast in the image which Jefferson and Madison designed, but more in the Russian image, depicted in Appendix III to this opinion.

Footnotes at end of article.

APPENDIX I

The narrowly circumscribed domestic role which Congress has by statute authorized the Army to play is clearly an insufficient basis for the wholesale civilian surveillance of which respondents complain. The entire domestic mission of the armed services is delimited by nine statutes.

Four define the Army's narrow role as a back-up for civilian authority where the latter has proved insufficient to cope with insurrection:

10 U.S.C. § 331:

"Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection."

10 U.S.C. § 332:

"Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion."

10 U.S.C. § 333:

"The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

"(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

"(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

"In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution."

10 U.S.C. § 334:

"Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time."

Two statutes, passed as a result of Reconstruction Era military abuses, prohibit military interference in civilian elections:

18 U.S.C. § 592:

"Whoever, being an officer of the Army or Navy, or other person in the civil, military or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than $5,000 or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

"This section shall not prevent any officer or member of the armed forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote."

18 U.S.C. § 593:

"Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

"Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

"Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

"Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

"Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties—

"Shall be fined not more than $5,000 or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

"This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district."

Another Reconstruction Era statute forbids the use of military troops as a posse comitatus:

18 U.S.C. § 1385:

"Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than $10,000 or imprisoned not more than two years, or both."

Finally, there are two specialized statutes. It was thought necessary to pass an Act of Congress to give the armed services some limited power to control prostitution near military bases, and an Act of Congress was required to enable a member of the Joint Chiefs of Staff to testify before Congress:

18 U.S.C. § 1384:

"Within such reasonable distance of any military or naval camp, station, fort, post, yard, base, cantonment, training or mobilization place as the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or any two or all of them shall determine to be needful to the efficiency, health, and welfare of the Army, the Navy, or the Air Force, and shall designate and publish in general orders or bulletins, whoever engages in prostitution or aids or abets prostitution or procures or solicits for purposes of prostitution, or keeps or sets up a house of ill fame, brothel, or bawdy house, or receives any person for purposes of lewdness, assignation, or prostitution into any vehicle, conveyance, place, structure, or building, or permits any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure, or building or leases or rents or contracts to lease or rent any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"The Secretaries of the Army, Navy, and Air Force and the Federal Security Administrator shall take such steps as they deem necessary to suppress and prevent such violations thereof, and shall accept the cooperation of the authorities of States and their counties, districts, and other political subdivisions in carrying out the purpose of this section.

"This section shall not be construed as conferring on the personnel of the Departments of the Army, Navy, or Air Force or the Federal Security Agency any authority to make criminal investigations, searches, seizures, or arrests of civilians charged with violations of this section."

10 U.S.C. § 141(e):

"After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he may consider appropriate."

APPENDIX II

Walter Lippmann gave the following account of his conversation with Churchill:

"The President's bringing General Westmoreland home in order to explain the war reminds me of an instructive afternoon spent during the Second World War. The country and the Congress were divided on the question of whether to strike first against Hitler or first against Japan. Churchill and Roosevelt had agreed on the policy of Hitler first. But there were large and powerful groups in the country, many of them former isolationists in the sense that they were anti-European, who wanted to concentrate American forces on winning the war against Japan. Even the American chiefs of staff were divided on this question of high strategy.

"Churchill had come to Washington accompanied by the British chiefs of staff, to work out with President Roosevelt and the Administration, the general plan of the global war. One morning I had a telephone call from Sen. Austin, who was a strong believer in the Churchill-Roosevelt line. He said in effect, 'I know you are seeing the Prime Minister this afternoon and I wish you would ask him to tell his chiefs of staff to come to Congress and testify in favor of our strategical policy.' Quite innocently I said I would do this, and when Churchill received me that afternoon I began by saying that I had a message from Sen. Austin. 'Would the Prime Minister instruct his chiefs of staff to go to the Senate Foreign Relations Committee. . . .' I never finished the message. For the old lion let out a roar demanding to know why I was so ignorant of the British way of doing things that I could dare to suggest that a British general should address a parliamentary body.

"As I remember it, what he said was, 'I am the Minister of Defense and I, not the generals, will state the policy of His Majesty's government.'

"No one who ever aroused the wrath of Churchill is likely to forget it. I certainly have not forgotten it. I learned an indelible lesson about one of the elementary principles of democratic government. And therefore, I take a very sour view of a field commander being brought home by the President to educate the Congress and the American people."

Our military added political departments to their staffs. A Deputy Chief of Naval Operations, Military Policy Division, was first established in the Department of the Navy by Truman in 1945. In the Office of Secretary of Defense that was done by Truman in 1947, the appointee eventually becoming Assistant Secretary for International Security Affairs. A like office was established in 1961 in the Department of the Army by Kennedy and another for the Air Force in 1957 by Eisenhower. Thus when the Pentagon entered a Washington, D.C., conference, its four Secretaries of State faced the real Secretary of State and more frequently than not talked or stared him down. The Pentagon's secretaries of state usually spoke in unison; they were clear and decisive with no ifs, ands, and buts, and in policy conferences usually carried the day.

By 1968 the Pentagon was spending $34 million a year on non-military social and behavorial science research both at home and abroad. One related to "witchcraft, sorcery,

magic and other psychological phenomenon" in the Congo. Another concerned the "political influence of university students in Latin America." Other projects related to the skill of Korean women as divers, snake venoms in the Middle East, and the like. Research projects were going on for the Pentagon in 40 countries in sociology, psychology and behavorial sciences.

The department became so powerful that no President would dare crack down on it and try to regulate it.

The military approach to world affairs conditioned our thinking and our planning after World War II.

We did not realize that to millions of these people the difference between Communist dictatorship and the dictatorship under which they presently lived was one. We did not realize that in some regions of Asia it was the Communist party that identified itself with the so-called reform programs, the other parties being mere instruments for keeping a ruling class in power. We did not realize that in the eyes of millions of illiterates the choice between democracy and communism was not the critical choice it would be for us.

We talked about "saving democracy." But the real question in Asia, the Middle East, Africa, and Latin America was whether democracy would ever be born.

We forgot that democracy in most lands is an empty word. We asked illiterate people living at the subsistence level to furnish staging grounds for a military operation whose outcome, in their eyes, had no relation to their own welfare. Those who rejected our overtures must be communists, we said. Those who did not approve our military plans must be secretly aligning with Russia, we thought.

So it was that in underdeveloped areas we became identified not with ideas of freedom, but with bombs, planes, and tanks. We thought less and less in terms of defeating communism with programs of political action, more and more in terms of defeating communism with military might. Our foreign aid mounted; but nearly 70% of it was military aid.

Our fears mounted as the cold war increased in intensity. These fears had many manifestations. The communist threat inside the country was magnified and exalted far beyond its realities. Irresponsible talk fanned the flames. Accusations were loosely made. Character assassinations were common. Suspicion took the place of goodwill. We needed to debate with impunity and explore to the edges of problems. We needed to search to the horizon for answers to perplexing problems. We needed confidence in each other. But in the 40's, 50's, and 60's suspicions grew. Innocent acts became telltale marks of disloyalty. The coincidence that an idea paralleled Soviet Russia's policy for a moment of time settled an aura of doubt around a person.

APPENDIX III

Alexander I. Solzhenitsyn, the noted Soviet author, made the following statement March 30, 1972, concerning surveillance of him and his family (reported in the Washington Post, April 3, 1972):

. . . A kind of forbidden, contaminated zone has been created around my family, and to this day, there are people in Ryazan (where Solzhenitsyn used to live) who were dismissed from their jobs for having visited my house a few years ago. A corresponding member of the Academy of Sciences, T. Timofeyev, who is director of a Moscow institute, became so scared when he found out that a mathematician working under him was my wife that he dismissed her with unseemly haste, although this was just after she had given birth and contrary to all laws. . . .

It happens that an informant [for his new book on the history of prerevolutionary Russia] may meet with me. We work an hour or two and as soon as he leaves my house, he will be closely followed, as if he were a state criminal, and they will investigate his background, and then go on to find out who this man meets, and then, in turn, who that [next] person is meeting.

Of course they cannot do this with everyone. The state security people have their schedule, and their own profound reasoning. On some days, there is no surveillance at all, or only superficial surveillance. On other days they hang around, for example when Heinrich Boll came to see me [he is a German writer who recently visited Moscow]. They will put a car in front of each of the two approaches [to the courtyard of the apartment house where he stays in Moscow] with three men in each car—and they don't work only one shift. Then off they go after my visitors, or they trail people who leave on foot.

And if you consider that they listen around the clock to telephone conversations and conversations in my home, they analyze recording tapes and all correspondence, and then collect and compare all these data in some vast premises—and these people are not underlings—you cannot but be amazed that so many idlers in the prime of life and strength, who could be better occupied with productive work for the benefit of the fatherland, are busy with my friends and me, and keep inventing enemies.

FOOTNOTES

[1] I have expressed my doubts whether the "militia" loses its constitutional role by an Act of Congress which incorporates it in the armed services. *Drifka* v. *Brainard*, 89 Sup. Ct. Rep. 434.

[2] See Appendix I to this opinion.

[3] Farrand, Records of the Constitutional Convention (1911), p. 209.

[4] Even some actions of the Armed Services in regulating their own conduct may be properly subjected to judicial scrutiny. Those who are not yet in the Armed Services have the protection of the full panoply of the laws governing admission procedures, see, *e. g., McKart* v. *United States*, 395 U.S. 185; *Oestereich* v. *Selective Service Board*, 393 U.S. 233. Those in the service may use habeas corpus to test the jurisdiction of the Armed Services to try or detain them, see *e.g., Parisi* v. *Davidson*, 405 U.S. 34; *Noyd* v. *Bond*, 395 U.S. 683, 696 n. 8; *Reid* v. *Covert*, 354 U.S. 1; *Billings* v. *Truesdell*, 321 U.S. 542. And, those in the Armed Service may seek the protection of civilian, rather than military courts when charged with crimes not service-connected, *O'Callahan* v. *Parker*, 395 U.S. 258.

[5] The Bill of Rights and the Military, 37 N.Y.U.L. Rev. 181, 182, 193 (1962).

[6] The Federalist No. 41.

[7] Op. cit. n.5, *supra*, at 185.

[8] The Act of August 10, 1949, provides in § 202(c)(6):

"No provision of this Act shall be so construed as to prevent a Secretary of a military department or a member of the Joint Chiefs of Staff from presenting to the Congress, on his own initiative, after first so informing the Secretary of Defense, any recommendation relating to the Department of Defense that he may deem proper." See H. R. Rep. No. 1142, 81st Cong., 1st Sess., p. 18. This provision is now codified as 10 U.S.C. § 141(e).

[9] The full account is contained in Appendix II.

[10] Hearings, Subcommittee on Constitutional Rights, Sen. Jud. Committee, 92d Cong., 1st Sess., Feb. 23–25, March 2–4, 9–11, 15, 17 (1971).

[SUPREME COURT OF THE UNITED STATES. No. 71-288]

MELVIN R. LAIRD, SECRETARY OF DEFENSE, ET AL., PETITIONERS, v. ARLO TATUM ET AL.

On writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit.

[June 26, 1972]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE STEWART and MR. JUSTICE MARSHALL join, dissenting.

The Court of Appeals held that a justiciable controversy exists and that respondents have stated a claim upon which relief could be granted. 444 F. 2d 947, 958 (CADC 1971). I agree with Judge Wilkey, writing for the Court of Appeals, that this conclusion is compelled for the following reasons stated by him:

"[Respondents] contend that the *present existence of this system* of gathering and distributing information, allegedly far beyond the mission requirements of the Army, constitutes an impermissible burden on [respondents] and other persons similarly situated which exercises a *present inhibiting effect* on their full expression and utilization of their First Amendment rights of free speech, etc. The baleful effect, if there is one, is thus a present inhibition of lawful behavior and of First Amendment rights.

"Under this view of [respondents'] allegations, under justiciability standards it is the operation of the system itself which is the breach of the Army's duty toward [respondents] and other civilians. The case is therefore ripe for adjudication. Because the evil alleged in the Army intelligence system is that of overbreadth, *i. e.*, the collection of information not reasonably relevant to the Army's mission to suppress civil disorder, and because there is no indication that a better opportunity will later arise to test the constitutionality of the Army's action, the issue can be considered justiciable at this time." *Id.*, at 954–956 (emphasis in original) (footnotes omitted).

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"To the extent that the Army's argument against justiciability here includes the claim that [respondents] lack standing to bring this action, we cannot agree. If the Army's system does indeed derogate First Amendment values, the [respondents] are persons who are sufficiently affected to permit their complaint to be heard. The record shows that most if not all of the [respondents] and/or the organizations of which they are members have been the subject of Army surveillance reports and their names have appeared in the Army's records. Since this is precisely the injury of which [respondents] complain, they have standing to seek redress for that alleged injury in court and will provide the necessary adversary interest that is required by the standing doctrine, on the issue of whether the actions complained of do in fact inhibit the exercise of First Amendment rights. Nor should the fact that these particular persons are sufficiently uninhibited to bring this suit be any ground for objecting to their standing." *Id.*, at 954, n. 17.

Respondents may or may not be able to prove the case they allege. But I agree with the Court of Appeals that they are entitled to try. I would therefore affirm the remand to the District Court for a trial and determination of the issues specified by the Court of Appeals.

[U.S. Court of Appeals for the District of Columbia Circuit, No. 24,203]

ARLO TATUM, CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS, ET AL., APPELLANTS v. MELVIN R. LAIRD, SECRETARY OF DEFENSE, ET AL.

444 F.2d 947.

Appeal from the United States District Court for the District of Columbia.

Decided April 27, 1971.

Mr. Frank Askin, of the bar of the Supreme Court of New Jersey, *pro hac vice*, by special leave of Court, with whom *Messrs. Melvin L. Wulf* and *Lawrence Speiser* were on the brief, for appellants. *Mrs. Hope Beth Eastman* also entered an appearance for appellants.

Mr. Robert L. Keuch, Attorney, Department of Justice, with whom *Messrs. J. Walter Yeagley*, Assistant Attorney General at the time the brief was filed, *Kevin T. Maroney* and *George W. Calhoun*, Attorneys, Department of Justice, were on the brief, for appellees. *Mr. Benjamin Flannagan*, Attorney, Department of Justice, also entered an appearance for appellees.

Before TAMM, MACKINNON and WILKEY, *Circuit Judges*.

Opinion filed by WILKEY, *Circuit Judge*.

Opinion filed by MACKINNON, *Circuit Judge*, concurring in part and dissenting in part.

WILKEY, *Circuit Judge*: On 17 February 1970 appellants, on behalf of themselves and others similarly situated, filed suit challenging the legality of what appellants term "surveillance of lawful civilian political activity by the U.S. Army," which appellees describe as "gathering by lawful means, . . . maintaining and using in their intelligence activities, any information relating to potential or actual civil disturbances [or] street demonstrations." Appellants sought a declaratory judgment that the Army's present conduct is unconstitutional or otherwise illegal, concomitantly an injunction forbidding future similar activity, and the destruction of all such data hitherto illegally obtained. The United States District Court denied the requested relief and granted appellees' motion to dismiss on the basis of pleadings, affidavits, and oral argument, without testimony of witnesses.

Appellants claim that the Army's intelligence work involves undercover operations by military agents within the civilian community and organizations, maintenance of records at over a dozen regional and national record centers, and distribution to military units and to criminal investigative agencies of lists describing individuals and organizations who have publicly objected to governmental policies. Appellants claim that these domestic activities of the Army go far beyond any legitimate military need, exceed the Army's statutory authority, inhibit political participation and debate, and deprive appellants and others similarly situated of the constitutional rights guaranteed by the First, Fourth, Fifth and Ninth Amendments, *i.e.*, the right to free speech and association, and the right to petition the government for redress of grievances, and the right of privacy.

Appellees assert the constitutional and statutory authority and duty of the President to use such of the Armed Forces as he deems necessary to suppress any insurrection or domestic violence, and point to Defense Department directives regarding the planning for and employment of military resources in the event of civil disturbances, under which one of the responsibilities of the Army is to provide "essential planning, operational and intelligence data to the national military command center and to military service command centers on a timely basis to insure that the national command authorities and appropriate military service command authorities are adequately informed."

For reasons stated hereafter, we find that this court and the District Court have jurisdiction, that there is a justiciable controversy, and that appellants have stated a claim in relation thereto. We therefore remand the case to the District Court for ascertaining essential relevant facts and the determination thereupon of whether any rights of the appellants have been infringed by any actions of the appellees which may be proved.

I. JURISDICTION

Appellants' complaint in the District Court alleged jurisdiction to be based upon the existence of a federal question as contemplated by 28 U.S.C. § 1331 and the requisite $10,000 in controversy. On this appeal [1] the Government contests the allegation of jurisdictional amount, contending that:

"There is no evidence in the record that any of the plaintiffs have a claim in fact for any amount of money, much less a claim for an amount in excess of $10,000."

In response to this argument, appellants in essence admit that their claim is not capable of valuation in monetary terms, but argue essentially that where a challenge to a claimed deprivation of fundamental constitutional rights of intangible value is involved, the purposes for the jurisdictional amount requirement [2] are inapplicable and that such requirement should therefore not be applied to defeat federal jurisdiction. While there have been mounting expressions of judicial concern over this seeming gap, caused by the jurisdictional amount requirement, in the power of the federal courts to entertain federal question cases of this nature, we find it unnecessary to reach this question in the instant case.[3]

As we recently held in *Peoples* v. *United States Department of Agriculture*: [4]

"The District Court for the District of Columbia has an independent source of jurisdiction in the legislation, passed by Congress, and codified in the District of Columbia Code, 11 D.C. Code 521, which gives that court general equity jurisdiction, and venue where either party is a resident or found within the District of Columbia. This permits actions for declaratory judgment as well as injunction to be maintained against those whose office in the Federal Government establishes their official residence in the District. *Stark* v. *Wickard*, 321 U.S. 288, 64 S.Ct. 559, 88 L. Ed. 733 (1944); *Nestor* v. *Hershey*, 425 F.2d 504, at 521–523 (Dec. 16, 1969)." [5]

Furthermore, we note that since the Government did not contest the existence of the alleged jurisdictional amount in the District Court, appellants had no opportunity to attempt to sustain their allegation that $10,000 was in controversy, an endeavor at which they might well be successful under the doctrine that, particularly where purely injunctive relief is sought, the amount in controversy may be measured by either "the value of the right sought to be gained by the plaintiff. . . . [or] the cost [of enforcing that right] to the defendant. . . ." [6] In the instant case, it seems likely that if all the relief sought by appellants were granted, including enjoining the operation of the Army's civilian intelligence system and the production and destruction of all records pertaining thereto "maintained by any and all military agencies within the United States and overseas," the cost to the Army of complying with such a decree might well exceed $10,000.

Thus even apart from the applicability of 11 D.C. Code § 521, since we have found as detailed subsequently that appellants have otherwise stated an adequate and justiciable claim for relief, we would be constrained to permit appellants on remand the opportunity to meet their burden of satisfying the District Court that the requisite amount is in controversy.[7]

For the foregoing reasons we reject the Government's claim that the dismissal should be affirmed for lack of subject matter jurisdiction.[8]

II. JUSTICIABLE CONTROVERSY

In recent years the Army and the National Guard have been called upon to act to preserve domestic peace against violent protests leading to civil disorders, a role for the military which was not unforeseen in our Constitution.[9] Many violent protests were aimed directly at military functions and installations themselves, as in ransacking Selective Service offices, barring troop and supply trains by prostrate bodies on the tracks, unlawful attempts to enter military bases or demonstrations thereon and harassment of defense-oriented businesses. In executing other missions the Army confronted riotous mobs protesting matters unrelated to military operations, for example, the tragic riots in Detroit, Newark, and other of our large cities. During the period 1967–68 the National Guard was called upon eighty-three times and the Army four times to quell cases of civil disorder.

While these statistics relate to the period of civil disorders during which the Army operated the intelligence system which appellants complain violated their rights, we also note that in the period beginning with the use of the Army paratroops at Little Rock in 1957 the Army has been called upon under related constitutional and statutory provisions to preserve civil peace in order that certain groups might exercise their constitutional rights. The moral of this is that no matter who the persons or groups are giving voice to their protests against the established order, civil disturbance of one kind or another is likely to ensue; and irrespective of the content or cause of the protest, the military need certain intelligence information to perform their mission "to enforce the laws of the United States" or "suppress . . . insurrection." [10]

In performing this type function the Army is essentially a police force or the back-up of a local police force. To quell disturbances or to prevent further disturbances the Army needs the same tools and, most importantly, the same information to which local police forces have access. Since the Army is sent into territory almost invariably unfamiliar to most soldiers and their commanders, their need for information is likely to be greater than that of the hometown policeman.

No logical argument can be made for compelling the military to use *blind* force. When force is employed it should be intelligently directed, and this depends upon having reliable information—in time. As Chief Justice John Marshall said of Washington, "A general must be governed by his intelligence and must regulate his measures by his information. It is his duty to obtain correct information; . . ." [11] So we take it as undeniable that the military, *i.e.*, the Army, need a certain amount of information in order to perform their constitutional and statutory missions.[12] The questions are what type of information the military need, how they should go about obtaining it, when they need it, and whether what the Army has done here has infringed any of appellants' rights.

So much for the military's mission and intelligence necessity. As for appellants' contention that their rights, constitutional or otherwise, have been infringed, they have some difficulty in establishing visible injury, at least on this incomplete record. Appellants freely admit that they complain of no specific action of the Army against them, only the existence and operation of the intelligence gathering and distributing system, which is confined to the Army and related civilian investigative agencies. There is no evidence of illegal or unlawful surveillance activities. We are not cited to any clandestine intrusion by a military agent. So far as is yet shown, the information gathered is nothing more than a good newspaper reporter would be able to gather by attendance at public meetings and the clipping of articles from publications available on any newsstand.

Thus the instant case, at this juncture, involves no concrete, identifiable sanctions, no compelled self-identification (except to the extent that the Army may attend meetings thought to be for a faithful few), and no threat of publication. Turning to the authorities claimed to be relevant here, virtually all of the First Amendment cases cited where government activity was enjoined or struck down fall into one of three categories:

(1) Cases where some legal or criminal

Footnotes at end of article.

sanction was imposed or threatened to be imposed on persons who exercised their First Amendment rights.[13]

(2) Cases involving some element of government compulsion, either to testify regarding one's political ideas or beliefs, or to identify oneself in order to exercise First Amendment rights.[14]

(3) Situations where the Government threatens to publicize the names of allegedly politically controversial persons for the purpose of inhibiting the exercise of their first Amendment rights.[15]

In view of the distinctions in this case from prior decisions, appellees argue that no justiciable controversy exists, *i.e.*, that nothing has been done, that nothing is contemplated to be done, and even if some action by the Army against appellants were possibly foreseeable, such would not present a presently justiciable controversy.

This position of the appellees does not accord full measure to the rather unique argument advanced by appellants. While appellants do indeed argue that in the future it is possible that information relating to matters far beyond the responsibilities of the military may be misused by the military to the detriment of these civilian appellants, yet appellants do not attempt to establish this as a definitely foreseeable event, or to base their complaint on this ground. Rather, appellants contend that the *present existence of this system* of gathering and distributing information, allegedly far beyond the mission requirements of the Army, constitutes an impermissible burden on appellants and other persons similarly situated which exercises a *present inhibiting effect* on their full expression and utilization of their First Amendment rights of free speech, etc. The baleful effect, if there is one, is thus a present inhibition of lawful behavior and of First Amendment rights.[16]

Under this view of appellant's allegations, under justiciability standards[17] it is the operation of the system itself which is the breach of the Army's duty toward appellants and other civilians.[18] The case is therefore ripe for adjudication. Because the evil alleged in the Army intelligence system is that of overbreadth, *i.e.*, the collection of information not reasonably relevant to the Army's mission to suppress civil disorder,[19] and because there is no indication that a better opportunity will later arise to test the constitutionality of the Army's action, the issue can be considered justiciable at this time.

Only recently this court decided *Davis* v. *Ichord*, in which an attack was made on the maintenance and potential use of files on political dissenters by the House Internal Security Committee. This court there held that no case or controversy was presented because the appellants had failed to establish standing to attack the present use of the files and did not show any concrete indication that the Committee's files would be used against anyone in the future. Nevertheless, this court in *Davis* did indicate that "among the considerations pertinent to determining the existence of a chilling effect upon the exercise of First Amendment rights which give rise to a case or controversy are the *source of the chill*, the extent to which it focuses upon the conduct of those who allege it, and the likelihood that it will affect that conduct." The court in *Davis* was concerned with the "source of the chill" in order to determine whether the threat of *future* injury was sufficiently substantial to provide the necessary ripeness to the controversy.

Nevertheless, in view of this country's long-established tradition against military involvement in civilian politics, we think it significant that here the "source of the chill" is the Army, as opposed to the situation in *Davis* where the House Committee could point to a legal basis for the collection of such files pursuant to its designated function to investigate propaganda. We think the Army has a legal basis for the collection of intelligence information relevant to its constitutional and statutory mission, but on the record before us we cannot say that the intelligence system as designed and operated does not go beyond that which would be justified by the Army's mission. The Army system here is apparently of a much broader scope than the files involved in *Davis*, and we held in *National Student Association* v. *Hershey*[20] that "the severity and scope of the alleged chilling effect on First Amendment freedoms" is a factor to be considered in determining justiciability. It is arguable that the existence of a system with the broad scope as alleged by appellants would affect the conduct of persons in the class that appellants claim to represent.[21]

Referring to our holding in *Davis* that the "source of the chill" is important in determining whether there is any inhibiting effect on the exercise of First Amendment rights, we think that there is a significant difference between investigative actions taken by a military agency in reference to civilians and similar investigative actions taken by a regular investigative agency of a civilian branch of the Government.[22]

One of the functions of a civilian investigative agency, such as the Federal Bureau of Investigation, is to compile information on law violators; agitators of violence, and possible subversives. It has always been recognized that this is a delicate function, and it is exercised under the direction of the Attorney General. Investigation is performed by men a majority of whom are lawyers or who have had considerable legal training, under the direction of lawyers in the Justice Department, and the information compiled is only usable and effective through court action. The FBI is powerless to imprison anyone or to affect his liberty in any way except through the action of the courts.

The Army or other military, in contrast, are not concerned with law violations. And, in sharp distinction to the FBI and other investigative agencies, they definitely command their own force to exercise at the will of their own commanders. The military are not accustomed to effecting their will through courts and legal processes. Indeed, the employment of military personnel in civil disorders itself implies at least a partial breakdown of law and order, a breakdown of normal processes of law through courts.

The compilation of data by a civilian investigative agency is thus not the threat to civil liberties or the deterrent on the exercise of the constitutional right of free speech that such action by the military is, because a civil investigative agency has no inherent power to act against an individual, that power always being subject to the well-defined restrictions of law and the approval of the courts. The military have no such restrictions; they have their own force (of incomparable power), they have their own commanders trained as soldiers not lawyers, the military's vast size may make civilian control of individual or small unit actions more theoretical than actual, and the military is not accustomed to operating within the restrictions of law and the processes of courts.[23]

It is highly important for the safety of the country that to the extent consonant with the performance of the military's mission a separation of sensitive information and military power be maintained, as a separation of match and powder. In an emergency or anticipation of an emergency the military power can be supplied the necessary information from civilian investigative agencies; these two ingredients, potentially dangerous when combined, can be put together by a responsible President and his Cabinet officers as the emergency demands. But to permit the military to exercise a totally unrestricted investigative function in regard to civilians, divorced from the normal restrictions of legal process and the courts, and necessarily coupling sensitive information with military power, could create a dangerous situation in the Republic.

The appellants have not had an opportunity to establish (and may never establish) their far-sweeping claims as to the character of the information gathered and the operation of the system established by the Army. We were informed by appellees' counsel on oral argument that on 6 March 1970 the Secretary of the Army by directive to the Chief of Staff limited the intelligence activities here complained of and directed the personnel responsible to concentrate on the more important and likely sources and locales of violence. Apparently in the judgment of the civilian head of the Army not everything being done in the operation of this intelligence system was necessary to the performance of the military mission. If the Secretary of the Army can formulate and implement such judgment based on facts within his Departmental knowledge, the United States District Court can hear evidence, ascertain the facts, and decide what, if any, further restrictions on the complained-of activities are called for to confine the military to their legitimate sphere of activity and to protect appellants' allegedly infringed constitutional rights. Appellants have, therefore, stated a claim upon which relief can be granted.

III. REMAND

Having found that this court and the District Court have jurisdiction, that a justiciable controversy exists, and that appellants have stated a claim upon which relief could be granted, we think the record now before us is much too incomplete for a court to determine the ultimate questions of whether the Army has infringed any rights of the appellants and whether appellants are entitled to any injunctive relief. We therefore remand the case to the District Court for the determination of the following principal (and any related) points:

1. The nature of the Army domestic intelligence system made the subject of appellants' complaint, specifically the extent of the system, the methods of gathering the information, its content and substance, the methods of retention and distribution, and the recipients of the information.

2. What part, if any, of the Army domestic intelligence gathering system is unrelated to or not reasonably necessary to the performance of the mission as defined by the Constitution, statutes, military regulations, and as interpreted by actions under those written definitions of the mission.[24]

3. Whether the existence of any overbroad aspects of the intelligence gathering system, as determined above, has or might have an inhibiting effect on appellants or others similarly situated.

4. Such relief as called for in accordance with the above established law and facts.

Reversed and Remanded.

FOOTNOTES

[1] No claim of lack of subject matter jurisdiction was raised in the Government's motion to dismiss in the District Court. This, of course, is no bar to the raising of the issue on appeal. *Louisville & Nashville R.R.* v. *Mottley*, 211 U.S. 149 (1908).

[2] The purposes of the jurisdictional amount requirement are, appellants assert, twofold: first, the promotion of federalism by confining federal courts strictly within the limits of their jurisdiction as prescribed by Congress; and, second, the avoidance of consuming the resources of the federal courts in the resolving of "petty" controversies. *See Healy* v. *Ratta*, 292 U.S. 263 (1934), and S. Rep. No. 1830, 85th Cong., 2d Sess. (1958). Neither of these purposes, appellants insist, would be served by denying jurisdiction in the instant case.

Footnotes at end of article.

[3] *See Wolff* v. *Selective Service Local Board No. 16*, 372 F.2d 817, 826 (2d Cir. 1967); *Fein v. Selective Service System Local Board No. 7*, 430 F.2d 376, 380 (2d Cir. 1970) (dissenting opinion); *Giancana* v. *Johnson*, 335 F. 2d 366, 371 (7th Cir. 1965) (dissenting opinion); *Murray* v. *Vaughn*, 300 F. Supp. 688 (D.R.I. 1969); *Boyd* v. *Clark*, 287 F. Supp. 561, 567 (S.D.N.Y. 1968) (dissenting opinion). The American Law Institute has recommended the abolition of the amount in controversy requirement in federal question cases precisely because:

The few cases there are . . . that must satisfy the § 1331 requirement are likely to involve matters particularly deserving of a federal forum. . . . Cases in which the plaintiff claims violation of his constitutional rights by action of a federal official warrant federal cognizance without the need of demonstrating that the requisite amount is in controversy.

ALI, Study of the Division of Jurisdiction Between State and Federal Courts, 172 (1969). *See also* C. WRIGHT, FEDERAL COURTS, § 32 at 110 (1969); Currie, *The Federal Courts and the American Law Institute* (Part II), 36 U. CHI. L. REV. 268, 292 (1969).

[4] 138 U.S. App. D.C. 291, 294, 427, F. 2d 561, 564 (1970).

[5] Where a suit seeks equitable relief, and no claim involving personal property, or for debt or damages is made, the District Court for the District of Columbia has "original jurisdiction" without regard for the amount in controversy. See *Norden* v. *Royall*, 90 F. Supp. 834, 835 (D.D.C. 1949); *Paton* v. *District of Columbia*, 180 A. 2d 844 (D.C. Mun. App. 1962); *Friedman* v. *District of Columbia*, 155 A. 2d 521 (D.C. Mun. App. 1959); Byse & Fiocca, *"Nonstatutory" Judicial Revenue of Federal Administrative Action*, 81 HARV. L. REV. 308, 325 (1967); 11 D.C. Code §§ 521, 961. Of course, when the District Court entertains such a suit it is exercising powers analogous to those of a state court of general jurisdiction. *Western Urn Mfg. Co.* v. *American Pipe and Steel Corp.*, 109 U.S. App. D.C. 145, 284 F. 2d 279 (1960); *King* v. *Wall & Beaver Street Corp.*, 79 U.S. App. D.C. 234, 145 F. 2d 377 (1944); *Boardman* v. *Martocchia*, 216 F. Supp. 830 (D.D.C. 1963). And it is unclear whether such a state court would have the power to issue an injunction against a federal officer. *See Arnold, The Power of State Court to Enjoin Federal Officers*, 73 YALE L. J. 1385, 1964). Nevertheless, it is clear that the reasons creating the doubt as to state courts' power in this respect, stemming from considerations of federal supremacy, do not apply to the District Court for the District of Columbia, which is itself a constitutionally based Article III federal court, albeit one additionally endowed with unique general powers, pursuant to Article I, § 8. *See O'Donoghue* v. *United States*, 289 U.S. 516 (1933).

The foregoing analysis is not affected by the enactment of the District of Columbia Court Reform and Criminal Procedure Act of 1970, Pub. L. No. 91–358 (29 July 1970) 84 Stat. 473, Title I of which establishes the new Superior Court of the District of Columbia as a court of general jurisdiction equivalent to a state court of similar powers. The instant suit was filed before the 1 February 1971 effective date of the new Act, and therefore properly remains within the jurisdiction of the United States District Court as provided by prior law. District of Columbia Court Reorganization Act of 1970, § 111, 84 Stat. 476, to be codified as D.C. *Code Ann* § 11–501 (1). *See Williams, District of Columbia Court Reorganization, 1970*, 59 GEO., L. J. 483, 540–542 (1971).

[6] *Hedberg* v. *State Farm Mutual Automobile Ins. Co.*, 350 F. 2d 924 (8th Cir. 1965) (Blackmun, J.) (dictum). A succinct and oft-quoted statement of this doctrine was put forth by the 10th Circuit in *Ronzio* v. *Denver & R. G. W. R.R.*, 116 F.2d 604, 606 (10th Cir. 1940), as follows:

"In determining the matter in controversy, we may look to the object sought to be accomplished by the plaintiffs' complaint; the test for determining the amount in controversy is the pecuniary result to either party which the judgment would directly produce."

See Hatridge v. *Aetna Casualty & Surety Co.*, 415 F.2d 809, 814–16 (8th Cir. 1969). *Compare* C. WRIGHT, FEDERAL COURTS, § 34, 117–19 (1969), where the rule allowing the cost to the defendant to be considered is stated to be the "desirable" one, *with* J. MOORE, FEDERAL PRACTICE ¶ 0.91[1] (2d ed, 1964), where the rule is characterized as "contrary" to the prevailing view. While the Supreme Court has never directly passed on this question, *compare St. Paul Indemnity Co.* v. *Red Cab Co.*, 303 U.S. 283 (1938), *with Horton* v. *Liberty Mutual Ins. Co.*, 367 U.S. 348 (1961), a number of lower federal courts have permitted the cost to the defendant to control the jurisdictional amount issue, *see* cases cited in WRIGHT and MOORE, *supra*. And the Supreme Court's willingness to entertain, without discussion of the jurisdictional basis, the appeal of a federal taxpayer seeking to enjoin the operation of portions of the federal Elementary and Secondary Education Act of 1965 as violating the Establishment and Free Exercise Clauses of the First Amendment, *Flast* v. *Cohen*, 392 U.S. 83 (1968), may well be indicative of the Court's view that jurisdictional amount may appropriately be established from the defendant's viewpoint in certain cases. The Court in *Flast*, in its discussion of the standing issue, noted that "the challenged program involves a substantial expenditure of federal tax funds," 392 U.S. at 103, while nowhere mentioning any alleged monetary value of the plaintiff's claim.

[7] *McNutt* v. *General Motors Acceptance Corp.*, 298 U.S. 178 (1935). In establishing that the amount in controversy exceeds $10,000, "[a]bsolute certainty . . . is not essential. . . . Present probability that [the cost to the defendant] will exceed that sum is enough," *Friedman* v. *International Association of Machinists*, 95 U.S. App. D.C. 128, 220 F.2d 808 (1955).

[8] Appellants' complaint did not refer to 11 D.C. CODE § 521 as a basis for jurisdiction of their claim. However, at argument, appellants moved pursuant to 28 U.S.C. § 1653 to amend their complaint to include § 521 in their jurisdictional allegations. Section 1653 provides as follows: "Defective allegations of jurisdiction may be amended, upon terms, in the trial or appellate courts." Under this section, "either this Court or the District Court on remand, has power to permit amendment to avoid dismissal under jurisdictional grounds." *Jones* v. *Freeman*, 400 F.2d 383, 387 (8th Cir. 1968). The statute is to be construed liberally in accordance with the congressional intent to provide a means for avoiding the dismissal of suits on technical grounds, *John Birch Society* v. *National Broadcasting Co.*, 377 F.2d 194 (2d Cir. 1967); *Moore* v. *Coats Co.*, 270 F.2d 410 (3rd Cir. 1959). Accordingly, we direct that upon remand of this action appellants be permitted to amend their complaint to allege jurisdiction resting upon 11 D.C. Code § 521.

[9] U.S. CONST. art. I, § 8, cl. 14, 15, 16; art II, § 2, cl. 1; art. 4, § 4. Article I, § 8 assigns the Power to Congress to define the role of the military in national affairs. The military must therefore confine its activities to those necessary to carry out its functions provided by statute.

[10] 10 U.S.C. §§ 331, 332, 333 (1964). We note, however, that the operation of the intelligence system challenged herein is not sought to be justified by any need to obtain information for the use of the National Guard. At oral argument appellees admitted that no such information has been provided to the Guard on the occasions of its deployment during 1967–68, and would not be provided unless the Guard were called into federal service. With respect to the use of the Guard in Federal service, article 1, § 8, cl. 15 of the Constitution empowers Congress "To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions."

[11] Foreword, U.S. ARMY BASIC FIELD MANUAL, Vol. X, circa 1938.

[12] The President's National Advisory Commission on Civil Disorders recommended:

Intelligence—The absence of accurate information both before and during a disorder has created special control problems for police. Police departments must develop means to obtain adequate intelligence for planning purposes, as well as on-the-scene information for use in police operations during a disorder.

[13] *E.g., United States* v. *Robel*, 389 U.S. 258 (1967) (criminal prosecution or loss of employment); *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965) (criminal prosecution); *NAACP* v. *Button*, 371 U.S. 415 (1963) (criminal prosecution, disbarment); *National Student Association* v. *Hershey*, 134 U.S. App. D.C. 56, 412 F. 2d 1103 (1969) (draft reclassification).

[14] *E.g., Lamont* v. *Postmaster General*, 381 U.S. 301 (1965) (compelling affirmative act of requesting delivery of mail thought by the Post Office to be communist propaganda); *Talley* v. *California*, 362 U.S. 60 (1960) (requiring identity on political handbill); *NAACP* v. *Alabama*, 357 U.S. 449 (1958) (requiring filing of membership lists); *Sweezy* v. *New Hampshire*, 354 U.S. 234 (1957), and *Watkins* v. *United States*, 354 U.S. 178 (1957) (compelling testimony).

[15] *Hentoff* v. *Ichord*, 318 F. Supp. 1175 (D.D.C. 1970).

[16] "The peculiar feature of suits alleging a First Amendment chilling effect . . . is that if the allegation is correct, immediate and real injury is done to the plaintiff's interest if he *does not* speak or act as he says he wants to." *National Student Association* v. *Hershey*, 134 U.S. App. D.C. 56, 64, 412 F. 2d 1103, 1111 (1969). If the Army's intelligence system causes such injury it may be enjoined if the system in operation exceeds the authority granted by Congress, *see Kent v. Dulles*, 357 U.S. 116 (1958) and notes 9 and 10, *supra*, or, if within its statutory authority, it nevertheless creates more than an "incidental" burden on First Amendment Rights, and thus violates the Constitution. *See United States v. O'Brien*, 391 U.S. 367, 376 (1968).

[17] To "allege the sort of 'case' or 'controversy' referred to in Article III of the Constitution, the source of jurisdiction of the federal courts, . . . the complaint must show that there exists a controversy between the parties with such immediacy and presently adversary character as to require its adjudication." *Davis* v. *Ichord*, No. 23,426 (D.C. Cir. 20 Aug. 1970).

To the extent that the Army's argument against justiciability here includes the claim that appellants lack standing to bring this action, we cannot agree. If the Army's system does indeed derogate First Amendment values, the appellants are persons who are sufficiently affected to permit their complaint to be heard. The record shows that most if not all of the appellants and/or the organizations of which they are members have been the subject of Army surveillance reports and their names have appeared in the Army's records. Since this is precisely the injury of which appellants complain, they have standing to seek redress for that alleged injury in court and will provide the necessary adversary interest that is required by the standing doctrine, on the issue of whether the actions complained of do in fact inhibit the exercise of First Amendment rights. Nor should the fact that these particular persons are sufficiently uninhibited to bring this suit be any ground for objecting to their standing. *See*

N.A.A.C.P. v. Alabama, 357 U.S. 449, 459 (1958); *Anderson* v. *Sills*, 56 N.J. 210, 265 A.2d 678, 684 (1970).

Nor does the recent group of Supreme Court decisions limiting the situations in which federal courts may enjoin court criminal proceedings require a different result. *See Younger* v. *Harris*, —— U.S. —— (1971) (39 U.S.L.W. 4201), *Boyle* v. *Landry*, —— U.S. —— (1971) (39 U.S.L.W. 4207) (23 Feb. 1971), and related cases decided the same day. Those cases rest firmly on concepts of Federalism and comity not present in the instant appeal. In *Younger* where certain of the plaintiffs sought standing to attack alleged unconstitutional state statutes on First Amendment grounds, because they claimed to "feel inhibited" by the existence of such laws, the Court stated:

"We do not think this allegation, even if true, is sufficient to bring the equitable jurisdiction of the federal courts into play to *enjoin a pending state prosecution*. A federal lawsuit to stop a prosecution in a state court is a serious matter. And persons having no fears of state prosecution except those that are imaginary or speculative, are not to be accepted as appropriate plaintiffs *in such cases*." (Emphasis added.)

The Court went on to hold that even one who has been indicted under a constitutionally suspect state law may not ordinarily seek federal injunctive relief because of the "long standing public policy against federal court interference with state court proceedings . . . ." And in *Boyle*, where "[n]ot a single one of the citizens who brought [the] action had ever been prosecuted, charged, or even arrested under the particular . . . statute which the court below held unconstitutional," the Supreme Court relied on its discussion of the requirements of Federalism in *Younger* to conclude that—

"The normal course of state criminal prosecutions cannot be disrupted or blocked on the basis of charges which in the last analysis amount to nothing more than speculation about the future. *The policy of a century and a half against interference by the federal courts with state law enforcement* is not to be set aside on such flimsey allegations as those relied upon here." (Emphasis added.)

Aside from the fact that, as we have related *supra*, appellants here complain of present injury and not merely speculative future injury, we are not faced in this case with any considerations similar to the policy against federal interference in state court actions which the Supreme Court found controlling in *Younger* and *Boyle*. Furthermore, and highly important here, appellants do not have the "adequate remedy at law" available to the plaintiffs in *Younger* and *Boyle*, in the form of the opportunity to present their constitutional claims to the state court, which the Supreme Court also relied on as a basis for restricting the exercise of federal equitable jurisdiction in such cases.

[18] The analysis of justiciability questions in terms of whether there has been a breach of a judicially identifiable "duty" stems from the Supreme Court's discussion in *Baker* v. *Carr*, 369 U.S. 186, 198 (1962), and *Powell* v. *McCormack*, 395 U.S. 486, 517 (1969). In the latter case the Court, quoting in part from *Baker*, said:

"In deciding whether a claim is justiciable, a court must determine whether 'the duty asserted can be judicially identified and its breach judicially determined, and whether protection for the right asserted can be judicially molded.'"

The Army has both a duty not to exceed its statutory authority and not to infringe first Amendment rights. Appellants claim the Army is doing both; their claim is therefore now justiciable, since "the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interests of sufficient immediacy and reality to warrant" judicial resolution. *Golden* v. *Zwickler*, 394 U.S. 103, 108 (1969), quoting from *Maryland Casualty Co.* v. *Pacific Oil Co.*, 312 U.S. 270, 273 (1941). That the Army has a legitimate need for certain information need not be denied. The claim here is that in the operation of its intelligence system the Army has gone beyond any legitimate need for information, and in doing so has created a present chilling effect on the "transcendent" values enshrined in the First Amendment. *Dombrowski* v. *Pfister*, 380 U.S. 479, 486 (1965). *See* note, *The Chilling Effect in Constitutional Law*, 69 COLUM. L. REV. 808, 809 (1969) for a discussion of the "substantive" significance of the chilling effect doctrine as relied upon by appellants here. The "judicial determination" of this alleged breach of duty is attainable by identifying those areas in which the Army's activity goes beyond that reasonably relevant to its statutory mission requirements, assuming, of course, that limitation of the Army's system to the extent found reasonably relevant to its civil disorder mission would not itself represent a significant intrusion into the protected First Amendment area. *Cf. United States* v. *O'Brien*, 391 U.S. 367, 376 (1968). That this latter assumption is likely to be valid is seen from documents in this record indicating that the Army may have modified its policy and now views its information requirements as limited to "reports concerning outbreaks of violence or incidents with a high potential for violence beyond the capability of state and local police and the National Guard to control." Letter from Under Secretary of the Army Thaddeus R. Beal to Senator Sam J. Ervin, 20 March 1970 (App. 84, 88). In spite of this recent self-limitation, however, appellants have alleged the actual operation of a system of much broader scope and, further, that previously collected information is still retained in various Army files. We therefore think that the appellants should be allowed to develop fully their contention that the Army collects and maintains information on civilian political activity in excess of its mission requirements, and the Army should have the opportunity to show the relevance of its intelligence data to its civil disorder mission.

[19] "The free exercise of First Amendment rights is perhaps more readily inhibited by a [policy] justifiably suspect as vague or overbroad, because of the uncertainty of its application. . . ." *Davis* v. *Ichord*, No. 23,426 (D.C. Cir. 20 Aug. 1970) (slip op., at 14).

[20] 134 U.S. App. D.C. 56, 68, 412 F.2d 1103, 1115 (1969).

[21] The dissent suggests that the instant suit may not be appropriate for treatment as a class action under Rule 23, Fed. R. Civ. P. While we recognize that the nature of the appellants' claims and the potentially large number of persons they propose to represent pose difficult questions as to the amenability of their claims to Rule 23 treatment, this question was not considered by the trial court, has not been argued by the parties, and is not presented in the instant appeal. We therefore do not pass on it here. On remand, the trial court will have the opportunity, illuminated by the arguments of the parties, to determine to what extent the class treatment of appellants' claims is appropriate. In this connection we note the considerable flexibility afforded the trial judge under Rule 23 to treat the suit as a partial class action (Rule 23(c)(4)(A)), establish subclasses (Rule 23(c)(4)(B)), and to defer final decision on class action issues until after discovery or further development of the factual bases for the claims alleged. *See* 3B J. MOORE, FEDERAL PRACTICE, ¶ 23.45[1] at 23–707 (1969). This latter course would seem particularly appropriate here, where because of the very nature of the system alleged to be the cause of the complained of injury, the full facts with respect to the scope of its operation and the numbers of persons affected thereby, are, at the present state of the proceedings, primarily within the exclusive knowledge of the defendants.

We further note, in response to the concerns expressed by the dissent, that the fact that a proposed class contains a great number of members does not itself necessarily preclude class action treatment, *Eisen v. Carlisle & Jacquelin*, 391 F.2d 555 (2d Cir. 1968), nor, in suits seeking injunctive or declaratory relief, is the court necessarily required to look into the particular circumstances of each member of the proposed class in determining whether class action treatment is appropriate. *Norwalk CORE v. Norwalk Redevelopment Agency*, 395 F.2d 920, 937 (2d Cir. 1968).

[22] On oral argument counsel for appellants admitted that there is a material difference in the impact of the same intelligence gathering and distribution, depending on whether it is performed by the military or by civilian investigative agencies such as the FBI. Counsel was unwilling to concede that, as to content, any of the information complained of could be compiled by either type agency, not even to the extent of compiling a list of previously convicted fomenters of civil disturbance; and as to time, counsel asserted that such information as was compiled should be given on the spot to the military force by a civilian agency. So extreme a limitation on the gathering and timely dissemination of any information would render it useless.

[23] *Cf. National Student Association* v. *Hershey*, 134 U.S. App. D.C. 56, 71, 412 F.2d 1103, 1118 (1969), where, in a suit challenging a Selective Service policy as inhibitive of First Amendment rights we said:

"It is no reflection on the competence or integrity of selective service personnel to observe that they are ill-equipped to determine questions of law as delicate and complex as those commonly raised by anti-war protest activity. Draft boards do not employ judicial procedures, and their members often have no legal training. Rightly or not, registrants are also likely to have less confidence in the constitutional sensitivity of their draft board, especially in the area of war dissent, than in that of the prosecutor and the courts."

[24] *Cf. Anderson* v. *Sills*, 56 N.J. 210, 265 A.2d 678, 689 (1970), where the New Jersey Supreme Court reversed a lower court decision enjoining the statewide operation of a civil disorder intelligence system by the New Jersey State Police. The court there held that the operation of the intelligence system was at least partly pursuant to a valid governmental interest and should not have been enjoined by the trial court in a summary judgment proceeding. Rather, the court held that a full hearing should be conducted to determine whether the scope of the challenged intelligence system was overbroad in view of both the legitimate state interest in collecting information for planning for and preventing civil disorders and the possible burden on the exercise of First Amendment freedoms involved. With regard to its remand order, the court stated:

"In short, if it should be found that the police are gathering information which they could not reasonably believe to be relevant to the police function . . . and that circumstances warrant judicial intervention on that account, the injunctive order must be precisely limited to the offending material or practice. The order must not interfere with police activity that is proper, either in direct terms or because of the vagueness of the restraint."

A similar evaluation must be made in the instant case, with due account given to the differences in function and role between the police and the Army, in dealing with and seeking to prevent civil disorder, and relief, if any, should be appropriately tailored so as not to interfere with legitimate Army activity.

MACKINNON, *Circuit Judge*, concurring in part and dissenting in part: While I concur in many of the pronouncements in the majority opinion I respectfully dissent from the result. My opinion is based on the facts of the case which emerge from the pleadings, affidavits and the admissions made to the trial court. In the hearing before the trial judge, counsel admitted that in the facts upon which they based their complaint the named plaintiffs were not aggrieved by acts of the appelles:

"Our Plaintiffs this morning, for example, are *not people, obviously, who are cowed and chilled;* they've come into Court, but they have to represent millions of Americans not nearly as forward, as courageous, as willing as them to open themselves up to public investigation and public scrutiny. We're not—you know, every citizen is not a Tom Payne; they're few and far between." Tr. 17 (emphasis added).

This admission that the governmental activities they attack did not cause any substantial infringement of their constitutional rights constitutes a basic denial of practically their whole case. There still remains the allegation that the existence of the files and information operates to deny them their constitutional right of association with others who are chilled, but the chill to this amorphous group in turn is grounded in the unrealistic and speculative fear that the Government will improperly use the information against them.[1] The critical information relates to reports of public activities of individuals who *publicly* participate in gatherings and demonstrations which tend to civil disorders and in related activities.[2] Appellees gathered this information from public sources and open meetings in much the same manner that newspapers cull information. However, there is one difference, *i.e.*, the newspapers publish much of the information they obtain, whereas the Army merely retains it for possible use by it in the future and this may not necessarily include any publication of the information. Such information is intended to be used to help suppress civil disorders in the event the military are called out in conformance with statute[3] for that purpose. Other obvious proper uses by the Army for such information may be judically noticed from public incidents of the period and would include helping prevent and solve crimes involving destruction, threat of destruction, or theft of military draft records, military supplies, military research and other Government property and facilities at draft centers, armories, military bases, forts, arsenals, military training centers and military suppliers and research centers operating under military contract.

In the instant complaint there are no allegations or claims that any of the information gathered by the Army has been used in a manner that has injured plaintiffs or imposed on them any penalty attributable to their exercise of their First Amendment rights. In fact, appellants acknowledge in their brief that the uses to which the collected information might be put by the Army are *unknown*:

"In the case at bar there is something more subtle at stake than the threat of prosecution and criminal sanctions present in *Dombrowski, supra*. There is a threat of *unknown* surveillance, *unknown* purpose, and *unknown* future use of the information gathered and recorded in connection with the defendants' civilian intelligence network. *This creates a substantial chilling effect upon the free and uninhibited exercise of First Amendment rights.*" (Emphasis added) (App. br. p. 40).

Such indefinite and abstract assertions of amorphous fears do not present a case involving facts of a concrete nature. Appellants' admission, *supra*, that the "threat" of which they complain is "unknown," as the latter word is used by appellants, means that the threat is

"Not knowable . . . cannot be comprehended . . . beyond the limits of human experience, or of human powers of apprehension or understanding." *Webster's International Dictionary* (2d ed.)

Such indefinite claims of highly visionary apprehensions that are admittedly based in abstractions which cannot be comprehended, or are beyond human experience or understanding, do not present a case involving facts of sufficient realism and definiteness to confer jurisdiction on the court to make a sweeping constitutional decision affecting important activities of the federal Government. There is nothing more here than a highly abstract claim based on an imaginary fear that governmental power to collect information for a valid purpose will be misused for an *improper* purpose. Similar fears might exist with respect to any governmental power. All power is susceptible of misuse, but that truism when coupled with unfounded fear alone is not sufficient to make out a case for judicial jurisdiction. What is necessary before a court is authorized to assume jurisdiction is some allegation from which it can be concluded that the apprehension of the misuse of governmental power is a realistic possibility. Because of the absence of any such allegation here it is my view that a proper case or controversy does not exist. *Davis* v. *Ichord*, ——— U.S.App. D.C. ——, —— F.2d ——, (Nos. 23426 & 23427, Aug. 20, 1970); *Golden* v. *Zwickler*, 394 U.S. 103, 108, 110 (1969).

Since the claim of the named plaintiffs does not present a case or controversy, nothing is added by the fact that it has been framed as a class action. *Davis* v. *Ichord, supra*, slip op. at 16 n.19. *See generally* 2 BARRON & HOLTZOFF, FEDERAL PRACTICE AND PROCEDURE § 567 at 308 (Wright rev. 1961); 3 J. MOORE, FEDERAL PRACTICE ¶ 24.04 (1969). As Judge Johnsen remarked in *Kansas City, Mo.* v. *Williams*, 205 F.2d 47, 51 (8th Cir.), *cert. denied*, 346 U.S. 826 (1953):

"It is of course necessary generally that a plaintiff be able to show injury to himself in order to entitle him to seek judicial relief. He cannot be a mere volunteer and ask judicial intervention simply "because someone else may be hurt", but he "must present facts sufficient to show that his individual need requires the remedy for which he asks." *McCabe* v. *Atchison, T. & S. F. Ry. Co.*, 235 U.S. 151, 162, 164, 35 S. Ct. 69, 71, 59 L.Ed. 169.

Moreover, even if I were to agree with the majority that appellants' claim was ripe, I would seriously question whether the action was an appropriate class action. When one considers the great number of people that the named plaintiffs seek to represent, their highly varied backgrounds and activities, and that it is the constitutional right of the individual that is sought to be protected, it is obvious that a great many highly individualized quesions would be presented. The record of each protestor, and each protest activity, might have to be considered separately and might necessarily result in different determinations as to whether the Army was justified in making a record of his public activities for possible future reference. Under such circumstances there is a serious question whether the complaint presents "questions of law or fact common to the class." FED. R. CIV. P. 23(a)(2).[4] *See generally Green* v. *Wolf Corp.*, 406 F.2d 291 (2d Cir. 1968), *cert. denied*, 395 U.S. 977 (1969). The importance of this requirement is heightened by recognition of the vast numbers of people appellants seek to have rise *or fall* on the strength of the showing they make in this suit. *See* FED. R. CIV. P. 23(c)(3).

It should also be noted that it is Congress that is empowered by the Constitution "to make rules for the Government and regulation of the land and Naval forces" (U.S. CONST. Art. I, § 8, cl. 14) and judicial notice may be taken that Congress is presently conducting public hearings upon the policy questions involved in this very area where the named plaintiffs here seek judicial intrusion.[5]

Finally, the trial court here concluded:

"The Court holds that what in effect the plaintiffs are complaining of here is that the Army is keeping the type of information that is available to all news media in this country, covered by all news media in this country, and which is in the morgues of the newspapers in this country and magazines,[6] and the Court holds that they state no cause of action; they show no unconstitutional action on the part of the Army; they show no threats to their rights. And I will sustain the motion to dismiss and I will deny the preliminary injunction . . . .

"It is my view that we should affirm the action of the trial court and wait until a case appears involving some person who alleges a more tangible basis for the claimed threat to his rights. Certainly since these investigative activities began in 1965, if they were the great peril to the populace that appellants argue, there must be one individual who can be found to complain of an injury caused by a concrete threat of the *actual misuse* of such information. To the extent indicated above, I respectfully dissent."

FOOTNOTES

[1] As the majority points out, appellants vigorously assert that they are not here attacking the legality of the many uses the Army might make of the information it is presently gathering; they are not basing their complaint on the possibility of future injury. Rather they assert that the present inhibitory effect of the Army's surveillance system is the only injury about which they complain; the nature of the sanctions which might be imposed on them at some future time is to them here irrelevant.

To my mind, this attempted distinction is untenable. Any present inhibition which they suffer must be based wholly on a fear, specific or general, of future consequences stemming from use of the Army's information. At the same time, they have alleged no present use, preparation for use or selectivity in gathering information by the Army which would reasonably justify such fears. This is not a situation comparable to the one facing the Court in *Lamont* v. *Postmaster General*, 381 U.S. 301 (1965), where, in order to receive certain mail, a person was required to tell the Government that he desired to receive "communist propaganda" or in *Shelton* v. *Tucker*, 364 U.S. 479, 486 & n.7 (1960) where there was a realistic fear that information gathered from individuals would be misused. Any inhibition which appellants in this case suffer is attributable, not to what the Army is presently doing, but to their own imagination as to what it might do at some unknown time in the future. Therefore, it is inaccurate to contend that the Army's present surveillance activity is the source of the inhibitions which appellants allege. *Compare Bee See Books, Inc.* v. *Leary*, 291 F. Supp. 622 (S.D.N.Y. 1968).

[2] There are no allegations that the Army has conducted surveillance of wholly private activity and at oral argument appellants indicated, in effect, that they did not have any witnesses who would testify that the Army had engaged in such activity. *Compare Local 309, United Furniture Workers of America* v. *Gates*, 75 F. Supp. 620 (N.D. Ind. 1948).

[3] Statutory authority for the Army's activity in relation to civil disorders is contained in 10 U.S.C. §§ 331–33 (1964):

Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the num-

Footnotes at end of article.

ber requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

10 U.S.C. § 331.

Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

10 U.S.C. § 332.

The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

10 U.S.C. § 333.

[4] FED. R. CIV. P. 23(a) provides:

Prerequisites to a Class Action. One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

[5] CONGRESSIONAL RECORD, vol. 117, pt. 24, page 2024, reports the announcement by Senator Ervin that the Senate Judiciary Subcommittee on Constitutional Rights had scheduled hearings on Computers, Data Banks and the Bill of Rights. On September 8, 1970, Senator Ervin outlined the purpose and scope of the study. In this regard, it is well to note that the issues appellants seek to have litigated in this suit are tremendously complex, involving broad questions of both law and policy. Recognition of this complexity, recognition of the fact that courts generally become less and less able to deal competently with controversies the farther removed they are from the "impact of actuality" and recognition of the "legitimating function" of a judicial decree, *see* A. BICKEL, THE LEAST DANGEROUS BRANCH 30–31 (1962), all counsel against finding the present controversy ripe too early. In my view, resolution of the issues presented by appellants is much better undertaken, at this juncture, by the Congress than it is by this court.

[6] There was a great deal of material in which the Army had an obviously legitimate interest stemming from the following factual situation, as outlined in the brief of appellee:

[O]ur Nation, during the Summer of 1967, witnessed the tragic riots in Detroit and Newark and, for the first time in 25 years, the Army was called in to assist the local civilian authorities in quelling the Detroit disturbances. During the period 1967–68, the National Guard was called upon 83 times and the Army four times to quell cases of civil disorder. The March on the Pentagon, the disturbances at the Democratic Convention, and the rioting in the Nation's Capital, which left large areas of the City leveled, all required the use of the armed forces to bring order out of the chaos. It has been reported that during the month of April 1968 alone, there were 237 civil disorders, 27,000 arrests, 43 deaths, over 58 million dollars in property damages, and over 58,000 National Guard and Army troops had to be used 25 times to quell the civil disturbances. *U.S. News and World Report*, September 2, 1968. See also the Brandeis University Lemberg Center for Study of Violence Reports; *Disorders—1968*, by the General Adjustment Bureau, Inc.; *Riot and/or Civil Commotion Report* by the American Insurance Association.

Mr. ERVIN subsequently said: Mr. President, this morning I introduced a bill entitled "A bill to prohibit any civil or military officer of the United States using the land or naval forces of the United States or the militia of any State to execute civil laws against civilians or to exercise surveillance of civilians except where such forces or militia are actually engaged in repelling invasion or suppressing rebellion, insurrection, or domestic violence pursuant to the Constitution or laws of the United States."

I ask unanimous consent that this bill be referred to the Judiciary Committee, with the understanding that after that committee completes its work on the bill, it will be submitted to the Armed Services Committee.

I might state, that I have consulted with the distinguished Senator from Mississippi (Mr. STENNIS), chairman of the Armed Services Committee, and he is entirely satisfied with this unanimous-consent request.

Mr. GRIFFIN. Mr. President, what is the request?

The PRESIDING OFFICER (Mr. HART). The request is that the bill the Senator from North Carolina introduced this morning be referred first to the Judiciary Committee, it being understood that it will then be referred to the Armed Services Committee.

Mr. GRIFFIN. I thank the Chair.

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

By Mr. BENTSEN (for himself and Mr. TOWER):

S. 3751. A bill to amend the Federal Aid Highway Act (23 U.S.C. 110, 138) to clarify the law relating to what constitutes a formal contract between the Secretary of Transportation and a State highway department and stating further circumstances by which a State highway department will be permitted to refuse said aid. Referred to the Committee on Public Works.

Mr. BENTSEN. Mr. President, today I introduce an amendment to the Federal Aid Highway Act to clarify the relationship between the Federal Government and States accepting aid under that act. It is my belief that the adoption of this amendment would not alter existing law but would rather define for the judicial system what the Congress has always intended, that the Federal Aid Highway Act is not a regulatory statute but a grant-in-aid statute.

Each year the State highway department of my State submits highway projects to the Department of Transportation for possible Federal participation. The number of such submissions is usually in excess of the number of projects for which Federal funds are available. This amendment makes clear that should a State at some subsequent time wish to complete the project within a 100 percent State financing it may do so and that such completion would be subject only to the laws of that State.

In Texas at the present time we have an intercity expressway for which planning was begun in the early 1960's. Between that time and the present there have been a number of substantive and procedural changes in Federal law. The result of which is, that despite a willingness of the State to bear 100 percent of the cost, the desire of the majority of the local citizens for completion of the expressway and the willingness of the Secretary of Transportation to allow such completion, construction has been halted by court action due to failure to comply with Federal procedures. I am advised that this unfortunate situation is not unique. My amendment would prevent such unreasonable results now and in the future.

This amendment would not frustrate the Federal highway scheme, because it applies only to primary, secondary, or urban highway programs—not to interstate projects. The amendment does not remove the control of the Secretary of Transportation over a project in which there has been Federal involvement because termination of Federal aid will still require approval by the Secretary. This amendment will provide increased local control over local roads.

Mr. President, I urge prompt consideration of this amendment.

Mr. TOWER. Mr. President, I am pleased to join my colleague from Texas (Mr. BENTSEN) in introducing today legislation which should greatly clarify the contractual relationships which exist between the Department of Transportation and State highway departments relative to the use of Federal moneys in the construction of primary and secondary highways.

The instance in which a State highway department is free to proceed in the construction of a highway without Federal funds is greatly in need of clarification. Recent judicial decisions, rather than adding clarity, have compounded the existing confusion and uncertainty. The courts have on several occasions interpreted the Federal-Aid Highway Act in a manner not intended by Congress and certainly not contemplated by the States in their dealings with the Federal Government.

Mr. President, this legislation should provide the necessary clarification of congressional intent, the critical delineation of the respective rights of State and Federal parties, and the needed means for removal of the jurisdictional impasse which has arisen through judicial edict.

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. CRANSTON, Mr. DOMINICK, Mr. HUGHES, Mr. JAVITS, Mr. MONDALE, Mr. PELL, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STEVENSON, and Mr. TAFT):

S. 3752. A bill to extend programs for assistance to medical libraries. Referred

to the Committee on Labor and Public Welfare.

THE MEDICAL LIBRARIES ACT OF 1972

Mr. KENNEDY. Mr. President, today I am introducing a bill, the "Medical Libraries Act of 1972," which is designed to extend and improve the expiring authorization within the PHS Act in this regard.

The National Library of Medicine is responsible for acquiring, organizing, and disseminating informational materials in the health sciences. The library has acquired the most important collection of biomedical literature ever assembled, now numbering over 1,300,000 items. But the National Library of Medicine is today far more than merely a repository of documents. It is truly a national center for biomedical communications. Through its extramural programs, it has built a network of regional medical libraries; it has helped to strengthen the Nation's biomedical libraries; it has supported the training not only of librarians but biomedical communication specialists as well; and it has assisted in the preparation and publication of a variety of materials in the biomedical disciplines. I will highlight these activities in greater detail in a moment, but first I would like to emphasize the overall role of the National Library of Medicine.

As you know, Mr. President, the National Library of Medicine was created under the leadership of my distinguished predecessor as chairman of the Senate Health Subcommittee, Senator Lister Hill, in 1956. The additional authority which permits the library to support research and training programs throughout the United States was added in 1965. Under that authority a comprehensive program to upgrade this Nation's biomedical library has been begun. For example, Mr. President, including the NLM, 11 regional medical libraries have been established across America. They are located in Boston, New York, Philadelphia, Detroit, Atlanta, Chicago, Omaha, Dallas, Seattle, and Los Angeles. Mr. President, we all know that this Nation is preeminent in the area of biomedical research. Yet, we are also in the depths of a profound health care crisis. Clearly we need to do a far better job of applying the vast amount of biomedical knowledge this Nation has to the great problems of delivering high quality health care to all Americans. I believe the NLM can and should become a catalytic agent in that process.

NLM has several components, only one of which has to do with classic, well-known library functions. For example, the Lister Hill National Center for Biomedical Communications designed, supported, and directed a satellite communication project that has been found to be most useful in improving medical communications to remote villages in Alaska. On at least two occasions it provided information which proved to be lifesaving. It has served to bring medical assistance to persons who previously could not be reached by telephone or radio communications. It has helped physicians determine when patients need to be evacuated to district or regional hospitals for emergency care.

Mr. President, I was pleased to note that the recent report of the Appropriations Committee in the fiscal year 1973 budget for HEW included a directive to HEW to get on with the planning for the construction of the Lister Hill National Center for Biomedical Communications. I fully support this worthwhile effort. And I share the disappointment of the Appropriations Committee that funds made available 3 years ago for the architectural and engineering studies to construct the Center have not yet been obligated.

Another component is the National Medical Audiovisual Center currently located in Atlanta, Ga., which serves American medicine by acquiring, producing, cataloging, and distributing audiovisual materials used in the teaching and practice of medicine, dentistry, and the allied health professions. The Center also conducts highly successful workshops through which it teaches the fundamentals of audiovisual technology and its utilization.

Another important part of the library is the toxicology information program which collaborates with other Federal agencies, such as the Food and Drug Administration and the Environmental Protection Agency, to collect, organize, and automate toxicology data. An on-line toxicology information system has been developed and is being expanded with more terminals and the creation of additional data bases. This system provides the most rapid means for the dissemination of toxicology information.

About 100 years ago, Dr. John Shaw Billings became director of the Surgeon General's library, the predecessor of the NLM. During his remarkable 30-year tenure he produced the first continuing compilation of current medical periodical literature, "Index Medicus." It has been used throughout the world for almost a century. Some 15 years ago, the size of the medical literature made production of the index most difficult. Accordingly, the National Library of Medicine introduced new computer technology and created what has come to be known as medlars. Now an additional step has been taken. The information of medlars has been placed on line and is thus called medline. Terminals with which to access medline are being placed in approximately 200 institutions around the country and overseas as well. In short, vital biomedical information is being made easily available and, most importantly, without delay, delay that could mean the difference between life and death.

The Medical Library Assistance Act was first passed in 1965. It authorized seven distinct extramural programs for the National Library of Medicine. These are, first, construction of library facilities; second, training of medical librarians and other information specialists in the health sciences; third, special fellowships for the creation of written matter to facilitate distribution of biomedical information; fourth, research in the field of medical library science; fifth, improvement of the basic resources of medical libraries; sixth, regional medical libraries; and seventh, support to biomedical scientific publications. The act authorized these programs for a period of 5 years. In 1970, the act was extended for an additional 3 years. That extension terminates June 30, 1973.

Although a total of $40 million—$10 million each year for 4 years—was authorized under the 1965 law for the construction of new or the rehabilitation of existing medical library facilities, only $11.25 million has been appropriated. This amount was used to assist in the construction of 11 new libraries, all connected with schools of the health sciences. Regrettably, the President's budget did not request any funds for fiscal year 1973. Some medical schools and other schools of the health sciences have recourse to other agencies for assistance in the construction of library facilities. However, the majority of the approximately 7,800 health care institutions in this Nation do not have other programs to which they can turn for this assistance.

For training, the act, through its 8-year period, authorized $10.25 million, of which about $8.2 million will have been appropriated. Using these funds, the National Library of Medicine has supported programs in which 580 individuals have been trained as medical librarians, as information specialists, and as medical historians. When the act was first considered, there was ample evidence of the need for additional medical librarians. Primarily because of these training programs, much of the need has been met but the program needs to be continued for several reasons. First, medical libraries throughout the country, just like the National Library of Medicine, are becoming complex communication centers. Second, as we escalate our attack on cancer, heart disease, and other major killers, all types of library services must be improved.

The fellowship program of the NLM, known as special scientific projects, is unique. This is a mechanism designed to support distinguished scientists so that they may be freed from usual academic obligations for a year or two. Science must be identified, evaluated, and then synthesized into fundamental concepts. For the laboratory investigator as well as the busy practitioner, this process is essential if he is to stay on the cutting edge of the ever expanding frontier of biomedical knowledge.

The original act and its 1970 extension authorized $24 million for research, and Congress will have appropriated $8 million over the 8 years. This program needs to be upgraded.

Under the 5-year authority of the Medical Library Assistance Extension Act of 1965, $15 million was authorized and $11.8 appropriated for the purpose of improving and expanding the resources—primarily books, journals, and other informational materials—of the Nation's health science libraries. The sums expended could not and were not intended to remedy the total resource deficit of our medical libraries since, in 1965, the immediate need in this area was identified as being in excess of $100 million, and this need was growing exponentially during the 5 years of the programs operation.

The appropriations for this section of the act did serve the purpose, however, of focusing the attention of the health community on the invaluable services rendered by these libraries. The 402 grants made to date represent support to less than 10 percent of the total number of medical libraries.

Having established this base in 1966–70, the Medical Library Assistance Extension Act of 1970 sought to capitalize on the accomplishments by providing assistance for the improvement of services to users. In 1971 and 1972, 222 grants for a total of $672,000 were made to assist in the establishment of basic collections in our country's primary libraries, those in health care institutions. Sixty-nine awards for $1,273,000 were made to the secondary libraries for projects designed to improve the quality and quantity of services to users.

Funds are also authorized under the publications program to assist in the preparation and also the publication of the important scientific findings. Through the first 8 years of this program $8.0 million were authorized and $3.9 million will have been appropriated. Over 65 grants have been made.

In summary, the Medical Library Assistance Act terminates on June 30, 1973. The National Library of Medicine has operated under the extension of this act for 2 fiscal years. No major operational problems have been experienced. It has been a most successful program.

Mr. President, this bill, which I am introducing today with bipartisan cosponsorship, is a 1-year extension. A 1-year extension in no way implies any concern on my part with respect to the functioning of the NLM. In fact, just the opposite is the case. However, with the enormous flow of legislation through the Senate Health Subcommittee, I have determined that it is essential that the committee consider these legislative authorities in a more orderly and systematic fashion. Accordingly, I hope to stage the extensions of future PHS authorities in such a manner so as to make it possible for the committee to consider the programs which support research and education at the same time. And since the comprehensive manpower and nurse training programs, which were enacted last year, expire June 30, 1974, it is necessary to extend the medical libraries authority for 1 year at this time.

The legislation proposed will amend title III, part J, of the PHS act to provide:

First. Fifteen million dollars for medical library facility construction assistance;

Second. For assistance in the training of medical librarians and other information specialists in the health sciences: $4 million in 1974;

Third. Five hundred thousand dollars for assistance for compilations of writings concerning advances in science related to health.

Fourth. Five million dollars for assistance for research and development in medical science libraries and other fields;

Fifth. Six million dollars for assistance to improve, establish, or expand basic medical library resources;

Sixth. Five million dollars for assistance in development of a national system of regional medical libraries; and

Seventh. Such sums as may be necessary, but not to exceed $1 million per year for assistance for biomedical scientific publications.

Mr. President, I ask unanimous consent that at the conclusion of my remarks the text of the bill be printed in full in the RECORD.

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

S. 3752

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 "Medical Libraries Act of 1972."

EXTENSION OF ASSISTANCE TO MEDICAL LIBRARIES

SEC. 2. (a) Section 393(h) of the Public Health Service Act is amended to read as follows:

"(h) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $13,000,000 for the fiscal year ending June 30, 1973, and $15,000,000 for the fiscal year ending June 30, 1974."

(b) The first sentence of section 394(a) of such Act is amended to read as follows:

"In order to enable the Secretary to carry out the purposes of section 390(b)(2) of this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1973 and $4,000,000 for the fiscal year ending June 30, 1974."

(c)(1) Section 395(a) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

(2) Section 395(b) of such Act is amended by striking "June 30, 1973" and inserting in lieu thereof "June 30, 1974".

(d) Section 396(a) of such Act is amended to read as follows:

"SEC. 396. (a) In order to enable the Secretary to carry out the purposes of section 390(b)(5), there are authorized to be appropriated $4,500,000 for the fiscal year ending June 30, 1973 and $6,000,000 for the fiscal year ending June 30, 1974."

(e) The first sentence of section 397(a) is amended to read as follows:

"In order to enable the Secretary to carry out the purposes of section 390(b)(6) there are authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1973 and $5,000,000 for the fiscal year ending June 30, 1974."

(f) The first sentence of section 398(a) of such Act is amended to read as follows:

"In order to enable the Secretary to carry out the purposes of section 390(b)(7), there are authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1973 and $5,000,000 for the fiscal year ending June 30, 1974."

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

S. 3755. A bill to amend the Airport and Airway Development Act of 1970 to increase the U.S. share of allowable project costs under such act; to amend the Federal Aviation Act of 1958 to prohibit certain State taxation of persons in air transportation, and for other purposes. Referred to the Committee on Commerce.

AIRPORT DEVELOPMENT ACCELERATION ACT OF 1972

Mr. CANNON. Mr. President, I am introducing a bill today to be known as the Airport Development Acceleration Act of 1972.

In the view of myself and the cosponsors, the bill represents our current thinking of how best to improve the landmark 1970 legislation known as the Airport and Airway Development Act. As my colleagues know, that act has been of immeasurable assistance in assisting local communities in meeting the ever increasing aviation needs required to support the U.S. air transportation system. The act provides for massive Federal assistance to local governments by providing nearly $300 million a year in Federal grants to local airport sponsors, which, in most cases, are counties and municipalities. Like most comprehensive programs the Airport and Airway Development Act, because of its size and scope, requires continued changes and updating to make certain that it continues to meet the needs for aviation development in the United States. This spring, the Subcommittee on Aviation, which I chair, held hearings on airport development problems and proposals to update the 1970 law to make it more responsive to local aviation needs.

The bill I am introducing today expresses my commitment to provide a better program to assist local communities in developing airport facilities.

Basically, Mr. President, the bill has seven provisions amending the Airport and Airway Development Act and one which amends the Federal Aviation Act of 1958.

First, and most important, the bill would provide increased Federal participation in airport development projects at about 3,400 publicly owned airports throughout the United States, its territories and possessions. Presently, Federal participation by grants is limited to 50 percent Federal funds and 50 percent local. This amendment will increase the Federal ratio to almost all airports to 75 percent. The largest 60 airports in the United States, the so-called large and medium hubs, such as New York, Los Angeles, Seattle, Las Vegas, Tampa, and others will continue to be eligible for only 50 percent Federal participation. Testimony before my committee has indicated that the communities in which these airports are located have had little or no difficulty providing 50 percent matching money to meet the requirements or the 50–50 ratio. On the other hand, the small communities in the United States, such as Charleston, W. Va., Burlington, Vt., Fort Wayne, Ind., Saginaw, Mich., and Great Falls, Mont., have had great difficulty in finding local matching funds to meet the 50–50 requirement. As a result many of these communities have been unable to proceed with aviation development despite pressing local needs and despite the 1970 act.

My bill will provide significant financial relief to such communities.

Second, this bill will remedy a defect in the 1970 law by providing that the terminal areas of the Nation's airports will be eligible for Federal assistance insofar as the development is directly related to the movement of passengers and their baggage through the airport. At

present, no Federal funds may be used for terminal area development despite the fact that the Senate approved such a provision in 1970. The provision was not enacted into law as a result of action by House conferees on the final bill.

Under the terms of the bill that I introduce today, some portion of terminal areas of airports will be eligible, on a 50–50 basis, for Federal participation.

Third, the bill provides that construction and equipment requirements to provide airport security as presently required by regulations of the Federal Aviation Administration shall be eligible for Federal participation in the amount of 82 percent of the project cost. New regulations designed to meet the threats of hijacking and extortion have imposed a tremendous new financial burden on airport operators and in my view should be funded at the same level of Federal participation as are landing and safety aids such as approach lighting and so forth.

Fourth, the bill increases the minimum amount available each year for airport development grants from the present $280 million to $420 million. This increase will permit the same level of total airport development to proceed even though the level of Federal participation has generally been raised. The funds necessary to finance this increase are available and will be available in the airport and airway trust fund and will come from receipts of the 1970 taxes Congress levied on passengers, shippers, airlines, and private aircraft operators.

Fifth, the bill provides provisions which will enable airport sponsors to obtain 100 percent Federal financing for the acquisition of land needed for future airport development. This is, in essence, a land bank program and will encourage airports to begin long-range aviation planning and land acquisition to meet the needs of the 1980's and 1990's and will give them the financial capability to buy land at today's prices and preserve it for future airport development and protect it from being used for other purposes. The provisions will require that at some point in the future, after the airport development is accomplished, the sponsor will be required to repay to the airport and airway trust fund the local portion together with interest so as to comply with the Federal-local funding ratio.

Sixth, the bill provides that military airports which permit civil use may be eligible for airport development grants to the extent that development is strictly related to the needs of civil aviation and not military aviation. Presently, many military airports in the United States are used by civil aviation but under the present act no airport trust fund revenues may be used for improvements or civil related development at these airports.

Seventh, the bill extends the present multiyear contract authority contained in the 1970 act for another 2 years through 1975. The contract authority allows the Secretary to enter into multiyear grant agreements with airport sponsors which assure the local airport operators that Federal funds will be available in more than a single year. Under the present act, contract authority expires at the end of fiscal year 1973. The Senate bill of 1970 provided a full 5-year contracting authority but, as in the case of terminal development, that provision was modified by the Senate-House conferees.

Finally, my bill prohibits State and local taxation on airline passengers or on the airlines themselves, but does not prohibit airport operators from levying and collecting other reasonable user charges such as landing fees, rental charges, and so forth. The provision will prohibit a new, inequitable, and potentially chaotic burden of taxation on the nearly 200 million air travelers in this country. The legislation would prohibit the levying of State or local head taxes, fees, or charges either on passengers or on the carriage of such passengers in interstate commerce. The bill is in response to a situation which has been brought about by a recent Supreme Court decision upholding passenger head taxes enacted by New Hampshire and by Evansville, Ind., for "aviation-related purposes." While this decision has invited State and local governments to enact head taxes or fees on air travelers, the Court decision does not provide adequate safeguards to prevent undue or discriminatory taxation.

In the wake of this decision, a rash of proposals varying widely in rate, scope and applicability, has broken out throughout the Nation. It is significant that revenues from some of these head taxes would not be used to provide funds for airport construction or operation, but would be used to nourish general fund coffers. For example, Philadelphia has levied a tax of $2 per passenger on passengers both arriving in and departing from that city.

The revenues will accrue to the city's general fund not the Philadelphia airport. Other cities as well have leveled their sights at air travelers who are convenient, vulnerable and captive targets. Certainly we can anticipate the proliferation of such action.

Mr. President, Congress must act to protect the American air travel consumer from such discriminatory taxation, in observance of an old axiom that "In levying taxes and in shearing sheep, it is well to stop when you get down to the skin." The Nation's air travelers are already being heavily taxed to pay for airport facilities and airways modernization. As a result of the 1970 act every passenger in air transportation pays an 8-percent excise tax on the price of his ticket to support these developments. Total user tax revenues will reach about $693 million this year. Since this tax money is earmarked for airport and airway improvements, there is no need to add an additional burden of taxation on these travelers or on the carriers and in fact, it would be a breach of faith for Congress to stand idly by while this is done by other units of government.

Mr. President, at the present time the average value of a round trip airline ticket in the United States is about $85. Therefore, the average traveler today pays a Federal tax of $6.80, the revenues from which are reserved for aviation facilities development. In 1970, while the Committee on Commerce and the Committee on Finance were considering this legislation, it was our firm intent that the Federal excise tax be the only tax on passengers in air transportation. While the Supreme Court has said that Congress did not preempt this field in 1970, it was certainly our intention, in my opinion, to do so. At that time several States and local government had attempted to levy head taxes on passengers in air transportation and it was widely assumed because of lower court decisions and qualified legal opinion that such taxes were unconstitutional as an undue burden on interstate commerce.

Despite the views we heard in 1969 and 1970 and despite the fact that the Federal Government presently taxes passengers at the rate of 8-percent on airline tickets, the High Court has opened the door wide to multiple passenger taxation.

Something must be done, and it is fitting that the Nation's air travelers look to us for decisive action. In its decision, the Supreme Court seemed to invite congressional action for the Court pointed out that—

> At least until Congress chooses to enact a nationwide rule, the power will not be denied to the States.

The legislation introduced today, provides the vehicle for Congress to make it clear that it will not allow indiscriminate levying of burdensome head taxes on citizens traveling in interstate commerce. Nor will we allow the growth of our national air transportation system to be impeded by abandoning it to the chaos of discriminatory taxation on air travelers.

Mr. President, this bill will be considered by the Commerce Committee in executive session shortly and hopefully favorably reported.

I hope that it will have the enthusiastic support of all the members of the Senate as it provides great new sources of Federal assistance and cooperation in assisting local communities in meeting the aviation needs of the future.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 325

At the request of Mr. BEALL, the Senator from Georgia (Mr. GAMBRELL) was added as a cosponsor of S. 325, to establish a survivor annuity program for widows of military personnel.

S. 3449

At the request of Mr. BIBLE, the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 3449, a bill to authorize and direct the Water Resources Council to coordinate a national program to insure the safety of dams and other water storage and control structures, to provide technical support to State programs for the licensing and inspection of such structures, to encourage adequate State safety laws and methods of implementation thereof.

S. 3604

At the request of Mr. BROCK, the Senator from Tennessee (Mr. BAKER) was

added as a cosponsor of S. 3604, a bill to provide for the establishment of safety standards for mobile homes in interstate commerce.

S. 3643

At the request of Mr. BENNETT, the Senator from Colorado (Mr. DOMINICK) was added as a cosponsor of S. 3643, the Allied Services Act of 1972.

S. 3659

At the request of Mr. WILLIAMS, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 3659, a bill to establish a commission to develop a plan leading to the conquest of multiple sclerosis.

S. 3704 AND 3705

At the request of Mr. MAGNUSON, the Senator from Michigan (Mr. HART), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 3704, a bill to provide for a 6-month extension of the emergency unemployment compensation program; and S. 3705, a bill to amend section 203(2) of the Federal-State Extended Unemployment Compensation Act of 1970.

SENATE CONCURRENT RESOLUTION 86—SUBMISSION OF A CONCURRENT RESOLUTION REGARDING THE UNIVERSALITY OF THE UNITED NATIONS

(Refered to the Committee on Foreign Relations.)

DIVIDED NATIONS AND THE U.N.

Mr. GRAVEL. Mr. President, I believe that the achievement of universality in membership of the United Nations would not only enhance the ability of that body to preserve international peace and to carry out its other responsibilities for promoting and maintaining world cooperation as set forth in the United Nations Charter, it would also positively serve two major U.S. foreign policy objectives. First, achievement of universality would help generally to assure peace in the world, and second, it would reduce the possibility of a unified Communist bloc—a goal which the Soviets continue to reaffirm. It is therefore in our larger interest that the national governments in question enlarge their international roles in world decisionmaking, and improve their possibility of self-determination.

For the United States, to support through its foreign policy the admission to membership in the United Nations the divided States of the Federal Republic of Germany and the German Democratic Republic; the Republic of Korea and the Peoples Democratic Republic of Korea; the Republic of Vietnam and the Democratic Republic of Vietnam would serve the interests of world peace by normalizing the relationships of these countries with the rest of the world. This action would give the countries the opportunity to engage in a global airing of grievances and offers the possibility of their peaceful resolution rather than resorting to the battlefield in order to get the world to listen.

Mr. President, in October of 1971 during the debate on the Foreign Assistance Act of 1971 I proposed an amendment which was similar to what I am proposing today. During the floor debate the distinguished chairman of the Foreign Relations Committee asked that I withhold calling the amendment to a vote and promised hearings before his committee on the matter. I appreciated his suggestion and followed his advice.

Admittance of these states named in my resolution would have a dual effect in helping to assure world peace. If admitted to the U.N. these countries would be able to draw on the negotiating abilities and good offices of the most powerful world leaders in the resolution of their differences rather than being left "outside" to solve their differences.

In another sense—and almost contradictorily—the right of countries to determine their own future would be served by the admission to the U.N. that I propose. By strengthening the national and international positions of these countries their dependency upon superpower fiscal and physical support could be lessened. The trends we see in all countries toward increasingly strong nationalistic attitudes and their desire to be recognized as autonomous countries in their international dealings would be strengthened by a seat in the United Nations.

The easing of tensions between East and West Germany we have recently experienced in their landmark treaty would be accelerated by their membership in the United Nations and the establishment of the apparatus through which negotiations may be carried on at any time.

As a maturing world body the United Nations today represents a major hope for the establishment and maintenance of world peace. The United States should continue to support the efforts of this body, and as its richest member in economic and political resources attempt constantly to aid it in the accomplishment of its mission of world peace. We in the U.S. Congress must always be mindful that the United Nations was not established as an extension of our State Department and that what is in our best interests may not necessarily be in the best interests of a majority of member nations. We should not allow our national prejudices to unduly interfere with what is best for the rest of the world community when dealing with the United Nations.

I realize that the issue of universality in the United Nations extends beyond the countries encompassed by this resolution. Some will say, "What about all those little countries you didn't mention?" I am aware of the complications inherent in this situation. However, until further hearings are scheduled regarding this resolution, and all of the issues involved are examined in full detail, I would think that the smaller states should be placed in some kind of an associate status so that they may be heard as well. I think some distinctions like this can usefully be made.

Mr. President, I am pleased to offer this concurrent resolution seeking the admission of the two Germanys, the two Koreas, and the two Vietnams to the United Nations and ask that it be referred to the appropriate committee.

The concurrent resolution reads as follows:

S. CON. RES. 86

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby finds that to achieve universality of membership in the United Nations would significantly enhance the ability of that body to preserve international peace and to carry out its other responsibilities for promoting and maintaining world cooperation as set forth in the United Nations Charter. Therefore, to that end, it is the sense of the Congress that it should be the policy of the United States actively to support the admission to membership in the United Nations of the Federal Republic of Germany, the German Democratic Republic, the Republic of Korea, the People's Democratic Republic of Korea, the Republic of Vietnam, and the Democratic Republic of Vietnam.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT—AMENDMENT

AMENDMENT NO. 1301

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

Mr. MAGNUSON submitted an amendment intended to be proposed by him to the bill (S. 945) to require no-fault motor vehicle insurance as a condition precedent to operating a motor vehicle on streets, roads, and highways or other lands open to automobile use by the public in order to promote and regulate interstate commerce.

MARINE MAMMAL PROTECTION ACT—AMENDMENT

AMENDMENT NO. 1302

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

Mr. HART, for himself, Mr. CASE, Mr. CRANSTON, Mr. GRIFFIN, and Mr. SPONG, submitted an amendment intended to be proposed by them jointly to the bill (S. 2871) to protect marine mammals, to establish a Marine Mammal Commission, and for other purposes.

Mr. HART. Mr. President, for myself, Mr. CASE, Mr. CRANSTON, Mr. GRIFFIN, and Mr. SPONG, I send to the desk an amendment intended to be proposed to S. 2871, the ocean mammals protection bill. I ask unanimous consent that it be printed and lie on the table, and that it be printed in the RECORD at this point.

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

AMENDMENT NO. 1302

On page 26, beginning with line 14, strike out all through line 23 and insert in lieu thereof the following:

"(10) The term 'Secretary' means the Secretary of the Interior."

On page 28, between lines 2 and 3, insert the following:

"(16) The term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration."

On page 54, beginning with line 24, strike out all through line 2 on page 55 and insert in lieu thereof "shall not exceed $3,000,000.".

On page 55, beginning with line 5, strike out all through line 6 and insert in lieu thereof the following:

"SEC. 111. (a) (1) The Administrator is hereby author—".

On page 55, strike out line 21 and insert in lieu thereof the following:

"(2) The Secretary, after consultation with the Administrator and with the Ma-".

On page 56, line 4, strike out "Administrator" and insert in lieu thereof "Secretary, after consultation with the Administrator,".

On page 56, line 9, strike out "Administrator" and insert in lieu thereof "Secretary, the Administrator,".

On page 56, line 15, strike out "Administrator" and insert in lieu thereof "Secretary, the Administrator,".

On page 56, line 23, strike out "Administrator" and insert in lieu thereof "Secretary or the Administrator".

On page 57, line 6, strike out "Administrator" and insert in lieu thereof "Secretary or the Administrator".

On page 57, line 10, strike out "Administrator" and insert in lieu thereof "Secretary or the Administrator".

On page 63, line 24, beginning with the figure "$2,000,000", strike out all through line 9 on page 64 and insert in lieu thereof "$2,700,000 for the fiscal year ending June 30, 1973, and not to exceed $2,525,000 for each of the four next following fiscal years to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this title.".

On page 64, strike out lines 19 and 20 and insert in lieu thereof "Quality, the Secretary, the Administrator, and".

On page 67, line 20, strike out "of the Interior".

EXTENSION OF PRESENT PUBLIC DEBT LIMITATION—AMENDMENT

AMENDMENT NO. 1303

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

Mr. MONDALE submitted an amendment intended to be proposed by him to the bill (H.R. 15390) to provide for a 4-month extension of the present temporary level in the public debt limitation.

PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ATOMIC ENERGY COMMISSION APPROPRIATIONS, 1973—NOTICE OF MOTION TO SUSPEND THE RULE

AMENDMENT NO. 1304

Mr. ROBERT C. BYRD submitted the following notice in writing:

In accordance with rule XL, of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 15586) making appropriations for the fiscal year ending June 30, 1973, and for other purposes, the following amendment, namely:

Page 7, after line 7, before the period insert the following: ": *Provided further*, That the exception in section 224 of the Flood Control Act of 1970, relating to certain approval, shall not apply to amounts in this appropriation".

Mr. ROBERT C. BYRD submitted the amendment (No. 1304) intended to be proposed by him to the bill (H.R. 15586) making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1973, and for other purposes, which was ordered to be printed and to lie on the table.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1305

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

Mr. TAFT 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.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1273

At the request of Mr. CASE, the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from California (Mr. CRANSTON), the Senator from Oregon (Mr. PACKWOOD), the Senator from New York (Mr. JAVITS), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Amendment No. 1273, intended to be proposed to the bill (H.R. 15417) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973.

ADDITIONAL STATEMENTS

THE NSF AUTHORIZATION—EARTHQUAKE RESEARCH AND RESEARCH ON UNCONVENTIONAL ENERGY SOURCES

Mr. EAGLETON. Mr. President, I wish to speak on the authorization bill for the National Science Foundation which the Senate passed on Friday. At the outset, I want to express my personal appreciation to the chairman of the Special Subcommittee on the National Science Foundation, the distinguished Senator from Massachusetts (Mr. KENNEDY), for his work on the bill. It reflects his appreciation of the need of American science, and it provides for those needs. It also reflects his sensitivity to the needs of the American people and the important role which science can play in serving those needs.

My remarks concern two provisions in the bill which lay the groundwork for scientific efforts of potentially immense significance to human needs—the provisions dealing with the prevention and reduction of earthquake damage and research on unconventional energy sources.

The devastating California earthquakes of last year focused public attention on the urgent need to develop reliable methods of predicting earthquakes and preventing loss of human life and avoidable damage to property. Serious as these quakes were, California is not the only part of the United States which is threatened. In the southeastern part of my own State, which is not generally recognized as an earthquake-prone area, serious earthquakes have occurred and likely will occur in the future. The threat of loss of life and property damage from earthquakes poses a threat to all citizens of this area and retards economic progress by discouraging new investment in plants and facilities which are sorely needed by the citizens of the area. The authorization passed last Friday broadens the capacity of NSF to fund research on earthquakes and means for anticipating them and reducing the threat they pose to life and property.

I also invite attention to the provisions in the bill which authorize increased funding for research on unconventional energy sources. By now, the energy shortage in the United States has touched virtually every American household. Energy often isn't available to new customers, and even when it is available, the prices it commands are increasing at a steady rate. Competing demands for energy and for environmental protection pose real challenges. They challenge our ingenuity and test our commitment to achieve both adequate energy supplies and a level of environmental protection which is responsive to our needs for healthful, livable natural surroundings. The research program on unconventional energy sources authorized by the bill comes at a critical time. The work which it will make possible will be of lasting significance to the American people.

Again, Mr. President, I offer my thanks to the distinguished chairman of the subcommittee and the chairman of the full Committee on Labor and Public Welfare, the distinguished Senator from New Jersey (Mr. WILLIAMS), for their commitment to the work the bill makes possible.

FAILURE OF COMPENSATOR EDUCATION

Mr. HANSEN. Mr. President, too often we tend to believe that with enough money poured into several Federal programs, social problems will be solved through ultimately changing people—their attitudes, aspirations, and motivation.

Amitai Etzioni, the renowned sociologist at Columbia University and the director of the Center for Policy Research, has stated that such an approach is apparently unproductive, and that one would do better to accept people as they are and change their circumstances instead.

Professor Etzioni makes the point that compensatory education has failed to bridge the gaps between the educational achievements of disadvantaged and other children because we expect it to be the sole, most effective tool for personal growth and societal change. We expect to change the individual through the educationalist-enlightenment approach which places an unduly strenuous burden of expectation on our educational systems.

I ask unanimous consent that Professor Etzioni's article be printed in the RECORD.

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

HUMAN BEINGS ARE NOT VERY EASY TO CHANGE AFTER ALL—AN UNJOYFUL MESSAGE AND ITS IMPLICATIONS FOR SOCIAL PROGRAMS

(By Amitai Etzioni)

A while back there was a severe shortage of electricity in New York City, and Columbia University tried to help out in two ways: A card reading "Save a watt" was placed on everyone's desk, and janitors removed some light bulbs from university corridors. The ways in which this shortage was made up for illustrate two major approaches to social problem solving. One approach is based on the assumption that people can be taught to change their habits, that they can learn to remember to switch off unused lights. The second approach assumes that people need not, or will not, change and instead alter their environment so that, even if they leave light switches on, watts are saved.

The prevalent approach in the treatment of our numerous and still-multiplying social problems is the first. Imbedded in the programs of the federal, state, and city governments and embraced almost instinctively by many citizens, especially liberal ones, is the assumption that, if you go out there and get the message across—persuade, propagandize, explain, campaign—people will change, that human beings are, ultimately, quite pliable. Both political leaders and the general public believe that advertising is powerful, that information campaigns work, and that an army of educators, counselors, or rehabilitation workers can achieve almost everything if they are sufficiently numerous, well trained, and richly endowed.

But can they? We have come of late to the realization that the pace of achievement in domestic programs ranges chiefly from the slow to the crablike—two steps backward for every one forward—and the suspicion is growing that there is something basically wrong with most of these programs. A nagging feeling persists that maybe something even more basic than the lack of funds or will is at stake. Consequently, social scientists like myself have begun to re-examine our core assumption that man can be taught almost anything and quite readily. We are now confronting the uncomfortable possibility that human beings are not very easily changed after all.

Take smoking, for instance. Since 1964, when the surgeon general began calling attention to the dangers of cigarettes, a vast and expensive campaign has been waged, involving press releases, lectures, television advertisements, pamphlets, and notations on the cigarette package. The positive result of all this activity, however, has been slight. At first there was no effect at all; actual cigarette smoking continued to rise until 1967. Then it dropped from 11.73 cigarettes per day per person aged eighteen years and over to 10.94 in 1969. More recently the level has risen again.

The moral? If you spend $27 million, you may get enough people to switch from Camels to Kools to make the investment worthwhile for the Kool manufacturers. However, if the same $27 million is used to make nonsmokers out of smokers—that is, to try to change a basic habit—no significant effect is to be expected. Advertising molds or teases our appetites, but it doesn't change basic tastes, values, or preferences. Try to advertise desegregation to racists, world government to chauvinists, temperance to alcoholics, or—as we still do at the cost of $16 million a year—drug abstention to addicts, and see how far you get.

In fact, the mass media in general have proved to be ineffectual as tools for profoundly converting people. Studies have shown that persons are more likely to heed spouses, relatives, friends, and "opinion leaders" than broadcasted or printed words when it comes to deep concerns.

Another area in which efforts to remake people have proved glaringly inefficient is that of the rehabilitation of criminals. We rely heavily on re-educational programs for prisoners. But it is a matter of record that out of every two inmates released, one will be rearrested and returned to prison in short order. Of the 151,355 inmates in state prisons on December 31, 1960, there were 74,138, or 49 per cent, who had been committed at least once to adult penal institutions. Reformatories come off no better. A study of 694 offenders released by one well-known institution reports 58.4 per cent returned within five years. The study concludes self-assuringly: "But this is no worse than the national average."

What about longer, more sustained educational efforts? Mature people can be taught many things—speed reading, belly dancing, Serbo-Croatian—usually with much more pain, sweat, cost, time, and energy than most beginning pupils suspect. When we turn, though, to the modification of ingrown habits, of basic values, of personality traits, or of other deep-seated matters, the impact is usually much less noticeable.

What is becoming increasingly apparent is that to solve social problems by changing people is more expensive and usually less productive than approaches that accept people as they are and seek to mend not them but the circumstances around them. Just such a conclusion was implicit, for instance, in an important but widely ignored study of automobile safety done by the Department of Health, Education, and Welfare.

Applying cost-effectiveness measurements to efforts to cut down the horrendous toll on American highways—59,220 Americans were killed in 1970—the HEW study noted that driver education saves lives at the cost of $88,000 per life. New automobile accessories, as simple as seat belts, proved more than a thousand times as effective; saving a life this way, it was computed, costs a mere $87. Yet we continue to stress driver education as the chief preventive measure; the laws regarding the redesign of autos are moderate in their requirements and are poorly enforced. Similarly, we exhort people not to drive while under the influence of liquor, even not to drink in excess to begin with. But these are rather monumental, perhaps impossible, educational missions. However, a simple device that measures the level of intoxication by breath analysis and that is widely used by highway patrols in Great Britain has tended to scare drunken drivers off the roads in that country. It could be applied to a rapid reduction of traffic fatalities in this country. Educate drinkers later.

The problem of educating against drug addiction in general offers parallel lessons. Acting on the belief that personality predispositions yield fairly rapidly to such approaches, we have tried a variety of informational, persuasive, personal, and group-therapeautic techniques in the battle against addiction. However, these approaches have rehabilitated only a few addicts. Much more promising are counterdrugs. For example, Antabuse, which if taken makes a person feel quite uncomfortable when he drinks, is more effective than psychotherapy in dealing with alcoholics. It takes so much less effort to decide each day to take medication than to decide, all the time, to refrain from drinking. True, Antabuse so far is a little-known remedy, and many who do know of it are skeptical, because early experiments in which a high dosage was administered seem to have resulted in some fatalities. Now, though, smaller dosages are being given, and Antabuse is slowly regaining serious consideration.

The failure of educational and therapeutic approaches to help most heroin addicts has led, finally, to the wide use of a substitute, methadone, which is usually referred to as a blocking drug because it is said to curb the craving for heroin. Let's not ask here if methadone is the most suitable drug for the purpose, to what extent it is different from heroin, or even if it actually blocks out heroin. For our purpose, it is sufficient to say that, unlike the educational and therapeutic approaches to heroin addiction, methadone is effective. That is, people taking methadone work, study, are satisfied, function as human beings and citizens, and have a much lower criminality record. Thus, of a group of 990 men carefully examined, those employed or attending school rose from 27 per cent at admission to the methadone program to 65 per cent after one year on the program, to 77 percent after two years, and to 92 per cent in the third year. A report by the director of the District of Columbia narcotics treatment division shows that as the number of addicts on methadone increased, the level of crimes that addicts tended to commit fell almost proportionally. Thus, with about 20 per cent of the addicts on such treatments, robberies in Washington, D.C., fell from 12,432 in 1969 to 11,222 in 1971. There is no evidence that any educational program has ever had such an effect.

Though there seem to be no similarly effective drugs to help food addicts (or persons afflicted with obesity), we have recently been informed by medical researchers that serious weight problems seem to arise, not from faulty will power, character, or motivation—qualities subject to educability—but from different rates of metabolism and divergent nutritional pathways. These pathways are established early in childhood and may be either set for life or altered by medication, but exhortation or other educational efforts can alter them little.

Again medication has proved to be more promising than education in dealing with mental patients. After year upon year of increase, the number of patients in mental hospitals declined sharply in 1956. This turning point came about, not because therapy was expanded or intensified or a new procedure found, but because tranquilizers were widely introduced. Most of those discharged now live on medications at home.

Technological devices and medication are not the sole approaches we may rely upon more heavily once we understand the limits of adult educability and allow ourselves to see the full extent and implications of these limits. Improved matching of persons and jobs may go a long way toward reducing the need for job training. Here the two alternative assumptions about the pliability and perfectibility of human nature come into sharp focus. Few educators are quite willing to assume, as it was once put rather extremely, that "given time and resources, we can make a piano player out of anybody." Yet whole job-training programs are still based on such an assumption. For instance, the scores of training programs for the unemployed or the to-be-employed that are run or supported by the Department of Labor assume that people can be changed, and quite fundamentally.

The Department of Labor stresses, in its discussion of "social-psychological barriers" to employment, the need to modify "attitudes, aspirations, motivation (especially achievement motivation), ability or willingness to defer gratification, and self-image." And the 1968 Manpower Report suggests "the necessity of direct efforts to modify the attitudes of the disadvantaged before introducing them to job situations." One major training program aims at providing "needed communication skills, grooming and personal hygiene, the standards of behavior and performance generally expected by employers."

In a study I conducted with three of my colleagues for the Center for Policy Research, we found that persons have deep-seated preferences in their work behavior that are very difficult to change, and we concluded that it may be unethical to try to change them. Thus, if a person prefers to engage in non-

routine work of the more creative type, at an irregular pace, training him or her to be a "good" assembly-line worker—which entails teaching not only how to turn bolts but also how to be a more "uptight" person—may be both ineffective and morally dubious, especially if we are correct in suggesting that people's existing preferences can be readily analyzed so that they can be helped to choose jobs compatible with their personalities. It is also much less costly to test and assist people than it is to train and mold them. If we run out of compatible jobs, jobs may be changed to suit people rather than people to suit jobs.

One of the few effective and efficient ways in which people can be basically remade lies in a total and voluntary reconstruction of their social environment. Thus, when students withdraw from the campus into a rural commune, or Jews emigrate from the U.S.S.R. and Eastern Europe to found a new Israeli kibbutz, life can be deeply recast. The creation of a whole new environment for addicts—indeed, a new social community—on a voluntary basis, as achieved by Synanon, is highly effective, and Alcoholics Anonymous seems to provide a cure as effective as or better than Antabuse. Many alcoholics and mental patients who are integrated into therapeutic communities are reported to recover well.

This total-change approach is very appealing to a radical New Left perspective, which suggests that new persons cannot evolve except in a new society and that a new society will emerge only from the deep efforts of people in the crisis of reshaping their world. At the same time one must note that effective total-change groups work only for those who join voluntarily. Most addicts, mental patients, prison inmates, and others in need of change don't volunteer to join. Hence, the total-change approach is considerably less applicable to social problems than some would have it be.

Much of what I have said is primarily concerned with adult educability. It also holds true, albeit to a lesser degree, for children. While children, especially younger ones, are more educable than adults—who must often first be disabused of the education they have acquired as youngsters—most Americans, both the general public and the policymakers, still enormously overestimate what the education of children can achieve.

The schools, which are still the main institutions of education for children aged six through eighteen, cannot carry out many of the missions assigned to them. Most schools do not build character, open the mind, implant an appreciation of beauty, or otherwise serve as the greater humanizer or the social equalizer as educators would wish them to do. In desperation it is suggested now that the schools concentrate on teaching the three Rs, and it is common knowledge that they have a hard time doing even that.

Probably the greatest disappointment educators have encountered in recent years, and have not quite come to terms with, is the failure of intensive educational campaigns to help children from disadvantaged backgrounds catch up with their more advantaged peers. As has already been widely reported, virtually all of the 150-odd compensatory education schemes that have been tried either have not worked at all or have worked only marginally or only for a small proportion of the student population. The Coleman Report makes this point, and the same conclusion comes from another source. Professor Jesse Burkhead of Syracuse University found that differences in the achievements of high school students in large-city schools are almost completely conditioned by the students' social backgrounds and environments, including the incomes and occupations of the parents (class), housing conditions, and ethnicity.

The reasons for this inability to bridge the distance between the educational achievements of disadvantaged and better off children are hotly debated. It seems to me that the key reason for the failure of compensatory education lies in the fact that the disadvantaged children are locked into total environments, which include home, neighborhood, parental poverty, discrimination, and inhibiting models of behavior. We cannot hope to change one without changing the others. Education will become more effective when it works together with other societal changes—which, of course, means that, by itself, it is not half so powerful as we often assume.

The contention that personal growth and societal changes are much harder to come by than we had assumed, especially via one version or another of the educationalist-enlightenment approach, is not a joyful message, but one whose full implications we must learn to accept social programs. Once we cease turning to ads, leaflets, counselors, or teachers for salvation, we may realize that more can be achieved by engineers, doctors, social movements, and public-interest groups; and the educators will find new and much needed allies.

LETTER TO SECRETARY LAIRD—ARE NORTH VIETNAM DIKES BEING BOMBED?

Mr. PROXMIRE. Mr. President, I am today releasing a letter to Secretary of Defense Melvin Laird concerning charges that the United States is bombing the dikes in North Vietnam. In the letter I said:

I am writing to you to ask for a specific, straightforward, unhedged, and unqualified statement by you as to the facts. Has the U.S. bombed any of the dikes? Is the U.S. systematically bombing the dikes?

I would appreciate an immediate reply. If we are bombing, Congress and the U.S. public need to know it. If we are not, that should be made public in order to forestall charges which have no basis in fact.

I wrote that in a New York Times article by Anthony Lewis of June 26, 1972, Mr. Lewis cites—

A number of specific public statements, two of them by non-Vietnam sources asserting that the dikes have been bombed. One charged that "One of the dikes was completely cut" and another asserted that "Without doubt there is now systematic bombing of the dikes."

Mr. Lewis states that no one should doubt what bombing the dikes might mean. "It would bring into play, justifiably for once, that much abused word genocide."

If we are not bombing the dikes, would you cite the specific detailed orders which were given not to bomb them. If we are bombing the dikes, would you cite the specific authority under which you or the President specifically authorized the bombing. We need an explicit statement of the facts and our policy now.

I ask unanimous consent that the full text of the letter be printed in the RECORD.

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

JUNE 27, 1972.

The Honorable MELVIN LAIRD,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: The *New York Times* for June 26, 1972 carries a piece by Anthony Lewis raising the question of whether or not the United States is now bombing the dikes in North Vietnam.

Mr. Lewis cites the President's statement in April saying that it was something he wanted to avoid and that it was not needed.

He also cites a number of specific public statements, two of them by non-Vietnam sources asserting that the dikes have been bombed. One charged that "one of the dikes was completely cut" and another asserted that "Without doubt there is now systematic bombing of the dikes."

Mr. Lewis states that no one should doubt what bombing the dikes might mean. "It would bring into play, justifiably for once, that much abused word genocide."

I am writing to you to ask for a specific, straightforward, unhedged, and unqualified statement by you as to the facts.

Has the U.S. bombed any of the dikes?

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If we are not bombing the dikes, would you cite the specific detailed orders which were given not to bomb them.

If we are bombing the dikes would you cite the specific authority under which you or the President specifically authorized the bombing.

We need an explicit statement of the facts and our policy *now*.

I would appreciate an immediate reply. If we are bombing, Congress and the U.S. public need to know it. If we are not, that should be made public in order to forestall charges which have no basis in fact.

I am enclosing Mr. Lewis' article.

With best wishes.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senate.

DIRE NEED FOR ALASKA PIPELINE

Mr. HANSEN. Mr. President, last week I and other Senators testified before the Joint Economic Committee on the urgent need for a trans-Alaska pipeline at the earliest possible time to help alleviate an impending oil and gas shortage in the United States, particularly the west coast.

Also in support of the trans-Alaska pipeline that should have been underway by now rather than still under debate, was Mr. Thornton F. Bradshaw, president of Atlantic Richfield Co., one of the discoverers of the great Prudhoe Bay oilfield some 3 years ago.

Mr. Bradshaw emphasized the real economic need of the trans-Alaska route and the further delay and uncertainties involved in an alternate route across Canada.

Mr. President, Mr. Bradshaw in a letter to Senator WILLIAM PROXMIRE, chairman of the Joint Economic Committee, corrected the many misconceptions that have been advanced about the proposed trans-Alaska and trans-Canada pipelines. I believe other Senators will be interested in the testimony of a man who heads a company that has risked and invested many millions of dollars and the efforts and expertise of hundreds of highly skilled and technical people in a successful enterprise to help solve the Nation's energy problems. The movement of this oil and the gas that will be associated with its production have already been delayed too long.

Mr. President, I ask unanimous consent that Mr. Bradshaw's letter be printed in the RECORD.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

ATLANTIC RICHFIELD CO.,
New York, N.Y., June 22, 1972.

Hon. WILLIAM PROXMIRE,
Chairman, Joint Economic Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR PROXMIRE: I have read the testimony given to your committee on June 9th by critics of the proposed Trans Alaska Pipeline System. While I note that you have asked the Secretary of Interior to appear in response to some of the questions raised, it seems appropriate for me to provide a few comments on the critical testimony. I hope that you will include these comments in the record of the hearing.

As you know, Atlantic Richfield made the initial discovery of oil in the Prudhoe Bay oil field on the North Slope of Alaska in January 1968. Other companies have made subsequent discoveries, and the total proved reserves in that field are about 9.6 billion barrels. Transportation of this oil was a major undertaking which none of the companies individually could finance and construct. All interested parties sought to develop together the quickest, the most reliable and the most economically efficient transportation system. We considered and tested an all-sea route, using ice-breaking tankers; we considered the trans-Canada land alternatives; we considered various trans-Alaskan alternatives. As reflected in the Environmental Impact Statement prepared by the Department of Interior, efforts resulted in a project by seven companies to build a pipeline across Alaska to the port of Valdez.

An application to the Department of Interior for a permit to build the line was filed in June 1969. The National Environmental Policy Act became effective in January 1970, and the preparation of an environmental impact statement required by the Act took over two years. Litigation challenging the validity of the Secretary's decision will probably not be concluded before mid-1973, which will be four years from the original application.

When constructed, the trans-Alaska line will be by far the best engineered and safest oil pipeline in the world. The technical and environmental stipulations established by the Department of Interior must be met and every stage of construction and operation will be under governmental supervision.

Nevertheless, during the past sixteen months there has been an intensified effort to convince the Congress, the Administration and the American people that Alaskan oil should be brought to the lower 48 States through a trans-Canada pipeline.

I believe that the real purpose of some of the Canadian interests who oppose the trans-Alaskan line is to obtain an oil pipeline for Canadian oil, financed by the United States' companies.

Although a good neighbor, Canada is a separate sovereign nation with separate national aspirations. The Canadian economic interest is not necessarily always compatible with the interests of the American companies who would have to pay for and operate a trans-Canada oil pipeline, or, more importantly, for United States public policy makers, with the public interest of the United States.

Atlantic Richfield Company submitted a full discussion of this issue to the Department of the Interior in September 1971. It is referenced in the Department's Environmental Impact Statement and relevant portions are attached as Appendix A. A supplementary summary statement was filed in May 1972. A copy of relevant portions are attached as Appendix B.

It is important to remember that the Canadian Government is not alone in pressing construction of the trans-Canada line. Although private Canadian oil companies have maintained a low profile, they need the trans-Canada line to assist them in exploration for and development of oil resources believed to exist in Canada's far Northwest territory, including the Arctic Islands. To this extent, their interests and the interests of the Canadian Government are identical.

In early March 1971 the Honorable J. C. Chretien, the Canadian Minister of Indian Affairs and Northern Development, said to the Society of Petroleum Engineers at Dallas, Texas:

"At the present time, we have insufficient reserves in the Canadian north to warrant a natural gas pipeline to southern markets. However, if we maintain our discovery success in the Arctic Islands we may have enough gas in the near future to make it feasible to construct a pipeline due south from this region.

"To develop the great potential of the North, to overcome the great technical challenge of exploration, production, and transportation, we are going to need help, we are going to need skills, we are going to need capital.

"Such projects (a gas and oil pipeline) would have great benefits for Canada. We will benefit from the construction phase; we will benefit from the manner in which it will help to open up our north; we will benefit from the job opportunities that will be made available to northern peoples; we will benefit from the further incentive pipelines running through our territory will give to the exploration for gas and oil."

At the same time, Mr. Chretien expressed confidence that a Canadian oil line would eventually be built in addition to a trans-Alaskan line. He said:

"In my judgment, however, it was advisable to let Canadians and Americans know "that the north is there." Pipelines will be built. If the Americans do not build a pipeline from Alaska I will not be too upset, because I know that we will find enough oil in the future in Canada to justify an oil pipeline. Perhaps it will take two or three years more, but there will be an oil pipeline."

Cost estimates for a trans-Canada pipeline demonstrate why the Canadians need United States capital. Mr. Chretien is reported to have estimated the cost of an oil and gas pipeline system at 8 billion dollars in 1971. This estimate is only a guess; there can be no hard estimates because of the effect of inflation due to delay and the unknown cost of environmental features which Canada may demand. But debates covering the Canadian oil pipeline in the House of Commons on March 12, 1971, recognize that the sum seems beyond Canadian resources. Member of the House Mr. Woolliams said:

"The Minister admits we do not have enough money in Canada to finance these pipeline projects. I agree, and I am glad to hear him say this. I am glad there is one Minister in the cabinet who tells the truth. The truth is, we have no choice but to tell the Americans and other foreigners that we need their capital."

As shown by Appendix A, Canadian laws, regulations and policy would require that a trans-Canadian line from Alaska must be subject to Canadian control and subject to an option allowing Canadian oil companies to insert Canadian oil in that line. These are reflected by the statements of the Canadian Minister of Energy, Mines and Resources to the Canadian House of Commons in March 1971.

"Most important of all will be the right of entry to Canadian resources into this pipeline. It is not good enough that this be merely a bridge to transport United States resources to United States markets and that we have the boom that would go with construction, but no downstream benefit.

"So the most important guideline, under the conditions referred to, is that Canadian resources must have a right of entry into that method of transportation."

These policies were clearly repeated in conversations between representatives of the Canadian Government and United States oil companies. In March 1971 Secretary Morton suggested that representatives of the companies owning Alyeska meet with appropriate Canadian officials to explore the feasibility of a trans-Canada pipeline to transport Alaskan oil to the United States. He suggested that such discussions were appropriate because the companies, not the United States Government, would have to obtain permits for, finance and construct any trans-Canada line. The discussions were, however, relevant to his consideration of our application for permits to construct a pipeline across Alaska from Prudhoe Bay to Valdez. The Secretary requested a report to him after the discussions were held.

A meeting was held by representatives of five owner companies with Ministers Greene, Sharp, Chretien and others in March 1971. This was after the debates in the Canadian House of Commons and other statements which I have quoted above. The Canadian views expressed at our discussions were wholly consistent with the previous official expressions to which I have referred. In summary, they were as follows:

"The line would have to be a joint project between United States companies and Canada investors, probably with substantial amount of eventual Canadian ownership.

"The right of entry into the pipeline for a significant amount of Canadian oil on a priority basis would be a *sine qua non* for a permit.

"Construction of an oil pipeline would require modification of United States-Canadian trade agreements respecting oil imports from Canada.

"Negotiations prior to construction would require as much as two years. Construction would probably take a year or eighteen months longer than the three-year estimated construction time for the trans-Alaskan line.

"The cost would be four or five billion.

"The necessary Canadian ecological studies had not been made.

"Construction would have to utilize maximum possible Canadian material and labor."

We reported these discussions to the Secretary of Interior with our view that:

"The time estimates indicated by the Canadians for solution of international problems, ecological studies, permits, financing and construction were optimistic.

"The Canadian cost estimates were too low. Real costs would present impossible financing requirements for our owner companies.

"It was highly undesirable to build a line subject to Canadian control, with priority for Canadian input."

In late April 1971, I held another meeting with a different group of Canadian representatives, including the Chairman, National Energy Board, and the Deputy Minister, Indian Affairs and Northern Development.

The Canadian suggestions concentrated on the economics and timing respecting a joint-interest Canadian oil pipeline.

Positions in general developed as follows:

"There was strong Canadian interest in the availability to Canada of United States ecological and environmental information which would be useful respecting a Canadian line.

"As of this time Canadian environmental standards had not been developed and no one would predict when they would be.

"A Canadian corporation would be required to operate a trans-Canada line, although it was suggested that since there was no immediate supply of Canadian oil, the Canadian interest might be in the form of an option to enter at a later date."

In turn, our views were that:

"We were willing to exchange environmental information with Canada. The com-

plete technical and environmental description of our proposed trans-Alaskan line was made available to the Canadians in July 1971. I should note that we have received no such information from the Canadian Government although they have advised us it would be made available when fully developed.

"At the present discovery rate in the Prudhoe Bay area, there is no need for a Canadian line, since all Prudhoe Bay oil is needed on the United States West Coast.

"The Canadian proposal that United States Companies build a trans-Canada line with options to Canada for later acquisition of interest and throughput could not be financed. It would backout United States oil and provide uncertainties not compatible with financing.

"United States companies could not provide initial financing for a Canadian line in any event, because the cost would be too great. For example, ARCO interest alone would require over $1.5 billion, which is far beyond our resources."

After these discussions, it was and still is quite plain that the present Canadian interest is not consistent with our present obligations as responsible Company executives. Nor do I think it is compatible with the public interest of the United States.

Construction of a pipeline to transport Alaskan oil across Canada at the present time could create needless points of conflict between the United States and Canadian economic interests. It would also create delays and problems of unknown but certainly serious magnitude. Routing through Canada would delay even further the advent of North Slope oil and gas needed to reduce the critical United States energy shortage. All projection indicates the United States needs Alaskan energy sources as soon as they can be made available, consistent with sound environmental safeguards.

Direct and immediate economic conflicts with Canada have arisen in the past and could arise in the future in such matters as preliminary trade negotiations, especially over oil import quotas. The question of Canadian oil displacing American oil in the pipeline could be a subject of continued bargaining, affected by the rate of discovery of oil and gas reserves in the Canadian and Alaskan Arctic regions. Also, the presence of the pipeline in Canada will constitute a potential pressure point in many unrelated questions of international concern. To some extent this is exemplified by Mr. David Anderson's testimony before your Committee. He sought very clearly to convince the Committee that unless the United States oil pipeline was constructed across Canada, the Canadian Government would not approve a projected gas line across Canada to provide badly needed gas supply to the mid-continent United States. While he hastened to say that this was not a threat, it seemed clearly so intended. In my view, it is fortunate that he does not speak for the Canadian Government.

Actually, if it is in the economic interest of Canada to have a gas pipeline across Canada, then Canada will welcome its construction, and since a gas line will assist development of Canadian gas resources, there is no question that Canada will want it to be built regardless of the trans-Alaska oil pipeline.

The uncertainties respecting construction of a Canadian oil line are quite real, and the uninformed speculation on this subject by several witnesses before your Committee should not be taken seriously. As stated to the Secretary of Interior, an oil line through Canada could not be financed by the companies involved. Even if some alternative form of financing were available, the relocation of the proposed trans-Alaskan line would involve a reorganization of the group of participating owner companies before an application could be filed. Also as a preliminary each participating United States company would have to arrange financing, and this could not be done until terms of Canadian control, participation and oil input options had been settled. These uncertainties could not be settled short of many months.

Canadian regulations require that an application be accompanied by an extensive analysis outlining financial, technical and ecological aspects of the project. The time needed to comply with this requirement is wholly unknown. It took three years to develop the material for the Project Description of the trans-Alaskan line for the Secretary of Interior, and some argue that even this voluminous study is inadequate.

After an application is filed, Canadian due process provides that the National Energy Board provide notices, hold hearings, and consider the objections of interested parties. As reflected by the attached Appendix A (page 33), a number of existing Canadian environmental Acts must be complied with and other broader environmental legislation is pending in Parliament. While one witness glibly stated that Canada does not have a National Environmental Policy Act, it should be remembered that there was no such Act in the United States until after application for a permit for the trans-Alaskan line had been filed. Canadian environmentalists are becoming very active, and opposition to a trans-Canada oil line is already being organized. There is no basis for prediction that litigation will not delay construction of a Canadian line, or the duration of such a delay. Canada's Northern Natives are seeking to establish their rights to land, and a key element of this drive is opposition to Government approval of a Mackenzie Valley pipeline. They have now raised land right issues that the United States has taken 15 years to resolve.

Against these obstacles, it is in my judgment utter folly to predict that a Canadian oil pipeline could be completed within two years of the projected completion for the trans-Alaskan line. I do not know how much longer would be required, and neither does anyone else. But a five-year estimate is more likely to prove correct than two; and since the production of gas on the North Slope cannot begin until after the start of oil production, this could mean a 7-year delay in production and delivery of gas to United States consumers from the Alaskan North Slope.

While arguments are being advanced that the tanker leg of the trans-Alaskan pipeline system will result in oil spills and consequent damage to the coast of British Columbia, it is clear that those who make such arguments do not have the same ecological concern when Canadian rather than American economic interests are involved. Oil refineries have been constructed on Canada's West Coast, at Vancouver, from which oil is transported every day by tanker. Canada has licensed exploration for offshore oil on its East and West Coasts, refining and tanker facilities in Nova Scotia, New Brunswick, Newfoundland and Quebec which are rapidly expanding. Plans for a wholly new refinery and port facility project in Quebec bordering the United States, costing between $500 and $700 million, have just been reported. It would be owned and operated by a Quebec Government Corporation and designed to accommodate super tankers. Thus, Canada is quite willing to accept risks of oil operations when its own interests benefit.

Moreover, Americans are accepting the risk of oil tanker operations on the coast of Maine to provide Venezuelan and Mideastern crude oil for the pipeline which runs from Portland to Montreal. In 1970 this risk involved delivery of approximately 150 million barrels of oil to Canada through Portland in 886 tankers, as against 80 tankers per year forecast for delivery of Alaskan oil to Puget Sound.

I should add that the 80 tankers per year for the Puget Sound refinery are not dependent upon construction of the Alaska pipeline. The need of the citizens of the Pacific Northwest for this oil exists and must be met. It is being partially supplied by tankers now, and the issue is whether tankers continue to carry foreign oil or will in the future carry Alaskan oil. Alaskan oil will be carried by United States ships with attendant environmental and economic benefits.

Member of Parliament David Anderson asserted to your Committee that Atlantic Richfield "deliberately chose a site (for its refinery at Cherry Point in the State of Washington) in which currents would take the oil northward out of American jurisdiction where presumably political criticism and comment would be less damaging to their interests." This we believe is a wholly unsupportable and irresponsible statement. Such statements do not aid in rational determination of the trans-Alaskan pipeline problem. I suggest Mr. Anderson knows little about the reasons for the location of this refinery. A great variety of considerations entered into the choice of the site, but the one he suggests was not among them.

Attempts made by Mr. Anderson, and others, to portray a decision not to build a United States line for United States oil across Canada as an implication of an unfriendly attitude toward Canada seems a gross disservice to American-Canadian relations. The United States and Canada have always enjoyed friendly relations, and an unnecessary point of international economic conflict and pressure, which a trans-Canada line for Alaskan oil at this time might well be, should not be created. The international disagreements which have arisen throughout the world respecting oil pipelines are too numerous to be ignored, and the continuation of such disagreements is too probable to be discounted. The decision of Secretary Morton on this point is a wise one.

Much of the critical testimony before your Committee is largely a repetition of views previously expressed during the past year, which have been answered repeatedly and which are based upon unsupportable assumptions respecting United States demand, United States and world oil prices, and pipeline construction costs and time schedules. The Department of Interior's Environmental Impact Statement clearly shows that the views of Mr. Cicchetti for example received thorough consideration. They were not ignored; they were considered unsound.

His suggestion to your Committee that the oil companies involved in the trans-Alaskan pipeline project, including Atlantic Richfield, intend to sell Alaskan oil abroad rather than on the U.S. West Coast is demonstrative of uninformed speculation. Speaking for my Company, I can categorically state that we have every intention of using our full share of the total Alaskan oil, on the U.S. West Coast and that we have no intention whatsoever of selling any of it in foreign markets.

While Alaskan oil could be used in the Midwest, it is clear from our estimates and those of the Department of Interior that it is needed on the West Coast. In this circumstance simple logic seems to indicate that we avoid the political problems which a trans-Canada line will generate by building the first transportation system for United States owned oil from the Arctic as a wholly United States owned and United States controlled system.

Logic similarly indicates that if, as the Canadians hope, adequate additional reserves are discovered in Canada or in Alaska, or in both, to justify a second pipeline, then great consideration must be given to a trans-Canada pipeline to the U.S. Midwest. I do not subscribe to any suggestion that all Arctic gas and oil should be moved through a common land corridor across Canada. As a United States citizen, as well as the Presi-

dent of Atlantic Richfield, I would regard any such decision as a serious mistake.

Very truly yours,

THORNTON F. BRADSHAW.

INDUSTRY'S EFFORTS TO MAKE A CLEAN CAR

Mr. EAGLETON. Mr. President, the St. Louis Post-Dispatch recently completed a three-part series on automobile pollution and how the automobile industry has responded to demands for a clean car.

There has been a great deal of public discussion—some of it acrimonious—about the Clean Air Act's requirement that automobiles be made 90 percent cleaner by 1975 than they were in 1970.

Elliot F. Porter, Jr.'s series of articles, published in the Post-Dispatch of June 11, 12, and 13, offers some badly needed historical perspective to the debate over cleaning up the automobile. I think that it makes a significant contribution to the public discourse on this important issue. I ask unanimous consent that the three articles be printed in the RECORD.

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

DETROIT BUILDS A RECORD OF EVASION ON POLLUTION—I

(By E. F. Porter, Jr.)

During debate on the Clean Air Act of 1971, Senator Edmund S. Muskie, sponsor of the bill, issued a warning to the nation's powerful, 50-billion-dollar-a-year automobile industry.

"Detroit has told the nation that Americans cannot live without the automobile," he said. "This legislation would tell Detroit that if that is the case, they must make an auto with which Americans can live."

There were reasons for the Maine Democrat's tone of impatience. For nearly two decades, critics charge, the behavior of the auto industry has been characterized by procrastination, evasions and even conspiracy to delay a solution to what has become the nation's No. 1 pollution problem.

The story began 21 years ago at the California Institute of Technology in the laboratory of a chemist named Arie J. Haagen-Smit. Haagen-Smit pumped automobile exhaust fumes into a chamber. He added oxides of nitrogen and ozone, which occur naturally in the atmosphere. Then he bathed the mixture in artificial sunlight from an ultraviolet lamp.

The result was a brownish-blue haze, irritating to the eyes and throat and fatal to some forms of plant life. Haagen-Smit had synthesized smog—and had established the automobile as the culprit.

Early the following year, Kenneth Hahn, a member of the board of supervisors of Los Angeles County, wrote to Henry Ford II, then the president of the industrial imperium that his grandfather had founded. What, Hahn politely asked, can be done about the smog problem in Los Angeles? Did Ford know of any device to reduce such pollution? If not, was Ford working on anything?

The reply came not from Ford himself but from Dan J. Chabek of the company's engineering division. It was four sentences long.

"The Ford engineering staff," wrote Chabek, "feels these waste vapors are dissipated in the atmosphere quickly and do not present an air pollution problem. Therefore, our research department has not conducted any experimental work aimed at totally eliminating these gases.

"The fine automotive power plants which modern-day engineers design do not smoke. To date, the need for a device which will more effectively reduce exhaust vapors has not been established."

In October 1954, Hahn wrote to H. H. Curtice, then the president of General Motors Corp. Hahn told Curtice that autos pumped 1000 tons of hydrocarbons into the air over Los Angeles each day.

"It is my opinion that the automotive industry must assume the responsibility of rapidly finding a solution to this important problem," Hahn said.

The letter was answered by Charles A. Chayne, GM vice president for engineering.

"While I can assure you that we are moving forward," Chayne said, "I would be less than candid if I failed to point out that we believe these changes . . . will have a very limited effect on the total smog problem in Los Angeles."

Meanwhile, photochemical smog began appearing elsewhere—in San Francisco, Denver, St. Louis and New York.

Today, automobiles account for 65 per cent of all the carbon monoxide, 46 per cent of all the hydrocarbons and 37 per cent of all the oxides of nitrogen emitted in the U.S.

In areas in which other forms of air pollution have been curbed, cars account for as much as 90 per cent of the carbon monoxide, more than 80 per cent of the hydrocarbons and more than 70 per cent of the oxides of nitrogen.

Smog traceable to the Los Angeles area has spread eastward as far as Las Vegas and westward out to sea as far as 300 miles.

In 1955 the auto makers responded to the problem by agreeing through their trade association, the Automobile Manufacturers Association, not to compete in developing a low-emission vehicle.

They agreed, furthermore, to share all patents, licenses and discoveries relating to smog control, to pay identical royalties for inventions offered from outside the industry and to co-ordinate all publicity so that no company would gain a competitive advantage.

The effect of the agreements, according to a federal grand jury in Los Angeles that in 1967 investigated allegations of collusion among the auto makers, was to slow the development of emission controls.

The grand jury found that the agreements were policed by the engineering advisory committee of the manufacturers, association, which frequently used the phrase "industry solidarity" in its inside correspondence.

In 1963, the engineering committee asked each auto maker to supply technical information showing that a proposed California requirement for closed crankcase ventilation systems on new cars would be impractical.

This case was not an easy one for the auto makers to make. Testimony before the grand jury later disclosed that closed crankcase systems had been developed before World War II for military vehicles and were standard equipment on Willys Jeeps in the 1950s.

Throughout the grand jury's investigation, experts from companies close to the auto industry provided some of the most pointed testimony.

One of them, Dr. R. Diggs of Dupont, recalled a conversation with a Chrysler official concerning Chrysler's private contention that it could build a clean car.

"He was very forceful in telling me that if this were done, Chrysler would be severely chastised by the rest of the industry," Diggs said. "He indicated that Ford and GM were calling the shots, and that Chayne (the GM vice president) was the industry mastermind."

But Chrysler broke ranks anyway in October 1963 and told California officials that it could equip its 1964-model cars with a clean air package. The package was primitive by today's standards. But in 1963 it was considered a major breakthrough, and the Los Angeles County government responded by announcing that it would buy Chrysler products whenever possible.

But Chrysler's nonconformity lasted barely three months. In early 1964, the company joined its competitors in a resolution calling for more product engineering—and more delay—at least until the 1967 model year.

The prodigal's return was described by R. A. Pittman of Ford in a memo recounting a conversation with Robert Sorenson, an executive of Chrysler. The memo, dated February 1964, is part of the grand jury records.

"Chrysler management is sorry that things have progressed to the extent they have in Los Angeles County, and they have been trying to determine how they can back off," Pittman wrote.

Arjay Miller, then Ford's president, remained suspicious. In a memo dated Feb. 18, 1964, he said, "I think Chrysler is playing us for suckers. They get all the favorable publicity and the car sales while giving us nothing."

If the auto makers occasionally had trouble controlling their own members, they had even less clout with independent supplies such as TRW, American Machine and Foundry and Chromally American.

These companies and several others forced the issue in 1964 by presenting California authorities with test models of smog control systems designed for 1965-model cars. The systems were certified as workable by California. And under the state's pioneering anti-pollution law, the certification meant that henceforth, such systems would be required on all new cars sold in the state.

Even so, the parts makers never cashed in on their inventions. As soon as their smog control systems were certified, the auto makers began producing their own.

The grand jury inquiry lasted nearly 18 months. At its conclusion, lawyers from the Department of Justice privately recommended criminal prosecution of the auto makers under the Sherman Antitrust Act.

About a year later, in the last days of President Lyndon B. Johnson's Administration, Attorney General Ramsey Clark brought a civil antitrust suit against Ford, General Motors, American Motors and the manufacturers' association.

But Clark's successor, John N. Mitchell, regarded the case as an illegitimate baby left on his doorstep by the outgoing Administration. After nine months of private negotiations, the case was settled without going to trial.

The auto makers agreed to dissolve their collusive compact and to do nothing further to impede the development of emission controls. But they made no admission of guilt that could be used against them in later lawsuits.

Furthermore, the settlement did not require the manufacturers to pay for damages to crops and lungs. It did nothing to bar the auto makers from destroying any incriminating records (except those that were part of the grand jury record), and it did not call for periodic reports to the Justice Department.

The settlement brought howls of protest from smog-ridden cities and states, from environmental, consumer and health organizations and from members of Congress. Dozens of individual lawsuits—including one from the New York Heart Association asking for 575 trillion dollars in damages—were filed.

California, Illinois, New York and New Jersey are the leading plaintiffs in a suit pending in U.S. District Court in Los Angeles. Another suit was filed by 18 states, including Missouri and Illinois.

The plaintiffs in both are asking the courts to order the automobile industry to install effective smog controls on all the cars, new and used.

At the rate of $200 for each of the 110,000,-

000 vehicles in use, the total bill could exceed 20 billions.

Veterans of the smog war have no illusions about the industry's influence in Washington, where three times in two decades motor company presidents have been chosen to fill Cabinet posts. Only the courts can cure the problem, says Hahn of Los Angeles.

MORE FOR STYLING THAN SMOG CURBS—II

(By E. F. Porter, Jr.)

America's automobile industry, while facing a deadline it claims it cannot meet for producing a low-pollution vehicle, continues to spend more on model and styling changes than it does on smog control.

When Detroit's big three went before the federal Environmental Protection Agency several weeks ago to plead for more time to meet the 1975 federal emission standards, their representatives testified under oath that no adequate technological solution to the pollution problem had been developed and, if there were such a solution, not enough time was left to tool up to apply it.

Yet according to its annual report, General Motors Corp., the biggest of the big three, took in more than 28 billion dollars last year, and spent nearly one billion dollars of it for what the report calls amortization of special tools. That is a catchall term for fast write-off of machinery and equipment rendered obsolete by styling and model change unrelated to making an engine run clean.

General Motors spent more last year on research and development of pollution controls than ever before. But even the company's figure—fattened with administrative costs, overhead and depreciation of plant, buildings and equipment assigned to the anti-smog program—showed that the total outlay for clean-car development came to less than one-fifth what GM spent for throwaway machinery. Clean air spending amounted to less than 1 per cent of all GM took in.

Ford Motor Company's effort was even less. Its spending for smog control (including overhead and depreciation) was three-quarters of 1 per cent of gross income and one-third of its fast writeoff of special tools.

Chrysler, the industry's number three, spent one-fourth of 1 per cent of its income on the smog problem. It spent 12 times as much on fast writeoff of disposable tools.

To many persons concerned about the environment, including associates of consumer advocate Ralph Nader, Detroit's performance is an indication that the automakers still do not take seriously the congressional mandate written into the Clean Air Act of 1970: Produce low emission vehicles for the 1975 model year, or shut down.

The automakers may believe, the critics say, that with their 800,000 employees and 50-billion-dollar annual contribution to the economy, no government would dare to close them down.

A preview of the confrontation to come may be provided this summer. Ford recently confessed that its technicians cheated on 50,000-mile durability tests of smog control devices supposed to meet 1973 standards. The Environmental Protection Agency, to avoid a shutdown of Ford assembly plants, authorized a quickie interim test, to be used until the durability test could be redone.

Despite protestations that the clean air standards are impossible to meet, Detroit has shown it can perform industrial miracles. Ford, for example, was turning out four-engine B–24 bombers at the rate of one every hour at the Government-built Willow Run plant 14 months after ground breaking.

(After the war, Willow Run reverted to the government. Recently a small corner of it was set aside to house the federal automotive emissions testing laboratory.)

Nor are rapid development efforts a wartime peculiarity. In recounting the development of the Mustang in "Business Success," a collection of articles on industrial triumphs, Ford's president, Lee A. Iacocco, wrote:

"It was agreed that styling director Gene Bordinat should try for a crash solution. On Friday, July 27 (1962), he summoned three of his styling executives into his office . . .

"Bordinat made his announcement. He was asking each of the three studios to engage in an unprecedented open competition . . .

"The three men charged out of his office like football captains leading their teams onto the field. The idea of interstudio competition was novel. Developing a clay (model) within two weeks was unheard of. And the kind of car they were being asked to dream up was exciting . . . a classless classic . . . that would do one-armed handstands and whistle at pedestrians . . . for under $3000."

On Sept. 10 the design was approved and 572 days later, on March 9, 1964, the first Mustang rolled off the production line. Iacocco did not disclose the cost of the effort.

Costs—or alleged costs—figured prominently at the hearings before the environmental agency on the auto makers' requests for more time to meet the 1975 clean air standards. General Motors representatives said the company was trying to solve the smog problem with a device called a catalytic converter. It looks like a muffler and is installed on the exhaust pipe. The converter contains a metallic catalyst to facilitate the low-temperature breakdown of the pollutants.

General Motors said it planned to use a "base" (or cheap) metal catalyst. Outside experts testified that "noble" metal catalysts, such as those composed of platinum, were more effective.

Chrysler rejected catalytic devices as too costly. Ford representatives estimated that converters would add about $290 to the cost of the car.

On the other hand, the producers of chemical catalysts testified that the entire smog control system, including the catalyst and its canister-like container, could be mass produced for about $50.

Spokesmen for the catalyst industry told how they had received no assistance from the auto makers, no promises of long-term contracts and not even much technical information on the results when various converters were tested.

V. W. Makin, president of Matthey-Bishop, Inc., the world's largest refiner of platinum, but a midget beside the big three auto makers, told the environmental agency that his firm had spent $700,000 a year experimenting with catalytic converters and that all it ever got from Detroit were four vehicles for use in testing.

Makin said he sent samples of catalysts to the auto manufacturers, but has never been paid for them.

One reason often cited for the apparent reluctance of the auto makers to install new pollution controls is evidence that the systems tend to impair the performance of the vehicle. Performance historically has been a major selling point with Detroit.

Philip Handler, president of the National Academy of Sciences, has warned that impaired performance constituted a more serious danger in terms of the public interest than air pollution.

"The decrease in driveability is no trivial matter, this thing which on TV they call hesitation, which almost killed me twice last summer," Handler said. "The fact that a car will not accelerate when you tramp down on it suddenly and tends to stall—that is a very dangerous fact indeed."

Auto makers have warned that emission control systems effective enough to meet the 1974 requirements will cut gasoline mileage by as much as 30 per cent.

Makin of Matthey-Bishop said that his firm's own tests showed the fuel penalty would be no greater than 5 per cent and that the reduction in performance would be imperceptible.

Perhaps the sharpest attack on the automakers' credibility was by Fred C. Hart, director of the New York City clean air program.

New York installed catalytic afterburners and made minor engine modifications on five police cruisers that previously had been driven from 10,000 to 20,000 miles, Hart said. The cars were turned back to the police department and put in normal police service for another 15,000 miles.

Emissions tests at the end of the period showed pollutant discharges from 60 to 70 per cent better than 1973 standards call for and almost as low as required in 1975, Hart reported.

The cars were driven as roughly as all the other vehicles in the police fleet. There was no excess fuel consumption, no record of excess fuel consumption, no record of excess breakdown and no complaints of impaired driveability, Hart said. The entire experiment, using custom-made apparatus, had cost $10,000.

Said Hart: "The abvious conclusion is that if New York City can accomplish as much as it has, the auto manufacturers, with much greater resources, should be able to do much better.

"Our program provides a yardstick by which the EPA can measure the good faith commitment of the auto manufacturers."

AUTO INDUSTRY SLOW TO TRY NEW ENGINES—III

(By E. F. Porter, Jr.)

In a handsomely designed, dignified booklet on its efforts to produce a smogless vehicle, General Motors Corp. describes its experiences with an experimental steam engine.

"General Motors is not optimistic regarding this type of powerplant for passenger car use," the booklet states. "Complexity, cost, water freezing and lubrication are additional problems and, most discouraging of all, the steam engine does not prove to be a low emission engine."

To George Hatsopoulos, president of Thermo Electron, a small engineering firm in Waltham, Mass., GM's statement is "one of the most revolting frauds I've ever seen."

"GM is setting up a straw man and then knocking it over," Hatsopoulos said. "If you try hard enough you can make a steam engine pollute and that is what they did. They built a monstrosity to demonstrate it wouldn't work."

Thermo Electron is developing a Rankine cycle engine that is an engine that operates on the principal of a steam engine but which would use fluorocarbon instead of water as the pressure fluid. Fluorocarbon, Hatsopoulos noted, will not freeze at earthly temperatures.

Hatsopoulos's reaction to GM's statement may partly reflect the fact that Thermo Electron has a contract with Ford Motor Co., and that Ford owns 9 per cent of its stock. Nevertheless, the attitude of GM typifies the reaction of the major auto makers toward any unconventional alternative to the tried-and-true, gasoline-powered, spark-ignited, reciprocal internal combustion engine which supplies the motive force for all but a tiny fraction of the nation's 90,000,000 passenger cars.

Although each of the big three automakers claims to be considering alternative engines, financial statements filed with the federal Environmental Protection Agency in support of requests for extension of the 1975 deadline show that only General Motors spent as much as 17 cents of its clean car research dollar on alternatives to the internal combustion engine. Ford spent about 10 cents and Chrysler spent a cent and a half.

The American automobile industry has an immense vested interest in the ICE, the acronym it applies to the internal combustion engine. The invention of a nineteenth century German engineer named Nikolaus August Otto—it is sometimes termed the Otto engine—the ICE began early in this century to exhibit a flexibility, compactness, reliability and capacity for rapid acceleration that outshone steam and electricity.

The unfortunate paradox of the ICE, is that the factors responsible for its versatility and range of power are the causes of pollution. The internal temperatures and pressures developed in the rapid succession of explosions marking every firing of every cylinder result in the marriage of nitrogen and oxygen, two of the normally independent ingredients of natural atmosphere, into nitrogen oxide, an ingredient of smog.

The higher the compression and the flashier the performance of the engine, the more it will produce oxides of nitrogen—and smog.

The sudden extravagant injections of vaporized gasoline from the carburetor, which occur every time the driver steps on the accelerator and which stimulate the ICE's bursts of speed, result in waste through the tailpipe of unburned fractions of fuel, generally termed hydrocarbons, which are components of smog.

Engines can be designed for more complete combustion and hence lower discharges of hydrocarbons and carbon monoxide, but this leads to a second paradox that engineers call the seesaw effect. More complete combustion requires higher internal temperatures, which causes more discharges of oxides of nitrogen. The lower the internal temperatures, the fewer the oxides of nitrogen, but the greater the emissions of hydrocarbons and carbon monoxide.

Steam engines and, to a lesser extent, gas turbine engines and diesel engines, by virtue of the fact that their inner fires are steadier, often cooler, have lower performance, and lower emissions. Electric cars would have no emissions at all; the discharges would occur at the powerplant where the electricity originated.

Yet the auto industry has accorded only token attention to developments of so-called unconventional engines, and has almost ignored such recent developments as:

(1) The disclosure by representatives of Daimler-Benz AG of Germany that it could achieve stringent federal clean air standards for 1975 cars with its 2.2 liter Mercedes Benz diesel engine.

(2) The testimony last month of officials of Toyo Kogyo Ltd. of Japan that their firm could meet the 1975 standards with the Mazda compact sedan that is powered by a Wankel rotary engine. The Wankel, a German invention that operates something like a cross between a conventional piston engine and a turbine, is inherently dirty, but it is so compact that it leaves room for elaborate emission control equipment under the hood.

(3) The work of William P. Lear, who became famous with his eight-passenger executive jet aircraft, who has been struggling for several years to develop a steam turbine car.

(4) The work done by Wallace Minto, head of a tiny research firm in Sarasota, Fla., called Kinetics, Inc. which is trying to develop a Rankine cycle vehicle. Minto said he has received no encouragement from any motor firm except Nissan of Japan, makers of the Datsun.

Minto testified before the Senate pollution subcommittee this year that after signing an agreement with Nissan he conferred with General Motors and Ford to see if either firm was willing to buy patent licenses.

"Shortly thereafter, we got a curt note from General Motors telling us to get lost," Minto said. "We corresponded with Ford somewhat longer, until we refused their request for complete detailed plans . . . which we were asked to provide without any obligation whatsoever on Ford's part. . . .

"We did not consider it an ethical or sensible business practice to make Ford a gift of that for which Nissan had paid," he said.

Minto added that the engineers at Kinetics had a favorite toy: a 1919 Stanley Steamer. Its emissions are far below the limits of the 1975 federal standards, he said.

Detroit has been equally chilly to other unconventional power systems including electric motors, gas turbines and the so-called hybrids—that is, systems which operate with two power systems like diesel locomotives in which the diesel engine generates electricity and electric motors drive the wheels.

Most experts now agree that the most promising method of reducing emissions from the ICE—and saving it from extinction as an environmental outlaw—are add-on gadgets such as afterburners or catalyst-packed converter canisters installed on the exhaust pipe to incinerate the emissions.

To cope with the seesaw effect will require two such devices, one to oxidize the hydrocarbons and carbon monoxide, the other to reduce the oxides of nitrogen.

Industry sources concede the devices will be cantankerous and require periodic servicing or replacement. Impatient motorists will find them a nuisance. Some auto mechanics in California are beginning to specialize in removing them.

Why has Detroit been so reluctant to explore alternatives to the ICE?

Part of the problem is time. Even if a new kind of engine had been developed, field-tested and found satisfactory, at least a year would be needed for the heroic task of refitting the industry to meet the production demands of 10,000,000 new engines a year. Automotive experts are virtually unanimous that insufficient time is left for such a monumental changeover before the 1975 deadline.

Hatsopoulos estimated that design and testing of Thermo Electron's Rankine cycle engine would not be complete before 1974.

"We are talking about a more or less peaceful schedule, not a crash effort," he said. "We'll need at least one year for field testing and redesign. If we start talking about the 1978 model year, I think it is entirely possible.

"If we had started three or four years earlier, we would have a solution now and an attractive one. Not only would the Rankine cycle engine meet the pollution requirements, but it will meet them with systems that are more efficient and will help the energy crisis."

Another factor in industry indifference to novel engines is cost. Experts say steam, electric or turbine engines would be no more expensive to mass produce than the internal combustion engine. Still the cheapest short term solution to the smog problem is to add on devices to existing power plants. Even this is being resisted by the auto makers.

Perhaps the fundamental factor is Detroit's conviction that the American consumer is so accustomed to the flexibility and performance that only the conventional internal combustion engine affords that he will accept nothing less. No other power system, of comparable size, weight and shape yet devised, responds so quickly and powerfully to the turn of a key, or the touch of a toe.

Steam engines, by the most optimistic estimates of their partisans, need at least 45 seconds to fire up. Battery driven cars, although they hold some promise for short-range city driving, suffer from notoriously short cruising ranges and low power.

"With the electric car, you take your choice," a General Motors engineer said. "Three jackrabbit starts, or 50 miles before you have to stop and recharge."

Questioned about Hatsopoulos's charge that its assessment of steam cars was a fraud, General Motors spokesmen acknowledged that the steam engine the company had tested was built to satisfy the demanding criteria applicable to gasoline engines. It was souped up to perform like a conventional engine, and it was scaled down to fit under a hood, they said.

This required extremely high temperatures under the boiler, and consequently, high emissions of oxides of nitrogen, they said.

In its efforts to salvage internal combustion engines, Detroit has tried altering ignition systems and doctoring carburetors, techniques which have resulted in poor performance and increased gas consumption.

But some experts, including representatives of New York City's pollution control division who testified before the EPA, maintain that excessive fuel consumption is not a necessary adjunct to low emissions.

It results, they said, when Detroit's engineers attempt the low-cost, corner-cutting solution instead of employing the more effective catalytic converters.

But to steam devotees, all add-on remedies are too gothic to survive.

"An internal combustion engine with a chemical plant at the end of the exhaust pipe will be totally unacceptable," said Hatsopoulos. "The internal combustion engine has served its purpose and served it well. It's now obsolete."

PEER REVIEW IN GOVERNMENT-SUPPORTED MEDICAL CARE PROGRAMS

Mr. TALMADGE. Mr. President, there has been much debate and considerable misunderstanding regarding the merits of peer review in Government-supported medical care programs. I am very proud to report to the Senate that peer review has been eminently successful in the State of Georgia, and has resulted in the savings of tremendous sums of tax dollars.

Basically, peer review, as it applies to Federal medical care programs, involves the formation of organizations by practicing physicians who assume responsibility for reviewing the care and services provided under medicare and medicaid in order to assure that such services are medically necessary and that they meet proper quality standards.

The physicians themselves, rather than Government agencies and insurance companies, decide whether the care in question and its cost are necessary and of adequate quality.

The Georgia Medical Care Foundation, established by the Medical Association of Georgia, has formed an organization which conducts peer review of payment claims for medical service, hospitalization, and nursing home care under the medicaid program. According to a release issued recently by the foundation, the program in Georgia has been a remarkable success.

In my State alone, it has saved the taxpayers more than a million dollars, and the overall medicaid budget has been reduced by almost $16 million since the new system was initiated a year ago. It is fair to say that if some form of peer review were extended to all Federal-State medicaid and Federal medicare programs, the taxpayers could be saved more than a billion dollars.

On the Senate Finance Committee, it has been my privilege to work side by side with the distinguished ranking

minority leader of the Committee on Finance (Mr. BENNETT) who has long urged such an approach. His amendment establishing peer review in both the medicaid and medicare programs has been incorporated in H.R. 1, the Social Security Amendments of 1971.

This action came in large part as a result of the very fine testimony before our committee of Dr. F. William Dowda, president of the Georgia Medical Care Foundation, who attested to the success and effectiveness of the peer review program in Georgia. Dr. Dowda is certainly to be commended for his outstanding leadership in this area, and it is my earnest hope that the Georgia program can become a model for other States and their medical associations to follow.

Mr. President, I bring to the attention of the Senate a news release issued by the Georgia Medical Foundation which outlines the success of peer review in Georgia over the past year, and ask unanimous consent that it be printed in the RECORD.

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

GEORGIA MEDICAL CARE FOUNDATION

Georgia Medicaid claims have been cut more than $1 million, and the overall Medicaid budget has been reduced some $15.7 million since the state initiated a new system for reviewing claims a year ago.

Dr. F. W. Dowda, president of the Georgia Medical Care Foundation, Inc., which conducts "peer review" of payment claims for medical service, hospitalization and nursing home care, said Thursday the situation as fiscal 1972 nears its end is a dramatic contrast to the end of fiscal 1971.

Last June saw threats of drastic curtailment of Medicaid services and a scramble for additional funds, as Medicaid costs soared some 76 percent over the year before.

Dr. Dowda anticipated the increase for the year ending June 30 will be less than 13 percent.

"We believe the 'peer review' system has proven to be eminently successful and has resulted in substantial savings in tax dollars without impairment of health services to Medicaid participants," he said.

Medicaid is a state-federal program providing free medical care, hospitalization, nursing home service and prescription drugs for persons on welfare and approximately 15,000 other low-income individuals. Georgia started Medicaid in October, 1967; and the state's financial share under the current formula is 30.33 percent. As of May 1, 471,000 Georgians were eligible for Medicaid.

Dr. Dowda said credit for holding down costs should be shared by the Georgia Legislature, the Health Division of the State Department of Human Resources, the Division of Family and Children's Services, the Foundation and the providers of health services—physicians, hospital administrators, nursing home operators and pharmacists.

Anticipating more efficient use of state and federal Medicaid funds after only seven months of the "peer review" program, the General Assembly in February reduced the fiscal 1972 Medicaid budget from $157.4 million to $141.7 million; but Dr. Dowda said 11-month figures indicate payments for the full fiscal year ending June 30 likely will be even less than that.

"The legislators seem to have been farsighted when they gave approval to the 'peer review' program and later when they reduced the budget," Dr. Dowda said.

He said the review of an average of some 15,000 medical, hospital and nursing home claims each month through May has resulted in a total of $1,032,000 in specific reduced or disallowed claims.

He estimated that at least another $10 million in Medicaid costs had been saved as a result of awareness by doctors and administrators of the new claim review mechanisms and guidelines that are a part of "peer review." These guidelines screen the number of monthly doctor visits and prescriptions and the length of hospital stays for various illnesses. They also provide a better insight into the level of nursing home care needed.

"The deterrent impact of the 'peer review' program is obviously greater than the dollars saved in reduced claims," Dr. Dowda said.

"Not only has the awareness of the Foundation's 'peer review' program increased the self-disciplining of providers, but also it has encouraged physicians to demonstrate to their patients that high quality medical care can be provided in a non-institutional setting at less cost to everyone."

The Foundation president noted that, while total fiscal 1972 payments will be above the $124 million of 1971, the increase is substantially below what might have been expected with the number of persons on welfare—and therefore eligible for Medicaid—going up steadily throughout the year.

The average number of persons on welfare rolls for the first 10 months of fiscal 1972 was 442,000—an increase of 49,000 over the 1971 monthly average of 393,000. In the 12 months prior to May 1, 1972, the actual number of persons on welfare increased by 39,200 (9.42 percent) to a total of 456,000.

Dr. Dowda is the current president of the Medical Association of Georgia which created the medical foundation.

Under a contract with the Health Division effective last July 1, the Foundation is paid $15,000 per month, one-half of which is federal funds.

Through May there had been a total of 1,685,000 physician, hospital, and nursing home Medicaid transactions, of which a vast majority were unchallenged. The Health Division sent 165,000 to the Foundation for review.

All new nursing home claims and all hospital claims which exceed the Foundation's length-of-stay guidelines are reviewed, and there is a continuous sampling of nursing home patients whose stays exceed 30 days, to see if a lesser level of care is appropriate to the patient's needs.

The Foundation reviews some 10,000 physician claims each month in accordance with a list of review guidelines established by the Foundation and the Health Division.

All recommendations for reduction or denial of claims are made by Foundation consultants, all of whom are physicians in the active practice of medicine in Georgia. Their recommendations may be appealed either to the board of the Foundation, to the state medical association, or to the Health Division. There are 200 Foundation consultants located throughout the state. Thirteen doctors comprise the Foundation's "peer review" committee.

Through May some four percent of hospital claims totaling $481,000 had been reduced or disallowed, and some three percent of physician claims had been cut $304,000. Reduction of three percent of nursing home claims resulted in savings of $247,000.

Mr. Dowda said projection of the nursing home savings over two and one-half years, which is the average length of a nursing home stay, would mean a saving of another million dollars just on the nursing home cases reviewed this year.

Dr. Dowda said that, although the "peer review" program has been successful in its initial year, the Foundation sees several ways its work can be improved with substantial additional savings to the taxpayers in future years. Specifically he cited the need for changes in the hospital review procedure, team visits to nursing homes, and setting up a means of handling prescription claims.

He said five hospitals are currently cooperating with the Foundation in a test program of new procedures.

MEDICAID PAYMENTS BY CATEGORIES, JULY 1 TO MAY 31, 1972

Type of service	Number of transactions	Cash disbursements
Inpatient hospital	89,900	$30,000,000
Outpatient hospital	302,400	4,740,900
Physicians and other	1,090,200	22,530,500
Nursing home	203,200	48,000,000
Prescribed drugs	3,163,400	13,300,000
Medicare premium payments		6,240,300
Total	4,849,100	124,811,700
Less Federal share		86,414,500
State funds		38,397,200

LIFE IN MARYLAND TO BE FEATURED ON THE MALL THIS WEEKEND

Mr. MATHIAS. Mr. President, I am pleased to extend an invitation to all Senators and to the public at large to visit the Smithsonian Institution's annual American Folklife Festival starting Friday on the mall and running through the Independence Day weekend.

We in Maryland are particularly pleased that the Smithsonian has chosen to feature our State in this year's festival. There will be exhibits and demonstrations of Maryland life, representative both of the present and of the State's proud, 338-year history.

Skipjacks, the famed workboats unique to Chesapeake Bay, will be brought up the Potomac River to anchor at Maine Avenue, just a few blocks from the main exhibit site on the mall.

There will be exhibits of Maryland arts and crafts which have been carefully prepared to reflect the interests of Marylanders over the years. There will be an exhibit which reflects Maryland's established reputation as a center for horse breeding and racing. There will be exhibits reflecting the distinctive customs of Maryland's diverse regions, from the rugged mountains of Appalachia to the water-oriented communities of the shore.

The Smithsonian, under the leadership of Dr. S. Dillon Ripley, is to be commended for its effort to provide a living presentation of America's folk culture in this annual festival. We in Maryland are honored to be featured in this year's festival and are pleased to join the Smithsonian in inviting everyone to come, meet us and learn more about us this weekend.

Mr. President, I ask unanimous consent to have printed in the RECORD an article describing plans for the festival in greater detail, published in Sunday's Washington Post.

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

MARYLAND FOLKLORE'S FESTIVAL YEAR

(By William Niederkorn)

"The sea was running 'bout four-foot high and there was 'bout a 30-mile breeze. The boat lift up and upset the gasoline in the hold and set her on fire. We had five men on board and no boat within half a mile of

us or more and we saved every one of them. That was in '37."

The speaker is Zak Taylor, captain of a skipjack for 55 years and one of five skipjack captains who will anchor at Hains Point on June 30 for the sixth annual Festival of American Folklife.

The great oyster fleet—the last commercial one left in American waters—will be a center for such sailing stories told in the rich argot of Maryland's watermen by the men themselves, the men who lived—or wove—the latter-day legends themselves.

It is Maryland's year to star in the sixth annual Smithsonian Festival of American Folklife. And the skipjacks—the only off-the-mall features of the festival—will co-star with horses, crafts, ethnic cooking, Maryland beer and perhaps a joust or two.

Four trade unions and Indians of the Southwest round out the festival which opens Friday and closes July 4. Everything but the vessels will be on the Mall, including a shuttle to and from the five sailing ships.

In a carnival atmosphere:

The International Ladies' Garment workers will make a lady's garment every day—from pattern to placket.

A Baltimore-style Greek coffee house will serve Marylandized versions of ethnic dishes.

Prize examples of a dozen breeds of Maryland's world-renowned horses and ponies will be shown (and curried and pampered and fed) by a bevy of horse-wise Maryland teenagers.

Indians will counter handicraft displays and dances in full regalia with daily consciousness-raising sessions on Indian problems and the identity crisis of the American Indian.

And there will also be: A carpenter's contest, nightly (union band) blues concert, a fiddler's convention.

Meanwhile, back at the skipjacks, will be workshop in the skills of net making, boatbuilding, sail making, cooperage, waterfowling and fur trapping. Tale swappers will gather at the water area daily for an hour or two of casual story telling. A folk art older than Homer, it should prove to be one of the most interesting aspects of a festival taking place in the age of the written word.

Musical events always seem to draw the biggest sit-down crowds at festivals and Maryland's contribution to song and dance includes Greek, Turkish and Italian music as well as country, blues, and square dancing.

"Go get a paper stretcher," lithographers used to tell their apprentices as part of their introductory hazing. As elusive—and as real—as the countries snipes hunted vainly by countless little boys away to camp for the first time, the paper stretcher never existed.

Only now it does and one of the recent miracles of modern science has destroyed an age-old practical joke.

That's part of the lore and "folklife" of American trade unionism.

Like the lithographers, the other three unions participating have methods of hazing apprentices. Carpenters tell their new workers to find a board stretcher. Molders ask for a mold stretcher, while members of the International Ladies' Garment Workers Union (ILGWU) send their apprentices after a bucket of steam.

However, the major point of interest in the union exhibitions will be the skills of the seasoned craftsman.

Tommy Cummings, a master printer from Toronto will pull lithographs from a manual hand press. An art no longer practiced in America, it requires the use of a litho-stone quarried only in Bavaria.

While the representatives of the ILGWU will demonstrate the complete process of garment making from design to buttonhole, apprentice carpenters will stage a contest in building cabinets. A gas furnace, aluminum ingots and squeezer molds, the tools of the molders' crafts, will be in operation producing aluminum frying pans.

Tribes from 19 New Mexico pueblos including the Taos, Santa Clara, Zuni and Hopi tribes as well as the White Mountain Apaches, the Pimas and the Papagos will present ceremonial dances. Some of the dances simulate the action of animals such as the Eagle dance of the Laguna Hopi and Taos tribes and the Butterfly dance of the Hopi tribe.

Visitors to the Indian area will see rabbit skin rugs woven by Taos Puelos. Navajo rugs will be woven on the site as well as mantas, a part of the Hopi ceremonial dress.

The panel discussion on "Women in the Indian Community", by the Southwest Indians, probably will get the greater interest of festival visitors. The topic of greater importance to the Indians, however, is "Water Rights." Rerouted and dammed rivers have created major problems for Indian communities in the past and threaten to continue to do so.

During the past five festivals attendance has increased every year by about 100,000, from 1967 when over 400,000 visitors attended to 1971 with more than 800,000. The close proximity of the featured state gives expectation of another such attendance surge.

Films relating to the festival will be shown in the auditorium of the Natural History Museum daily.

A program schedule of the exact times and places of the numerous workshops, demonstrations and concerts (as well as detailed articles on aspects of the cultures represented) will be available at festival for 25 cents.

RATIFICATION WILL NOT MEAN SUBJUGATION

Mr. PROXMIRE. Mr. President, some opponents of the Genocide Convention maintain that ratification of the treaty would result in subjugation of U.S. laws and courts by an international law code and court system. My attention has been called to an article written by Robert Morris and published in the Wanderer of July 1, 1972. Mr. Morris states:

> The treaty creates a whole new supranational crime. If you commit an act of violence—or attempt such an act—to an individual on the basis of race, religion or nationality, you have committed "genocide." You also commit genocide if you "attempt" "mental harm" to an "individual" on these grounds. . . . Can you imagine the multiplicity of litigation, both criminal (and consequent civil) that such a law would encourage in today's racially and religiously charged society.

Nothing could be further from the truth. In the first place, an act, or attempted act of violence against an "individual" does not constitute genocide. Article II of the Genocide Convention, and the recommended Senate understanding of that article clearly state that genocide is an act committed with "intent to destroy, in whole or part, a national, ethnical, racial, or religious group." An act of violence against a single individual thus cannot possibly be construed as genocide.

Second, although the treaty provides for the prosecution of genocide cases by "such international penal tribunal as may have jurisdiction," no such tribunal has been established, and there are no present plans to do so. In addition, one of the Senate understandings of the treaty clearly states that it "shall in no way affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State."

It is obvious from these facts that ratification of the treaty would in no way result in subjugation of U.S. laws or courts. I, therefore, urge that immediate action be taken on this matter.

NEED FOR PRESERVATION OF RURAL AREAS

Mr. TAFT. Mr. President, when the day comes when America's picturesque, historic, and rural areas are overrun with shopping centers, housing subdivisions, industrial parks, and expressways, we will be poorer for it in many ways. Much of the richness of this country lies in the natural beauty of our farmlands as well as our wilderness areas.

Just as it is important for us to reserve places such as Nantucket Island from the blight of urban sprawl so it is important that we retain the natural heritage of some of our rural areas. This is particularly true with respect to the Shenandoah Valley, which has such an important place in the history of our country. Tragically, this area is coming under the sights of developers. In my own mind I am not sure that the destruction of forests and farms is progress, when the end result is an extension of urban and suburban sprawl.

Perhaps the time has come for us to ask whether certain rural parts of our country should not be preserved for future generations. This is particularly true as to areas having unique historic significance and natural beauty, such as parts of Vermont and parts of the Shenandoah Valley.

Once these areas are "developed" we can never restore their beauty.

I ask unanimous consent to have printed in the RECORD an article entitled "The Battle for Massanutten," published in the Washington Post of June 19, 1972.

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

THE BATTLE FOR MASSANUTTEN—RESORT AND HOMESITE BOOM PERILS SCENIC AREA

(By Bart Barnes)

WATERLICK, VA.—Forests and wildlife of the Massanutten Mountain, a 45-mile-long ridge cropping up from the floor of Virginia's Shenandoah Valley, are being threatened by a boom in the development of second home resorts, environmentalists have charged.

At least 60 projects in the immediate area of the Massanutten, covering between 40,000 and 50,000 acres 80 miles west of Washington, are in the process of being subdivided into smaller lots and sold as vacation and retirement homesites.

The Massanutten, which includes about 75,000 acres of the George Washington National Forest, extends through four Virginia counties, all of which have differing regulations regarding land use and subdivision development.

Environmentalists contend that planning for orderly growth is all but nonexistent in the area and they charge that the natural values of the Massanutten gradually are being destroyed.

William E. Shands, executive director of the Central Atlantic Environment Service, says the development pressures in the Mas-

sanutten area "are a miscrocosm of what's going on all over Virginia and Maryland . . . in fact anywhere in the country now where you've got a scenic area near a metropolitan center."

Rising sharply from the Shenandoah floor, the Massanutten is bounded by the north and south forks of the Shenandoah River. At the northern end, the mountain divides and the two ridges encompass Fort Valley, an area of farms and pastures.

The Massanutten's forests contain more than 150 species of birds including wild turkeys and game birds, more than 100 species of animals and a wide variety of trees, shrubs and plants.

George Washington was said to have done much surveying in the area and it was Fort Valley, the area encompassed by the two northern prongs of the mountain, where Washington had planned to hold out against the British during the American Revolution should his armies be routed.

Strategically located between Gettysburg and Appomattox, the area was the site of Union and Confederate troop movements during the Civil War. Both sides used Signal Knob at the northern entrance to the mountain as an observation point to spy on troop movements in the valleys and along the Shenandoah River.

Camp Roosevelt, the location of the first Civilian Conservation Corps camp in the depression of the 1930s is part of the Massanutten.

The Massanutten was described by the late Justus H. Cline, Virginia's state geologist, as one of the "most exciting geological areas in the United States."

Its birth was recorded in rock formations beginning about 500 million years ago when most of eastern North America was a coastal plain. Some time about 200 million years ago, its rock strata was strongly compressed, buckled and raised high above sea level.

Much of the Massanutten area now is capped with a sandstone layer with limestone beneath it and is a well known region for limestone caves and caverns.

With the development of the interstate highway system the Massanutten also is increasingly accessible. The U.S. Forest Service estimates now that it is within two to three hours drive of 6 million people and within a seven- to eight-hour drive of 56 million people.

Two major interstate highways, 66 running east to west from Washington and 81 running north to south from Pennsylvania, will connect with a few miles of the mountain.

William Leichter, one of the forest rangers assigned to the George Washington National Forest, predicts that "eventually this is going to be no more than a suburb of Washington."

"Golly, they'll be out here in no time at all, once they finish I–66," Leichter said. The Massanutten already is feeling the pinch of the population explosion and intensive development, he says.

The national forest is laced with camp grounds, picnic grounds, nature trails, fishing streams and hunting areas, but in recent years there has been more and more vandalism, trash dumping and people who ignore regulations.

On the Memorial Day weekend, Leichter said, "I was cussed out more than ever in my life" when he went around the forest grounds enforcing such rules as where fires are allowed or prohibited and where cars may be driven.

One man had driven his car over a small rock barrier intended to separate the parking lot from a camping area.

When he spoke to him about it. Leichter recalled, "the man just couldn't understand there would be any reason why he shouldn't be allowed to drive his car wherever he pleased."

There have been several recent incidents, Leichter recalled, in which vandals have smashed up exhibits along nature trails and last spring someone broke into Camp Roosevelt with a gun and shot up a number of the buildings.

Many of the persons who have purchased second home or retirement lots, he said, visit them on weekends and by the end of the weekend "have accumulated a certain amount of trash."

"They don't have any place to put it. We sometimes find it thrown over the side of a hill or at the edge of a roadside," Leichter said.

The second-home subdivisions range from 50-acre farms that are being subdivided and sold in one-half acre lots to the giant $50 million, 5,300 acre Del Webb recreational development at the southern tip of the Massanutten near Harrisonburg.

Many border on land owned by the Forest Service and one is completely surrounded by the national forest.

The Del Webb development, which is named Massanutten, eventually will have 16 ski slopes, tennis courts, a golf course, a ski lodge, swimming pools, birdie trails and stables according to its developers. The Del Webb company is the firm that built the new Madison Square Garden in New York and Sun City in Phoenix.

"I don't think the scars on the landscape are all that bad. And besides, this is progress," said Ken Brown, a spokesman for the Del Webb development.

"Sure, we're cutting down some trees. You can't have 16 ski slopes and a golf course without that. But people are yelling about saving an area for the half-dozen families that come here for Sunday picnics."

Mine Mountain Estates is the development that is surrounded on all sides by the national forest, located near the northern end of the Massanutten on the western ridge of the mountain.

There, bulldozers have carved out giant sections of the woods where the developers plan to make lakes. Driving along a dirt road up the mountain side one notices "sold" signs tacked on to trees.

A small trout stream runs through the area and down the mountainside and Leichter and others fear that silt and erosion from the development plus sewage will pollute and destroy the stream.

According to officials of the U.S. Soil Conservation Service in the area, water and sewage disposal constitute some of the major difficulties that accompany development of the second home lots.

"You get too many lots in too small an area. The soil's not right for septic tanks and water's not available and you've got some problems," said Paul Swecker the U.S. Soil Conservation Service officer in Shenandoah County.

Swecker said most of the subdivisions in the area sell half-acre lots at prices averaging between $3,000 and $3,500. Ten or 15 years ago, before the land boom, he said, good farm land went for $100 an acre while mountain property would bring no more than $10 an acre.

"Practically all the land that's sold down here now is being sold to people from the metropolitan area," Swecker said. "The local people can't afford it."

John Crist, Swecker's counterpart with the Soil Conservation Service in Page and Warren counties, predicts that the haphazard development of recreational subdivisions near the Massanutten eventually will be disastrous.

Of the four counties through whose territory the Massanutten extends, Page County has no land-use ordinance at all, Rockingham County has a subdivision ordinance and a zoning ordinance, and Warren and Shenandoah counties have subdivision ordinances with Warren County's probably being the more stringent.

"Page County is fiddling while Rome is burning," says Crist, adding that there appears to be no group of citizens in his area particularly concerned about what may be the consequences of all the new subdivisions in the vicinity.

Roy W. Comer, chairman of the Page County Board of Supervisors, said the county currently is in the process of enacting a subdivision ordinance.

"There is no control right now. We've got to have some control to protect the county and to protect the people buying the lots," Comer said.

Comer added that it "would be a help on the tax base if these subdivisions develop in an orderly fashion."

Shands, of the Central Atlantic Environment Service, said the plethora of vacation subdivisions in a previously undeveloped and natural area will do one of two things:

"On the one hand they over-civilize a place in a way that destroys the naturalness of it; on the other hand they create instant slums."

In an article in its May edition, the Central Atlantic Environment News charged that the Massanutten "is being subjected to systematic despoilation by developers of second home resorts. . . . The growing population draws on an already overburdened water supply. Unregulated waste disposal raises the threat of water pollution. Power lines, pipe lines, communications lines and roadways must be provided but their rights-of-way, if unregulated, affect soil stability and promote soil erosion and sediment pollution of the waters. The large acreage clearing required for building sites poses the same problems, particularly on the more precipitous slopes being developed.

"Building on flood plains aggravates flood dangers and accelerates soil erosion. Beyond these problems, the overall degradation of scenic values, the impact on animal and plant life must be considered as well."

The article was based on a six months' study of land-use regulation in the Massanutten area by David T. Deal for George Washington University's Environmental Law Program.

Leichter, of the Forest Service, says the biggest problem "is the problem of local people waking up to the fact that there is a problem and it's going to get bigger."

He added that many local officials see the new subdivisions and vacation homes as welcome sources of an increased tax base while land owners see them as increasing the value of their own property.

At a recent hearing into the subject of whether or not land-use regulation should be tightened, he recalled, "the only people who showed up were the real estate people and the developers and they were all against it."

Lena Artz, who retired in 1947 as a botany teacher at Arlington's Washington-Lee High School and moved to a small cabin on the slopes of the Massanutten, says the area now "is just simply being wrecked.

"I'm not opposed to skiing where they have snow," she said, commenting on the Del Webb ski resort and on another nearby. "But here they have to use electricity to make snow. Now does that make any sense? Especially when we're told there's an electrical shortage."

"I was spoiled because when I came down here I was alone and I felt like this whole mountain belonged to me. Now I just hate to see it mutilated and torn to pieces."

FORCED SCHOOL BUSING IS A BAD POLICY

Mr. TALMADGE. Mr. President, as we have gotten deeper into the presidential

campaign, and especially when national polls and the primaries have shown busing to be a matter of grave concern, I have heard a number of statements issued by the candidates to the effect that forced school busing is a bad policy. But there have been no real proposals for action by any of the leading candidates.

Recently, the President once again expressed disagreement with forced busing. As he signed the Higher Education Act, the President said he was disappointed in the weakness of the antibusing provisions of the act.

Although he had exerted no executive influence over the fate of stronger versions, he blamed Congress for the failure to pass them. He hinted at the possibility of backing a constitutional amendment to outlaw busing. I certainly hope he will. This is action I have urged from the very beginning.

We must do away with busing now. It has nothing to do with quality education. To the contrary, it is doing inestimable damage to both the educational process and to children who must participate in it. Busing comes to us in the guise of civil rights. Instead, it denies one of the most fundamental principles of the American free society: the right and duty of parents to insure quality education for their children, and to look after their health and safety.

A constitutional amendment is the safest and surest route to the end of this intolerable situation. It is high time the Federal Government quit interfering in matters of purely local concern. Education is one such matter. Polls show that the overwhelming majority of all Americans oppose busing simply to achieve a racial balance. Yet, Federal courts and the bureaucracy persist in forcing it upon the American people.

The busing issue is an outstanding example—though not the only one—of dwindling responsiveness of the Government to the will of the people. This problem is very forcefully illuminated in a column by Stuart Alsop, published in Newsweek for June 26, which I commend to the attention of the Senate. Mr. Alsop laments an increasing failure of the Government to apply its laws equally to all, and to go against the wishes of the people and against what is in their best interest.

Mr. Alsop points out that it is right for our Government to demand sacrifice of its citizens—but only when the same sacrifice is demanded of all. This is a basic principle which applies to busing, as well as taxation and military conscription.

Ours has become a system of privileges. The sophisticated rich take advantage of loopholes in the tax structure. Along with these tax dodgers, we have draft dodgers among the more privileged. And now we see a new class of "bus dodgers" among people who can afford private schools and who, therefore, are still able to exercise their right as parents to guarantee quality education for their children.

I share Mr. Alsop's concern, and I ask unanimous consent that his column be printed in the CONGRESSIONAL RECORD.

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

THE FLOUTED PRINCIPLE

(By Stewart Alsop)

WASHINGTON.—It is sometimes useful to forget about primaries, delegate counts and the like, and try to think about what this campaign is all about. One of the things it seems to be about is an old principle of American democracy, which might be stated about as follows:

The American Government has a right to demand sacrifice of the citizen in the national interest, but only if that sacrifice is universally and fairly shared.

To most people, this principle would seem obvious to the point of banality. And yet it seems to account in large part for the two major surprises of this election year—the meteoric rise of George McGovern and the astonishing primary showing of George Wallace.

For a lot of ordinary citizens have suddenly realized that in the relationship between the government and the citizen, the principle of equal sacrifice has been outrageously flouted. It is outrageous, obviously, that a lot of rich people pay less than their fair share of taxes, and that some pay none at all—an issue that both McGovern and Wallace have ridden hard and high.

But there are two other ways in which the principle of equal sacrifice has been outrageously flouted. In both these ways, there has been as much discrimination in favor of the prosperous, the influential, and the sophisticated as in the matter of taxes. And in both ways what is at stake is not the citizen's money, but his children.

A BUSING ORDER

For the first way, consider the case of Carl E. Merchant, of Pontiac, Mich., a 34-year-old $8,000-a-year autoworker. Last year, Mr. Merchant bought a house in a predominantly white, middle-class area of Pontiac, so that his 13-year-old daughter, Cari, could go to a junior high school in walking distance of the house. But under last September's court-ordered Pontiac integration plan, Mr. Merchant was told that Cari had to be bused crosstown to the city's black southwest side.

Mr. Merchant said he would rather go to jail. "It's a high-crime area," he said. "I have the right of a parent to look out for the safety of my child." Mr. Merchant was promptly put on trial on a charge of "child neglect." A policeman, testifying at his trial, said that the southwest was indeed "an unsafe area," in which the police always patrolled in pairs. In the end, in a bizarre, Solomonic decision, the court ordered Mr. Merchant to send his daughter to live with her grandparents, in a suburb outside Pontiac, where Cari now goes to an all-white school.

Thus, Mr. Merchant paid for his fears for Carl's safety by having her removed from his home by judicial fiat—an outrage by every standard of America's past. Moreover, his fears were by no means mere racist imaginings. A depth study for The New York Times has reported "conditions of paralyzing anarchy" and much violence and disorder in big-city schools nationwide "with substantial Negro enrollments."

SACRIFICES

These conditions no doubt have their roots in the racial injustices of the past. The fact remains that to ask Mr. Merchant, and thousands of parents like him, to send their children to such schools in the name of racial balance is to ask them to make a very great sacrifice. It is smarmy hypocrisy to repeat that children have always been bused to school. To the parent, and the child, the question is: To what school? And for what purpose?

The affluent do not have to worry about those questions. They can afford to send their children to private schools. Or they can move out to the all-white suburbs, like the suburb where Cari's grandparents live. But people like Mr. Merchant, with around $8,000 a year, do have to worry about them. Last week, for example, a Federal judge ordered the forced busing of 310,000 children in Detroit and its suburbs, and in cities all over the nation parents like Mr. Merchant fear similar court orders.

There are sensible people who doubt that busing for racial balance is in the national interest, or even in the interest of the black children it is supposed to benefit. They range from students of the subject like Harvard's Prof. David Armor to many black leaders. But suppose it is finally decided that busing is indeed essential in the national interest. Then the principle of shared sacrifice comes—or ought to come—into play.

Under that principle, *everybody's* children—George McGovern's, Tom Wicker's, Spiro Agnew's, Stewart Alsop's—must be bused, or must have an equal chance of being bused. Otherwise, busing is as class-discriminatory as the tax system—more so, because it entails not money but children.

There is another area in which the relationship of government and governed is outrageously class-discriminatory. This is the American system of military recruitment—not just the draft, the whole system. Our system is more class-discriminatory than the British system in the days when petty thieves and the drunken poor were impressed into the service and forced to take the King's shilling. At least the younger sons of the upper class who commanded these poor soldiers also risked their own lives in combat.

Our system, even when draft calls were high and we had half a million men in Vietnam, offered the sophisticated children of the affluent every opportunity to escape the draft entirely, and in the unlikely event of being drafted, to take cushy noncombat jobs. The ridiculously small proportion of Ivy League graduates who saw combat in Vietnam has been documented in this space. It would be interesting to know what proportion of the young antiwar activists who have helped to run George McGovern's campaign have seen combat. Under our system, the young men who end up getting shot at are the sons of people like Mr. Merchant. That would be true—only more so—of a "voluntary" army.

TAKING ADVANTAGE

The sophisticated young are not to be blamed for taking advantage of the draft system, any more than the sophisticated rich are to be blamed for taking advantage of the tax system. The fact remains that in the ways described here, and in other ways, too, the relationship between the American Government and the citizenry is based on blatant class discrimination. It is because the Mr. Merchants for the first time sense that this is so that this election is different from other elections.

But a system of privilege creates its own constituencies—the tax-dodging rich for the Republicans and the oil-state Democrats, the draft-dodging young and the Litchfield liberals who don't worry about busing for the liberal Democrats. So it remains to be seen whether, after all the campaign oratory, anything much will change.

SALUTE TO EDUCATION

Mr. TAFT. Mr. President, our Nation's system of education is today faced with several challenges. The country is continually changing, growing, diversifying, and so must education. Today I want to discuss with you two of these challenges which, I believe, deserve a high

priority in our community, State, and Federal efforts. First, we must shift the emphasis of education to vocational and technical areas where skills are now needed. Second, many of our Nation's elementary and secondary school systems are today faced with severe financial problems. This crisis in education arises in large part from the inability of many States and localities to generate sufficient revenues to provide top quality instruction, equipment, and facilities.

There persists in this country a brand of intellectual snobbery. The idea that the only good education is one in a 4-year-college degree program is simply misguided and false. The pooh-poohing of vocational and technical training programs in our high schools and in our communities is damaging, not only to our young people, but also to the current employment crisis. We must insure that educational programs are responsive in matching the vocational needs of our Nation with the real talents and interests of young people. The push of our high school students toward liberal arts training in recent years has produced an overabundance of academic generalists, many of them, upon graduation, finding themselves in the ranks of the unemployed. We must correct this imbalance by encouraging students to pursue and develop needed skills in the vocation of their choice, and by expanding and improving vocational and technical programs in our schools.

The second challenge is that of financing education. The President's Commission on School Finance, in its report issued on March 3, pointed out that—

> The relationship between cost and quality is exceedingly complex and difficult to document * * * The truth is that most educational research is only beginning to come to grips with the complexity of the total teaching and learning process.

The President's proposal for education revenue sharing would consolidate many categorical aid programs and provide flexibility in the State and local planning and administration of programs more closely attuned to the special needs of each community. This proposal also includes the provision of additional Federal funds. I look forward to a thorough consideration of this and many other such concepts by the Congress.

It is with great pleasure that I take this opportunity to salute education in America. We must all join in meeting the challenges of providing quality and responsive education.

NEW NATIONAL RECORD FOR GERMAN BROWN TROUT ESTABLISHED IN ARKANSAS

Mr. FULBRIGHT. Mr. President, Arkansas abounds with lakes and rivers offering outstanding fishing and recreational possibilities.

Recently, on the upper White River near the Bull Shoals Dam, Mr. Troy Lackey of Lakeview, Ark., landed a 31-pound, 8-ounce German brown trout, establishing a new national record for this particular fish.

This catch will give the Bull Shoals area three brown trout world records on spinning gear. The fact that three such record catches could have been made in this small area certainly testifies to the outstanding fishing available in the Bull Shoals region and in Arkansas.

Mr. President, I ask unanimous consent that a letter to me from Mr. Phil Cullen of the Imperial Resort Motel at Bull Shoals describing Mr. Lackey's record catch and the other records be printed in the RECORD.

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

IMPERIAL RESORT MOTEL,
AND BULL SHOALS TROUT DOCK,
Bull Shoals, Ark., May 25, 1972.

Hon. J. W. FULBRIGHT,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR FULBRIGHT: German Brown Trout records fell yesterday when Troy Lackey, a guide working for the Imperial Resort In Bull Shoals, Arkansas hooked, fought and landed a whopping 31 lb. 8 oz. lunker which should establish itself as the new national champion. The old record of 29 lb., 9 oz. was short lived, lasting only a year to the day when Mr. Lackey made his catch. The old record was established in Lake Superior on May 24, 1971.

Mr. Lackey, as stated previously, was guiding a party on a White River float trip in the Ozarks and was using spinning equipment with Crawfish for bait on a 12 lb. test line. He lucked into the monster ½ mile below Bull Shoals Dam and battled it for over an hour before bringing it to net. Since his guests were ladies and neither could assist for fear of losing the catch it was necessary for Lackey to handle the boat, rod and net in his efforts to boat the catch.

This catch will also be the New World Record for German Brown Trout on 12 lb. test line on spinning equipment. This will give the upper White River (Bull Shoals Area) three Brown Trout World Records on spinning gear, 6 lb. test line with a catch of 19 lb., 15 oz. John Lanza of Lakeview, Ark., 8 lb. test line with a catch of 28 lb., 3 oz., Dr. Louis McFarland of Hot Springs, Arkansas and now 12 lb. test line 31 lb., 8 oz., Troy Lackey of Lakeview, Arkansas.

It is believed that this is the only area in the world that can boast of three world records in such a small area.

Yours truly,

PHIL CULLEN.

IMPERIAL RESORT MOTEL
& BULL SHOALS TROUT DOCK,
Bull Shoals, Ark., June 1, 1972.

Hon. J. W. FULBRIGHT,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR FULBRIGHT: We are proud of our area in Bull Shoals, Arkansas and do like to boast about our great fishing on the White River. News such as our "World's Catch German Brown Trout," we feel, will not only bring more tourists into our area, but will bring more tourists into the entire state of Arkansas, which we are all proud of. We all know that many who have come here on vacation have decided to make it their home and all of this helps Arkansas to grow.

I am sure you have been to the "Ozarks," but we would like to extend to you, "Our Hospitality" at your convenience. If you have never been on a float trip in this area, we would like to be the people to take you, or if you have been, we would still enjoy having you float with us and be our guest at our resort.

However, we cannot promise you the world's record, but do promise you one of the most enjoyable float trip's in the "Arkansas Ozark's." We have extended to you, our invitation and sincerely hope you will accept.

We look forward to your answer with great anticipation.

Sincerely yours,

PHIL CULLEN.

SGT. JAMES R. OSTER, LORAIN COUNTY, OHIO, POLICEMAN OF THE YEAR

Mr. TAFT. Mr. President, on May 17, 1972, an exceptional citizen was honored as Lorain County's "Policeman of the Year." The award was based on Sgt. James R. Oster's "professional competence, achievement, contribution to community, and personal life style."

His profesional competence as a dedicated and worthy police officer, his achievement in establishing the Elyria safety town program, from which more than 6,000 preschoolers have learned safety, and his contribution to his community with the PTA, and the Boy Scouts, have all been exemplary of this man's life. For it is organizations such as these and the leadership of the caliber of Sergeant Oster's which are the influence that mold today's young people.

Sergeant Oster is to be truly commended as not only an outstanding example of service and concern for his fellow man, but a remarkable citizen of the United States as well.

I ask unanimous consent that two articles from the Chronicle Telegram of May 18, 1972, be printed in the RECORD.

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

ELYRIA'S JAMES OSTER HONORED AS "POLICE OFFICER OF THE YEAR"

(By Roger Turner)

Sgt. James R. Oster, winner of numerous laurels as an Elyria policeman and citizen, won perhaps his biggest honor to date last night when he was named recipient of the "Police Officer of the Year Award."

The 45-year-old officer received the county-wide award during the annual meeting of the Advisory Council on Sheriff's Affairs at the Holiday Inn.

The award was presented by Ohio Supreme Court Justice Louis J. Schneider Jr. and drew praise and acknowledgement from local, state and national leaders, including President Richard M. Nixon.

Completely surprised by his latest honor, Sgt. Oster was almost rendered speechless at the event.

"Two weeks ago, I was told to be here because I had a job to do," he said. "I thought I was supposed to be looking for hippies."

Continuing, he told the audience of about 300 his 21 years as a policeman have been unusually satisfying.

"The only reason I have done the job I've done is because there's nothing more rewarding to me than working with children and the public," he said. "I just want to say thanks for being a part of this tonight."

His wife, Carolyn, and their sons, James Mark, 19, and Jeffrey Richard, 15, were ushered in shortly before the awards presentation. Mrs. Oster said Elyria Police Chief Maurice C. Flood told her about her husband's honor three weeks ago.

It was based on Sgt. Oster's "professional competence, achievement, contribution to community and personal life style," according to guidelines used by the council's screening committee.

Sgt. Oster's latest honor earned him awards of commendation from President Nixon, Mayor Leonard P. Reichlin and Ohio Attorney

General William J. Brown on behalf of Gov. John A. Gilligan.

Letters with similar acknowledgements were sent from the Ohio Senate, the Ohio Supreme Court Chief Justice, U.S. Rep. Charles A. Mosher, U.S. Sens. William Saxbe and Robert Taft Jr., Acting U.S. Attorney General Richard D. Kleindienst and the late J. Edgar Hoover.

All this Sgt. Oster accepted calmly.

"I'll treasure that one from Mr. Hoover," he remarked quietly following the presentation.

Sgt. Oster, 1731 Lake Ave., was director of Elyria's Safety Town program for 14 years until last August. From the time the program began under his direction in 1958, more than 6,000 pre-schoolers benefited from the program.

His work with young people earned him the distinction of becoming the first policeman to win the Elyria Jaycee's distinguished service award in 1962.

In 1969, he was honored for his more than 20 years involvement in Boy Scout activities. That year he won the St. George Award for his contributions as a scout leader. It was the highest such award presented to Catholic lay leaders in scouting.

Three weeks ago, he was awarded an honorary state PTA life membership from the Elyria Council of PTA.

Following the presentation of his award last night, a speech was delivered by Dr. Kenneth McFarland, guest lecturer of General Motors Corp.

Sheriff Vernon M. Smith concluded the talks, urging support of a 1-mill levy which is to appear on the November ballot to raise funds for a new jail.

The council approved a motion pledging support of the levy.

AS WE SEE IT: WELL DONE, SERGEANT OSTER

There is little to add to the tributes already paid to Sgt. James R. Oster of the Elyria Police Department, recipient of this year's countywide "Police Officer of the Year Award," other than to say all of them are deserved.

Dedicated police work always is worthy of recognition, and too often goes unrecognized. Sgt. Oster is more than a dedicated policeman; he is an outstanding community citizen and has worked ceaselessly with young people.

"There's nothing more rewarding to me than working with children and the public," he said as he accepted the unexpected award. We would add that his work is equally rewarding to the children and the public whom he serves.

More than 20 years ago, even before he had sons of his own, Sgt. Oster began working for and with young people as a Boy Scout leader, and 14 years ago was responsible for establishing the Elyria Safety Town program for children which has won wide recognition.

Thousands of young adults who have profited by their contacts with him share with us the privilege of joining President Nixon, the late J. Edgar Hoover and many others in saying well done, Sgt. Oster.

We believe the community also owes a word of appreciation to the Advisory Council of Sheriff's Affairs which has inspired the annual recognition of a policeman of the year, and also has spearheaded formation of Lorain County's Bluecoats, Inc., which is gradually building a trust fund for the benefit of wives and families of police officers and firefighters killed or injured in the line of duty.

The Council gives citizens of Lorain County opportunities to express appreciation for those who protect and serve us at a time when a vocal minority is so violently critical of them.

THE ARMY'S SAM-D PROGRAM: A U.S. VIOLATION OF THE SALT PACT?

Mr. PROXMIRE. Mr. President, further testing or deployment of the Army's SAM-D air defense system could constitute a United States violation of the recently concluded ABM Treaty with the Soviet Union.

SAM-D is a mobile surface-to-air missile development project for use in protecting NATO countries and the continental United States against enemy aircraft attack. Estimated costs for the controversial project have more than doubled in the past three years, from $2.5 to $5.2 billion.

Although enemy aircraft are the primary threat against which SAM-D has been designed, numerous Pentagon witnesses have told Congress in recent years that it will have a capability also against tactical and strategic ballistic missiles.

The new ABM Treaty specifically prohibits mobile land-based ABM systems and it also prohibits the testing or deployment of non-ABM systems with ABM capabilities.

A close reading of the Treaty and the supporting documents submitted to Congress convinces me that the Army may never be able to test or deploy SAM-D without violating the treaty, as the United States interprets it.

Accordingly, I have written today to both Secretary Rogers and Secretary Laird for an explanation as to why SAM-D has not been canceled along with prohibited portions of the Safeguard ABM system.

Actually, its huge cost overruns and the extent to which its primary mission duplicates the missions of the F-15 and smaller SAM systems are grounds in themselves for cancellation.

THE LEGAL ISSUES

These are the reasons why I believe that further testing or deployment of SAM-D might violate the ABM Treaty.

First, article II(1) of the treaty defines an ABM system as any "system to counter strategic ballistic missiles" which includes interceptor missiles or radars "constructed and deployed for an ABM role, or of a type tested in an ABM mode."

SAM-D's ability to counter strategic ballistic missiles, however limited, appears to bring it within the treaty's definition of an ABM system. If it is such a system, several things follow.

Its further development, testing, or deployment would be in violation of article V(1)'s prohibition against mobile land-based ABM systems.

Its deployment in a nationwide bomber defense network would be a violation of article I(2)'s prohibition against the deployment of or laying a base for a nationwide ABM system.

Its deployment in defense of NATO would be a violation of article IX's prohibition against the transfer to other countries or the deployment outside the United States of ABM systems or their components.

Second, even if SAM-D is not in fact covered by article II(i)'s definition of an ABM system, it may be affected by article VI of the treaty.

Under provision (A) of article VI, the United States undertakes not to give non-ABM interceptor missiles or radars any ABM capabilities and not to test such missiles or radars in an ABM mode. It would appear that this provision was included in the treaty specifically to forestall argument that a system like SAM-D was not a true ABM system.

This interpretation is strengthened by Secretary of State Rogers' statement, in the official United States interpretation of the treaty, that this undertaking "would, for example, prohibit the modification of air defense missiles—SAM's—to give them a capability against strategic ballistic missiles."

Finally, deployment of SAM-D and its phased-array radar in Europe would appear to violate article VI's prohibition against the deployment of radars for early warning of strategic ballistic missile attack anywhere but on the borders of one's own nation.

It is difficult to believe that SAM-D and its limited capabilities against ballistic missiles were not specifically considered by both sides during the recent SALT negotiations. If SAM-D was considered, however, and a decision made to permit its deployment, this is not made clear anywhere either in the treaty or its supporting documents.

It is therefore essential that we should act now—before Congress ratifies the treaty—by either canceling SAM-D or clearly demonstrating its compatibility with the treaty's terms. A failure to do so could spark controversy later and complicate the second round of the SALT negotiations.

NO CLEAR MILITARY NEED

I have long been opposed to development of SAM-D on purely military grounds.

Deployed in Europe in its conventional warfare role, its primary anti-aircraft mission seems to duplicate the missions both of existing SAM missiles and the Air Force F-15 fighter.

Its role in the defense of the United States against Soviet bomber attacks seems even more dubious. What is the point of a defense against Soviet bombers when we have already decided not to construct a defense against the much more powerful Soviet strategic missile force?

SAM-D's apparent inconsistency with the terms of the ABM Treaty is just one additional justification for its immediate cancellation.

CONGRESSIONAL TESTIMONY

Though more detailed statements about SAM-D's capabilities against tactical and strategic ballistic missiles have been made in classified information furnished the Congress, the following are among the statements available on the public record:

First. Testimony of Lt. Gen. A. W. Betts, Army Chief of Research and Development, to the Senate Armed Services Committee, March 5, 1970:

SAM-D would be capable of defending tactical ballistic missiles with ranges less than

(deleted), air to surface missiles, and sub-launched cruise missiles. This system represents a radically new approach to . . . air defense . . . The application of the latest advances in miniaturized electronic circuitry, computer technology, radio data link techniques, and the phased array radar concept will give the system a mobility and multi-mission capability never before achieved in an air defense system.

Second. Question by Senator JOHN STENNIS and answer by Director of Defense Research and Engineering Dr. John S. Foster, Jr., before the Senate Armed Services Committee, February 26, 1970:

QUESTION. What capability will the SAM-D have against a CONUS SLBM and ICBM threat?

ANSWER. Based on the results of studies completed to date, the SAM-D system used as a defense against strategic ballistic missiles (even if SAM-D is modified) would be critically sensitive to variations in a number of threat parameters. To obtain a capability against a reasonable range of possible threat characteristics would probably require SAM-D to be supported by the SAFEGUARD Missile Site Radars. Therefore, SAM-D may be useful as a possible future augmentation to SAFEGUARD should the need arise, but it does not appear by itself to provide a variable defense system.

TREATY TEXT

The following is the text of treaty provisions relevant to the SAM-D issue:

ARTICLE II(1)

For the purpose of this treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of:

(A) ABM inceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode;

(B) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and

(C) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

ARTICLE V(1)

Each party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, or mobile land-based.

ARTICLE I(2)

Each party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this treaty.

ARTICLE IX

To assure the viability and effectiveness of this treaty, each party undertakes not to transfer to other states, and not to deploy outside of its national territory, ABM systems or their components limited by this treaty.

ARTICLE VI

To enhance assurance of the effectiveness of the limitation on ABM systems and their components provided by this treaty, each party undertakes:

(A) Not to give missiles, launchers or radars, other than ABM interceptor missiles, ABM launchers, or AMB radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode, and

(B) Not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward.

SUPPORTING DOCUMENTS

Finally, the following are two passages from the supporting documents which bear upon the issue:

First, initialed statement D of the agreed interpretations:

The Parties agree not to deploy phased-array radars having a potential (the product of mean emitted power in watts and antenna area in square meters) exceeding three million, except as provided for in Articles III, IV and VI of the Treaty, or except for the purposes of tracking objects in outer space or for use as national technical means of verification.

Second, unilateral statement E by the United States:

E. TESTED IN ABM MODE

On April 7, 1972, the U.S. Delegation made the following statement: "Article II of the Joint Draft Text uses the term 'tested in an ABM mode,' in defining ABM components, and Article VI includes certain obligations concerning such testing. We believe that the sides should have a common understanding of this phrase. First, we would note that the testing provisions of the ABM Treaty are intended to apply to testing which occurs after the date of signature of the Treaty, and not to any testing which may have occurred in the past. Next, we would amplify the remarks we have made on this subject during the previous Helsinki phase by setting forth the objectives which govern the U.S. view on the subject, namely, while prohibiting testing of non-ABM components for ABM purposes: not to prevent testing of ABM components, and not to prevent testing of non-ABM components for non-ABM purposes. To clarify our interpretation of 'tested in an ABM mode,' we note that we would consider a launcher, missile or radar to be 'tested in an ABM mode' if, for example, any of the following events occur: (1) a launcher is used to launch an ABM interceptor missile, (2) an interceptor missile is flight tested against a target vehicle which has a flight trajectory with characteristics of a strategic ballistic missile flight trajectory or is flight tested in conjuncton with the test of an ABM interceptor missile or an ABM radar at the same test range, or is flight tested to altitude inconsistent with interception of targets against which air defenses are deployed, (3) a radar makes measurements on a cooperative target vehicle of the kind referred to in item (2) above during the reentry portion of its trajectory or makes measurements in conjunction with the test of an ABM interceptor missile or an ABM radar at the same test range. Radars used for purposes such as range safety or instrumentation would be exempt from application of these criteria."

Mr. President, I ask unanimous consent to have printed in the RECORD a letter on the SAM-D issue which I wrote today to Secretary of State Rogers and Secretary of Defense Laird.

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

JOINT ECONOMIC COMMITTEE,
Washington, D.C., June 26, 1972.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: One purpose of the recently concluded ABM Treaty with the Soviet Union was to place clear restrictions not only on ABM systems as commonly understood, but also on other systems, such as air defense systems, which could be made to perform an ABM role. On several occasions during the past few years, Administration spokesmen have expressed concern that the Soviet's Talinn Line air defense system might be upgraded for just such a role.

My purpose in writing today is to inquire as to the compatability of a new United States air defense system—the Army's SAM-D program—with the terms of the recently concluded Treaty.

Several Defense Department witnesses have told Congress in recent years that SAM-D will have some capability not only against aircraft, but also against tactical and strategic ballistic missiles. The following are two examples of the testimony in this regard which has appeared on the public record:

(1) "SAM-D would be capable of defeating tactical ballistic missiles with ranges less than (deleted), air to surface missiles, and sub-launched cruise missiles. This system represent a radically new approach to . . . air defense. The application of the latest advances in miniaturized electronic circuitry, computer technology, radio data link techniques, and the phased array radar concept will give the system a mobility and multi-mission capability never before achieved in an air defense system." Lt. Gen. A. W. Betts, Army Chief of Research and Development, to the Senate Armed Services Committee, March 5, 1970.

(2) QUESTION. "What capability will the SAM-D have against a CONUS SLBM and ICBM threat?"

Answer. "Based on the results of studies completed to date, the SAM-D system used as a defense against strategic ballistic missiles (even if SAM-D is modified) would be critically sensitive to variations in a number of threat parameters. To obtain a capability against a reasonable range of possible threat characteristics would probably require SAM-D to be supported by the SAFEGUARD Missile Site Radars. Therefore, SAM-D may be useful as a possible future augmentation to SAFEGUARD should the need arise, but it does not appear by itself to provide a viable defense system."

Question by Senator John C. Stennis, and reply by Director of Defense Research and Engineering, Dr. John S. Foster, Jr., before the Senate Armed Services Committee, February 26, 1970.

In light of these acknowledged capabilities, it appears to me that continued development, testing, or deployment of SAM-D could violate the ABM Treaty. Here are the reasons why.

First, Article II(1) of the Treaty defines an ABM system as any "system to counter strategic ballistic missiles" which includes interceptor missiles or radars "constructed and deployed for an ABM role, or of a type tested in an ABM mode."

It would seem to me that a system with any capability against strategic ballistic missiles, however limited, would be covered by this definition. And if SAM-D is an ABM system within the meaning of the Treaty, several things follow.

Its deployment in a nation-wide bomber defense network would be a violation of Article I(2)'s prohibition against the deployment of, or laying a base for, a nation-wide ABM system.

Its further development, testing, or deployment would be in violation of Article V(1)'s prohibition against mobile land-based ABM systems.

And its deployment in defense of NATO would be a violation of Article IX's prohibition against the transfer to other countries or the deployment outside the United States of ABM systems or their components.

Second, even if SAM-D is not covered by Article II(1)'s definition of an ABM system, it would appear covered by Article VI of the Treaty. Under Article VI, the United States undertakes not to give non-ABM interceptor missiles or radars any ABM capabilities and not to test such missiles or radars in an ABM mode.

It would appear that this provision—the language of which closely parallels that of Article II(1)—was included in the Treaty specifically to forestall arguments that a system like SAM–D was not a true ABM system. This impression is strengthened by your statement, in the State Department interpretation of the Treaty submitted to the President on June 10, 1972, that this undertaking "would, for example, prohibit the modification of air defense missiles (SAMs) to give them a capability against strategic ballistic missiles."

Finally, it appears that deployment of SAM–D and its phased-array radar in Europe might violate Article VI's prohibition against the deployment of radars for early warning of strategic ballistic missile attack anywhere but on the borders of one's own nation.

It is difficult to believe that SAM–D and its limited capabilities against ballistic missiles were not specifically considered by both sides during the recent SALT negotiations. If SAM–D was considered, however, and a decision made to permit its deployment, this is not made clear anywhere in the Treasury or its supporting documents.

I have tried nonetheless to anticipate the arguments which might be made in support of a contention that SAM–D was not covered by the Treaty. Unfortunately, I find such arguments quite unpersuasive.

It might be argued, for example, that while SAM–D has a capability against ballistic missiles, its capability is against tactical ballistic missiles only and does not extend to strategic ballistic missiles as the latter term is used in the Treaty's Article II(1) definition of an ABM system.

But no definition of strategic ballistic missile is actually given in the ABM Treaty itself, and it is difficult to believe that anyone would subscribe to a definition which excluded the CONUS SLBM and ICBM threat against which, according to Dr. Foster, SAM–D would have at least a limited capability.

Moreover, the United States has made the unilateral statement that the phrase "tested in an ABM mode" covers the situation when "an interceptor missile is flight tested against a target vehicle which has a flight trajectory with characteristics of a strategc ballistic missile flight trajectory." It seems arguable to me that the flight trajectories of "tactical" and "strategic" ballistic missiles are sufficiently alike in their characteristics as to be covered by this statement.

Turning to another point, one might argue that Agreed Understanding D is, in any event, sufficient evidence that SAM–D's deployment in Europe would not violate Article VI's prohibition against the deployment of radars for early warning attack outside one's own borders.

Agreed Understanding D does constitute a commitment that the Parties will not deploy phased-array radars having a potential exceeding "three million watts" except under certain conditions. It is also true that SAM–D's phased-array radar does have a potential well within that limit. But Agreed Understanding D does not specifically state that all phased-array radars within that limit are automatically in compliance with the early warning limitation of Article VI.

I believe it is important to clarify the question of SAM–D's compatibility with the ABM Treaty prior to congressional ratification. A failure to do so could spark controversy later and complicate the second round of the SALT negotiations.

Accordingly, I would appreciate it if you would address yourself to the issues raised by this letter, with particular attention to the following questions:

(1) Does SAM–D's capability against ballistic missiles bring it within the scope either of Article II(1)'s definition of an ABM system or provision (A) of Article VI, as interpreted by the United States?

(2) If SAM–D is within the scope of Article II(1) or provision (A) of Article VI as interpreted by the United States, have any plans been made for termination of the program, and if not, why not?

(3) Would it be feasible to develop SAM–D in such a way that its capability against ballistic missiles was deleted? If so, what consideration is being given to this approach, and what are the arguments against it?

(4) If SAM–D's capability against ballistic missiles does not bring it within the scope of Articles II(1) or provision (A) of Article VI as interpreted by the United States, what is the reasoning by which this conclusion is reached?

(5) As interpreted by the United States, what is the meaning of the term "strategic ballistic missiles" as used in Article II(1), and if the term is meant to exclude "tactical" ballistic missiles, which of the following classes of Soviet missiles is, in fact, excluded—SRBMs? MRBMs? IRBMs? ICBMs? SLBMs? Is it true that SAM–D would have no capability whasoever to intercept "strategic ballistic missiles" as so defined?

(6) What is the meaning of the phrase "flight trajectory with characteristics of a strategic ballistic missile flight trajectory" as used in the unilateral statement of the United States as to the meaning of the phrase "tested in an ABM mode?"

(7) Would deployment of SAM–D in Europe violate Article VI's prohibition against deployment of radars for early warning of strategic ballistic missile attack outside national boundaries, as interpreted by the United States? Why or why not?

(8) Was SAM–D specifically discussed during negotiating sessions with the Soviets? What certainty do we have that the Soviets' interpretation of its compatibility with the ABM Treaty is identical to ours?

I apologize for the length of this letter and the detailed nature of the questions raised. I think it important, however, that considerable additional light be shed on this very complex subject. I would very much appreciate a reply to my questions prior to the start of Senate floor debate on the ABM Treaty?

Sincerely,

WILLIAM PROXMIRE,
Chairman, Subcommittee on Priorities and Economy in Government.

A DIFFERENT PERSPECTIVE

Mr. BROCK. Mr. President, in a letter to the London Times, Lord Stamp, at member of the House of Lords in Great Britain, sought to give his countrymen a different perspective on the recent developments in Southeast Asia.

At a time when all the dictates of political expediency make total and unconditional withdrawal from our commitments in Vietnam so attractive, President Nixon has acted to prevent a reoccurrence of the anachronism which results from ignorance of the past—the desperation for peace which lays the seeds for new conflicts.

History is the touchstone for progress. As a deterrent to past mistakes and encouragement to seek new goals, it must be mastered to give discipline to current events. I believe President Nixon has achieved this mastery and that his insight has caused him to take the steps he has and is taking in Vietnam.

In his letter, Lord Stamp illustrates the tenet that a move to isolationism in reaction to overinvolvement inevitably results in a future and often greater conflict. The question is left: Will we make the same mistakes we made prior to World Wars I and II, or will we seek an alternative which will inhibit new conflicts?

Mr. President, the American people know the President's dilemma with Vietnam. They are pleased with the progress he has made to date, and I believe that despite what some say, the American peoples' faith in the sincerity and wisdom of the President's actions is unshaken.

I ask unanimous consent that the complete text of Lord Stamp's article be printed in the RECORD.

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

NIXON VIETNAM POLICY HEEDS LESSONS OF PAST

President Nixon's latest action over Vietnam as predictably been met everywhere with a storm of criticism and protest, particularly violent among the young.

Many in this country cannot remember the thirties—Hitler's claim that all he wanted was the unification of the German people, just as now it is the Vietnamese who must be reunited. They cannot remember the wishful thinking—that Hitler meant what he said—indulged in by so many until it was too late, and the desperate fight against all odds that followed as a result to preserve among other things the right of future generations to demonstrate as they are doing now.

Many in the United States also cannot remember the results of their country's policy of noninvolvement in foreign wars, based on the view that Europe and Asia were far away and their affairs were of no concern to them, a belief which was dramatically brought to an end by Pearl Harbor.

But most of them can, or should, remember Hungary and Czechoslovakia where the voice of freedom that they take for granted has been silenced.

There can be no one who is not appalled at the suffering in Vietnam, but is the natural reaction to bring it to an end, even, if this were to mean allowing military aggression over internationally recognized boundaries to succeed, really the answer?

It may be that the policy of successive presidents, both Republican and Democrat, of which the latest decision is a logical consequence, will fail, not so much for military reasons but because of opposition to it in the United States and elsewhere.

If so, apart from the loss of freedom of yet another people to decide their own destiny, the humiliation inflicted on the United States—that bastion of the free world—would be only too likely to result in a return to the isolationism that contributed so much to the inevitability and prolongation of two world wars.

All the lessons of the past shriek that if the horrors of Vietnam were to be terminated in this way, they would be followed sooner or later by the infinitely greater catastrophe of a third world war.

Will the young people of this generation, with their abhorrence of war, make the same mistake that their fathers and grandfathers did, with even more disastrous results?

ACTS OF DEFIANCE BY PRESIDENT AND EXECUTIVE BRANCH

Mr. GRAVEL. Mr. President, I ask unanimous consent to have printed in the RECORD a petition that Congress exer-

cise its constitutional authority concerning the involvement of the United States in Indochina.

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

PETITION

It is a Constitutional right of the people to "petition the Government for a redress of grievances."

We are exercising that right of petition because we are angered and frightened by the lawlessness of the President and the Executive branch of our Government. We submit that they have defied the Congressional repeal of the Gulf of Tonkin Resolution; defied the Military Authorization Procurement Act which insists that the war be ended as quickly as possible; defied accepted international law against aggressive war, blockade and mining, indiscriminate bombing, and population removal; and created a Constitutional crisis in the United States.

They have spent the taxes, emotions and resources of the people on mass murder and destruction as American society and its public services decay. They have brought unrest to our cities and institutions, besmirched the flag with American and Indochinese blood, and brought shame upon our country.

We petition the Congress to reaffirm that we are citizens and not hostages to usurpers of power and authority.

We petition the Congress to exercise its Constitutional authority of control over the armed forces by voting an immediate cessation of all air, ground, and naval operations in Indochina, and by ending all military and economic appropriations for a war the Congress did not vote for and the American people do not want.

SENATOR MONDALE QUESTIONS PROPOSED CHANGES IN EXCESS PROPERTY REGULATIONS

Mr. MONDALE. Mr. President, I am deeply concerned about the administration's proposal to withdraw eligibility for excess property from a numger of educational and other public service organizations in Minnesota and throughout the country.

In the Federal Register of Thursday, June 1, 1972, the General Services Administration issued a notice of proposed rule changes concerning excess property which I fear is not in the best interest of educational and other nonprofit, public service agencies.

I have received a great deal of correspondence from colleges and vocational technical schools in Minnesota expressing their concerns about the proposed change and the impact it would have on their efforts to deliver high quality education at the lowest possible cost.

Robert P. Van Tries, assistant commissioner, Division of Vocational Technical Education in the Minnesota State Department of Education has notified me of the detrimental effects this regulation would have on vocational technical education in our State. He indicates that:

Our State vocational technical programs through participation in the excess property program wtih direct and defined procurement through GSA has secured valuable and useful properties from many generating agencies.

Mr. Van Tries points out that since the inception of the excess property utilization program in August 1971, vocational technical schools have acquired, at a very small cost, computers, machine tools, office equipment, welding and other equipment which had an original acquisition cost of $8 million. In addition, he points out that they have acquired $1½ million worth of excess property from overseas installations for a reimbursement cost of only $83,566.50.

I have received similar correspondence from Malcolm Moos, president of the University of Minnesota. He writes that if the revised GSA rules go nito effect it will cause a "very substantial detriment to many types of federal grantees."

President Moos writes:

During the fiscal year 1971, for instance, the University of Minnesota received $6,038,-659.91 worth of Federal excess property. Our most recent information is that the fiscal year 1972 figure will be approximately the same. Only a small portion of this property is used within Federal contracts to the University, which are still eligible under the proposed rules, so we stand to lose most of the support we have been receiving through this program. Such a loss would have a major impact upon our program, and, accordingly, on the taxpayer.

In many cases we would have to make up the loss of this support through increased grant costs or through increased direct appropriations. In others, where the costs would be too high for other sources of support, we would simply not be able to acquire the equipment, supplies, or materials, and the quality of the program would have to suffer.

His concerns are echoed in a letter I received from Frank R. Barth, president of Gustavus Adolphus College. He protests the proposed GSA change because it would remove privileges of excess property acquisition from the National Science Foundation grantees. President Barth writes that:

As a grantee, we are firmly convinced of the importance of continuing this program. Many of the programs and research in education would not have been possible had it not been for the facilities and equipment acquired with the Excess Property Program.

Since I learned of this proposal, I asked my staff to obtain from GSA an explanation of the rationale behind this change and an estimate of its potential impact both nationally and in Minnesota. GSA was either unable or unwilling to supply that information. So on June 15, I wrote Mr. Rod Kreger Acting Administrator of GSA, requesting this information on Tuesday, June 20. I have still not received the answers to my inquiries despite attempts of my staff to follow up on this letter, and I want to express my disappointment and disturbance at the apparent run-around we are receiving.

Mr. President, I am deeply concerned about the possible impact of this revised rule and I am prepared to protest it. I have sought, however, to obtain from GSA their justification and their estimate of this impact before filing a formal protest. I am still hopeful that the information I have been trying to obtain will be released next week. At this point, however, I want to announce my intentions to pursue this matter until it is reconciled in a fashion that does not penalize the excellent vocational education, higher education, and other public service programs in Minnesota and throughout the Nation.

I ask unanimous consent that my letter to Mr. Kreger and a sample of correspondence I have received be printed in the RECORD.

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

STATE OF MINNESOTA,
St. Paul, Minn., June 9, 1972.

Commissioner M. S. MEEKER,
Federal Supply Service, General Services Administration, Washington, D.C.

DEAR MR. MEEKER: Reference is made to Federal Register Vol. 37, No. 106, Thursday, June 1, 1972, page 10959, Use of Government Supply Sources By Grantees—Notice of Proposed Rule Making.

It is contended that the Proposed Rule Making—Federal Register Vol. 37, No. 106—Thursday, June 1, 1972—Subpart 101–43.3—Utilization of Excess as amended is a discriminatory action resulting from complaints to GSA on "Grantee" procuring supplies from the General Supply Fund as provided for in Federal Property and Administrative Services Act of 1949 as amended section 109(f), "Subject to the requirements of subsections (a) to (e), inclusive, of this section, the General Supply Fund also may be used for the procurement of supplies and nonpersonal services authorized to be acquired by mixed-ownership Government corporations, or by the municipal government of the District of Columbia, or by a requisitioning non-Federal agency when the function of a Federal agency authorized to procure for it is transferred to the General Service Administration" and such directed and discriminatory action resulting from such proposed regulation should be directed at regulatory procedures of the Act on authorized users of the General Supply Fund and not the authorized users of Excess Property as provided by stated Act and regulations developed and promulgated by GSA in utilization of excess property to the fullest extent for benefit of the public interest.

Your considerate analysis of the impact and effect such proposed change will have on the "eligible educational" agencies participation with GSA's utilization program warrants your immediate attention.

Yours very truly,

ROBERT P. VAN TRIES,
Assistant Commissioner, Division of Vocational Technical Education.

STATE OF MINNESOTA,
St. Paul, Minn.

To: Commissioner and State Board of Education.
From: Robert P. Van Tries, Assistant Commissioner.
Date: May 5, 1972.
Subject: Excess Property Utilization Report and Summary.

Since the inception of the excess property utilization program in August 1971, 434 SF–122's have been processed by our office. The original acquisition cost of these applications total $7,861,241.70. The type and kind of property reported in these applications included high government acquisition costs for computers, electronics, as well as machine tools, office equipment, commissary type equipment, welding, heavy operating equipment and the generous representation of basic metal materials, hardware and common use items. This equipment has served such program operations as industrial electricity, graphic arts, machine shops, welding, office education, drafting, auto mechanics, landscaping, machine trades, electronics, foods and health occupations, data processing, heavy equipment, optical technology, diesel mechanics, instrumentation, building maintenance, sheet metal, medical

lab assistant, linemen technician, auto mechanics, information systems program, power linemen, carpentry, photo technology, supermarket management, auto/truck mechanic, specialty crops, irrigation technology, sales management, airframe and power plant, fluid power mechanics, air traffic control, chemical laboratories, forestry harvesting, baking, plastic technology, fluidics, small engines, plumbing, radio and TV repair.

The procurement of this property has been varied as reported by the following generating agencies locations: Scott AFB; Granite City Army Depot; Airway Facilities, Minneapolis; Control Data, Minneapolis; Univac, Minneapolis; Honeywall, New Brighton; Univac, St. Paul; Army Ammo Plant, Burlington, Iowa; Argonne National Lab, Argonne, Illinois; Joliet Illinois Army Plant; Honeywall, St. Louis Park; Isabella Minnesota Job Corp; Schjeldahl, Northfield, Minnesota; Camp McCoy, Wisconsin; Rock Island Illinois Arsenaled Gould Incorporated, St. Paul.

Raven Industries, Sioux Falls; Duluth AFB; Fort Leonard, Missouri; Grissom AFB; Grand Forks AFB; Nebraska Cornhusker Army Plant; Utah Hill AFB; Michigan Wurtsmith AFB; Chicago Naval Ord.; Wichita AFB; Wisconsin Badger Ord.; Kansas Fort Riley; Monsanto Research, Miamisburg; G. E. Evendale, Ohio; Ohio Wright Patterson AFB; Ohio Mound Lab.; Omaha Offut AFB; Twin City Army Ammo Plant; U. S. Army Tank, Command, Michigan; Fort Benjamin Harrison, Indiana; Jefferson Proving Ground, Madison, Indiana; Winneloe AFB, Missouri; Kansas City Bendix Corporation; Sharpe Army Depot, California; Michigan Sawyer AFB; G. E. Company, Albuquerque, New Mexico; Tinker AFB, Oklahoma; Aero Space, Fairmount, Minnesota; Defense Electronics Supply, Ohio; Lexington Army Depot, Kentucky; Zenith Radio Corporation, Chicago; Lake City Army Ammo, Missouri; Warner Robins AMC, Georgia; Kansas City AEC; Corpus Christi, Texas; V.A. Hospital, Grand Island, Nebraska; FAA, Oklahoma; and White Sands Missile Range.

Active participation in home run overseas excess property reflects procurement from the following ports of entry; Stockton, California; Baton Rouge, Louisiana; Fort Worth, Texas. The total original government acquisition cost of this participation is in the amount of $1,588,675.97 with reimbursement for overseas cost at $83,566.50.

A number of intra-agency transfers have been accomplished of excess property being transferred within our state from schools operating MDT programs to VTE programs, as well as a Control Data 160A digital computer system with associated peripheral gear from the DHEW National Institute of Health located at the State University of New York, Upstate Medical Center, with an original government acquisition cost of $339,237 and a current estimated fair market value of $15,000.

Our requests for excess property have included equipment and materials for cannibalization and secondary utilization. Our vocational-technical schools had the experience through surplus property and have the know how of property utilization on secondary utilization in an effort to enhance and broaden their training opportunities. Also included is a considerable amount of common use "expendable and/or consumable" property that is normally "used up" in the ongoing programs and in many instances is a real dollar saver in programs that consume considerable amounts of costly basic metals, hardware, electronics, and so forth.

GUSTAVUS ADOLPHUS COLLEGE,
Saint Peter, Minn., June 14, 1972.

Hon. WALTER F. MONDALE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: As indicated by the enclosed letter, I am writing in reference to the proposed rule change in the Federal Property Management Regulations which would deny excess property acquisitions from the General Services Administration to grantees of the National Science Foundation.

As Director of our COSIP Program, I am particularly aware of the invaluable benefits which this program has contributed to our research and educational programs. The thousands of dollars of equipment has allowed a much more intense development of educational facilities and curriculum.

I join with our President and faculty members in asking for your support in urging the defeat of this proposal. It is my understanding that the Director of the Office of Management and Budget has directed the General Services Administration to make this change in ruling.

Thank you for your consideration and support.

Sincerely,

JOHN S. KENDALL,
Director, COSIP.

GUSTAVUS ADOLPHUS COLLEGE,
Saint Peter, Minn., June 14, 1972.

THE COMMISSIONER,
Federal Supply Service, General Services Administration, Washington, D.C.

DEAR SIR: As Project Director for our National Science Foundation COSIP grant, I am writing in reference to the proposed change in Federal Property Management Regulation support 101–26, 101–33, and 101–43.1 published as General Services Administration Notice of a Proposed Rule Making in the *Federal Register* Vol. 37, No. 106, Thursday, June 1, 1972.

I know that you will be hearing from our President and several participating faculty members as well. As COSIP Director, I am particularly aware of the benefits which the Excess Property Program has given to our educational and research programs. These benefits amount to thousands of dollars and have been invaluable. The loss of this program would greatly jeopardize the development and continuation of our educational programs.

Considering the Excess Property Program as vital to our research and educational programs, I strongly urge that the proposal be reconsidered and defeated.

Sincerely,

JOHN S. KENDALL,
Director, COSIP.

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., June 15, 1972.

Senator WALTER F. MONDALE,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: There is a change by G.S.A. in the rule which permits distribution of excess Government property to University Laboratories like mine. A copy of a letter explaining my position is enclosed. I would appreciate any help you can give towards voiding the proposed rule change. The property coming to the St. Anthony Falls Hydraulic Laboratory alone saves the State of Minnesota and the University several thousand dollars each year and I understand that for the University as a whole it runs to several million.

Sincerely,

EDWARD SILBERMAN, *Director.*

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., June 15, 1972.

The COMMISSIONER,
Federal Supply Service, General Services Administration, Washington, D.C.

DEAR SIR: I have read the proposed rule change regarding excess property published in the Federal Register, Vol. 37, No. 106, Thursday, June 1, 1972.

I am the Director of a University Laboratory which has received considerable material under the existing rule and I would like to argue against the change. The Laboratory conducts applied research that has benefited water resources projects all over the United States. The excess property that we received—machines, machine tools, pumps, blowers, and electronic devices—have reduced the costs to the sponsors, including such Federal agencies as the Office of Water Resources Research, on most of the research we have conducted. Whether the sponsor be a governmental agency directly or a private consultant, the saving has eventually been passed on to taxpayers somewhere in the country. Assuming the property was truly excess, which I believe it was, it makes a great deal more sense to reuse it in useful projects than to let it sit idle and waste away in storage.

There is another minor aspect of this use of excess property. If new items have to be manufactured while similar items lie idle, we are going against the current trend of conserving our resources. We should be making more effort to fully utilize what we have rather than placing obstacles in the path of reuse.

I will sincerely appreciate your reconsideration of the proposed rule change.

Sincerely,

EDWARD SILBERMAN, *Director.*

GUSTAVUS ADOLPHUS COLLEGE,
Saint Peter, Minn., June 14, 1972.

Re Federal Property Management Regulation support 101–26, 101–33, and 101–43.1; General Services Administration Notice of a proposed Rule Making, *Federal Register*, Vol. 37, No. 106, Thursday, June 1, 1972.

Hon. WALTER F. MONDALE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: I am writing to you out of strong concern over a proposed rule change governing the disposal of excess government properties under the Excess Proper Acquisition Program for recipients of Federal grants. Passage of this proposed change would prohibit such recipients from acquiring excess properties.

Gustavus Adolphus College is a National Science Foundation grantee. Through the Program we have been able to acquire much-needed equipment for the operation of several academic programs in nearly every eligible department. Because of this we have been able to enhance our educational offerings while effectively keeping the costs of these offerings lower for the students and their parents.

Discontinuation of the Excess Property Acquisition Program would negatively affect not only our students, but also our ability to offer a first-rate educational program for a school of our type and size. Discontinuation of the Program would produce only losers and no winners.

I strongly urge that you support the reconsideration and ultimate defeat of the proposed rule change. Please help us to keep the cost of quality private higher education within the reaches of your constituents.

Thank you for your consideration and support.

Sincerely yours,

JOHN W. PREHN,
Associate Professor and Chairman.

GUSTAVUS ADOLPHUS COLLEGE,
Saint Peter, Minn., June 14, 1972.

Re Federal Property Management Regulation support 101–26, 101–33, 101–43.1; General Services Administration Notice of a Proposed Rule Making, *Federal Register*, Vol. 37, No. 106, Thursday, June 1, 1972.

Mr. M. S. MEEKER,
Federal Supply Service, General Services Administration, Washington, D.C.

DEAR MR. MEEKER: Gustavus College is a recipient of a National Science Foundation grant which makes it eligible for the Excess Property Acquisition Program. By virtue of

this, the Department of Sociology and Anthropology also is a beneficiary of the program.

Should the program be discontinued, our ability to channel capital funds into educational programming will be hampered. In short, our department is now better able to plan capital expenditures around educational needs because of reduced financial outlays for equipment such as has been obtained through the Excess Property Program.

The existing program has made it possible for us to progress remarkably in educational planning even during periods of general economic distress. Consequently, we have enjoyed a distinct educational advantage as a direct result of this program. We do not wish to lose this advantage.

Too many American colleges and universities as well as the American public are suffering because of the increasing cost of higher education. This program has helped greatly in keeping that cost down. Discontinuation of the program will most certainly act to further increase the cost of higher education. This is something we do not wish to see happen.

I strongly urge the reconsideration of the proposed rule change and its ultimate defeat.

Sincerely yours,

JOHN W. PREHN,
Associate Professor and Chairman.

JUNE 16, 1972.

Hon. WALTER MONDALE,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR MONDALE: On June 12, 1972, I became aware that Mr. M. S. Meeker, Commissioner of the Federal Supply Service, General Services Administration, Washington, D.C., is considering the adoption of revised rules prohibiting the use of G.S.A. and other government sources of supply by recipients of Federal grants. For the sake of clarity, I am enclosing a copy of the proposal (rule making) that could be detrimental to any present or future plans we in this area and others may have in regards to furnishing Senior Citizen Centers, Youth Centers, Head Start schools, Indian Agency Centers, Halfway House Centers, Outreach Offices, Neighborhood Centers, Work Training Programs, Mainstream and other potential future programs that no doubt will be developed to cope with the ever mounting unemployment problems nationwide. With the emphasis on both ends of the life cycle spectrum, namely youth, senior citizens and low-income people of all ages, this is hardly the proper time to deprive American citizens of anything they rightfully own lock-stock-and-barrel. They paid for the merchandise that the Office of Management and Budget plans to deprive them of at a time it is needed to carry on with projects beneficial to hordes of American citizens.

Distress knows no boundaries, therefore, representatives of the public in all levels of government should question those in charge of the Office of Management and Budget to see if a way can be found to utilize G.S.A. materials more directly, to help alleviate the load of mass unemployment throughout the nation. As things now stand, one can see quite plainly there is room for improvement in the disposition of G.S.A. materials that could result in jobs for the unemployed in recycling centers. Numerous items could be given to undeveloped countries all repaired and refinished ready for use. Perhaps the taxpayers could create a saving for themselves by this means. In any event, this is a consoling thought.

Anything that can be done in the few remaining days of June, 1972 to forestall the Office of Management and Budget plans to deny American citizens of a full disclosure of why they are not entitled to receive G.S.A. materials needed to supplement meager incomes or no incomes, by using the facilities of the offices and services of agencies mentioned in this letter that are with few exceptions furnished by G.S.A. materials of all descriptions. You can rest assured many, many good citizens of this country will be grateful. Thank you.

Sincerely,

EDWARD MCCUTCHEON.

GENERAL SERVICES ADMINISTRATION
(41 CFR Parts 101–26, 101–33, 101–43)
USE OF GOVERNMENT SUPPLY SOURCES BY GRANTEES

Notice of Proposed Rule Making.

Notice is hereby given that the General Services Administration (GSA) is considering the adoption of revised rules prohibiting the use of GSA and other Government sources of supply by recipients of Federal grants.

The Office of Management and Budget has directed GSA to propose discontinuance of the authorization permitting Federal grantees to use Federal supply sources. Therefore, appropriate amendments to the Federal Property Management Regulations to accomplish this have been developed. However, cost-reimbursement type contractors will continue to be permitted to use GSA supply sources under the provisions of Subparts 1–5.5 and 1–5.9 of the Federal Procurement Regulations.

This notice is published pursuant to section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Interested persons are invited to submit written data, views, or arguments regarding the proposed revision to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Dated: May 31, 1972.

M. S. MEEKER, *Commissioner.*

STATE OF MINNESOTA,
Windom, Minn., June 14, 1972.

Hon. WALTER F. MONDALE,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: I have received a copy of a letter sent to state directors of vocational education, which is causing great concern amongst our vocational education people.

According to the letter, there is a proposal, dealing with a HEW regulation, which would declare state grant-in-aid programs in vocational technical education ineligible for federal excess property. I believe this would deal a severe blow to the progress in vocational education. As you know, Senator, vocational education is performing great services in our nation. Federal excess property has proven to be a tremendous asset in helping to implement vocational education programs. I do hope your office can lend assistance in defeating this proposal.

Sincerely yours,

GEORGE MANN,
State Representative.

TECHNICAL EDUCATION CENTER,
Anoka, Minn., June 13, 1972.

Hon. WALTER MONDALE,
U.S. Senate,
Washington, D.C.:

We have been informed by Mr. R. D. Anderson, Executive Secretary of the National Association of State Directors for Vocational Education, that there is a proposal in HEW—Office of Education—to amend regulations that will declare state grant and aid programs in Vocational-Technical Education *ineligible for Federal Excess Property.*

Our local Vocational-Technical Education Center has acquired, since last August, valuable and usable properties through direct and defined procurement from GSA. These properties have been, and are being, used to upgrade present vocational programs. Without this type of aid the burden on the taxpayer becomes excessive. We are not only concerned about the welfare of the taxpayer but more so concerned about the impact the proposal, if passed, will have on vocational programs, returning veterans and their training.

It is difficult to comprehend the logic, or lack of it, that would eliminate vocational education from benefiting from excess property through the elimination of a single word "grantee" in Subchapter 11—Utilization and Disposal Part 101–43—Utilization of Personal Property—amended Thursday June 1, 1972—Federal Register, Vol. 37—No. 106, page 10960.

We respectfully request your assistance in determining whether the information regarding this proposal is correct, and if so, what changes are being contemplated, and on what basis are changes being proposed.

Please find enclosed a copy of *Proposed* Rule Making dated May 31, 1972, and a copy of the article written by Jack Anderson published in the St. Paul Sunday Pioneer Press dated May 28, 1972.

Respectfully requested,

ALBERT T. ROEHL,
Supervisor, Trade & Industrial Division.

JUNE 14, 1972.

Mr. ROD KREGER,
Acting Administrator, General Services Administration, Washington, D.C.

DEAR MR. KREGER: It has recently come to my attention that GSA is considering the adoption of revised rules prohibiting the use of GSA and other government sources of supply by recipients of Federal grants.

I am most distressed to hear that such a policy change is under consideration. It is apparent that a wide variety of institutions in Minnesota, including vocational and technical schools and the University would be adversely affected by the proposed change.

To my knowledge these institutions have received no explanation from GSA of the reasons for the proposed change. My staff has secured a copy of the letter from Frank Carlucci, Associate Director of the Office of Management and Budget notifying you of the proposed change in regulations. This letter states that existing policy is "not consistent with the purpose of the Administration policy of reliance on the private enterprise system and is particularly objectionable in this sense because the burden of GSA competition falls more heavily on small businesses throughout the country. This letter offers no documentation of the so-called "administration policy" referred to.

In addition, my staff has been unable to secure from your agency an explanation of the potential impact of the policy change either nationally or in Minnesota.

I am very concerned about the possible effects of a change in the regulation on the quality of educational and other human service programs in Minnesota. But it is impossible for me to address the substance of this issue without adequate information. For this reason, I request that complete answers to the following questions be forwarded to my office by the close of business on Tuesday, June 20th:

1. Please list all Minnesota institutions which received excess property in FY 1971 and 1972 and the value of the property acquired.

2. Please indicate the dollar value of excess and surplus property received by Minnesota institutions in each of the last five years.

3. Please list the dollar value of excess property disposed of throughout the United States in FY 1971 and 1972.

4. Please explain the difference between excess property and surplus property.

5. What agencies or other recipients will acquire or be eligible for acquisition of the excess property that would be unavailable to grantees under the proposed rule change? Please provide a general answer on the national situation and the specific list of eligible recipients in Minnesota.

6. Please explain in full "the Administration policy of reliance on the private enter-

prise system" with documentation of its origin and existence.

7. Please explain Mr. Carlucci's assertion that "the burden of GSA competition falls more heavily on small businesses throughout the country."

I am looking forward to your speedy reply.

Sincerely,

WALTER F. MONDALE.

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., June 15, 1972.

Hon. WALTER MONDALE,
Old Senate Building,
Washington, D.C.

DEAR FRITZ: The General Services Administration has proposed a revision of its rules which, if enacted, would make recipients of Federal grants ineligible to use G.S.A. supply sources under the provisions of Subpart 101–43.320 of the Federal Procurement Regulations. Unless there is a decision to change this proposal before July 1, 1972, the revised rules will go into effect, to the very substantial detriment of many types of Federal grantees.

During the fiscal year 1971, for instance, the University of Minnesota received $6,038,650.91 worth of Federal excess property. Our most recent information is that the fiscal year 1972 figure will be approximately the same. Only a small portion of this property is used within Federal contracts to the University, which are still eligible under the proposed rules, so we stand to lose most of the support we have been receiving through this program. Such a loss would have a major impact upon our programs and, accordingly, on the taxpayer. In many cases we would have to make up the loss of this support through increased grant costs or through increased direct appropriations. In others, where the costs would be too high for other sources of support, we would simply not be able to acquire the equipment, supplies, or materials, and the quality of the program would have to suffer.

We understand that at least part of the reasoning behind the proposed changes is that grantees have abused privileges of using local G.S.A. stores to buy regular supplies that most institutions, including the University of Minnesota, should expect to purchase from normal commercial sources. Through G.S.A. stores, for example, it is sometimes possible to buy paper, pencils, tires, and the like. We generally use G.S.A. stores only for a source of Federal forms, not for normal expendable supplies. To the extent that the proposed revisions are an attempt to avoid this kind of abuse, we have no disagreement, but the proposed changes go so much further than that, and we have heard no justification from either the G.S.A. or the Office of Management and Budget, which directed G.S.A. to propose the revisions, for changes as drastic or far-reaching as those proposed.

The proposed changes were published in the June 1 Federal Register, pages 10959–60, and they may have gone unnoticed by many of the Federal grantees who would be affected. We know, however, that the Minnesota State Colleges and the Area Vocational-Technical Schools are most concerned and will be submitting argument to Mr. Meeker, Commissioner of the Federal Supply Service.

We will, of course, join them in responding, but we believe it is essential that you be informed of changes which would have this much impact upon Minnesota institutions and projects. Without knowing the reasons why G.S.A. or O.M.B. want a change of this magnitude, we feel more than a little helpless, and we would like to have some way of stating our case other than writing to the Federal Supply Service and the simply waiting for their determination by July 1. It seems to us that this issue is important enough to warrant an open discussion of the problems, the arguments, and the solutions. Any assistance you can render in promoting an airing of these issues would be most appreciated.

We understand that Ellen Hoffman will be in Minneapolis later this week on another matter, and we have contacted her about setting up a discussion of this issue while she is in town.

Sincerely yours,

MALCOLM MOOS, *President.*

UNIVERSITY OF MINNESOTA,
Minneapolis, Minn., June 15, 1972.

Mr. M. S. MEEKER,
Commissioner, Federal Supply Service, General Services Administration, Washington, D.C.

DEAR COMISSIONER MEEKER: The proposed revisions of the Federal Procurement Regulations, Subpart 101–43.320, would be highly detrimental to the University of Minnesota and other institutions of post-secondary education. For this reason, we urge a public and well publicized review of the proposal before any action is taken.

According to our records, the value of Federal excess property we received in fiscal year 1971 was $6,038,650.91, with a similar amount projected for fiscal year 1972. Since only a small portion of this property relates to Federal contracts, we would lose the authorization to use your sources for the greatest share of this support. As you can see from the dollar figures, such purchases are important to the maintenance of our instructional and research programs.

At this point in time, we are requested to submit data, views, or arguments to you, but this is difficult to do until we know why the Office of Management and Budget wants these changes. Furthermore, we do not know what process will be used in making this decision. For the record, based on the information available to us, we oppose these revisions strenuously. At a time when we are faced with severe budgetary restraints, changes like these would have a most serious effect on us and, as a direct consequence, on the taxpayers that support us and the programs they support.

If we had information more extensive than a one-page notice in the *Federal Register*, we could respond more specifically. We have invested considerable time and energy in legislative issues which have far less ultimate effect upon our programs than a rule change of the magnitude proposed, and we earnestly request that any changes in the excess property rules be delayed until a full airing of the issues can be accomplished.

Sincerely yours,

MALCOLM MOOS, *President.*

MINNESOTA PRIVATE
COLLEGE COUNCIL,
St. Paul, Minn., June 20, 1972.

Hon. WALTER F. MONDALE,
U.S. Senator, New Senate
Office Building,
Washington, D.C.

DEAR SENATOR MONDALE. Government surplus property programs, making surplus and excess property available to educational institutions, have been of immense benefit to the private colleges. After World War II they enabled the colleges to make rapid adjustments in both plant and equipment to care for returning veterans. All the years since, these programs have been the vehicles through which property already paid for by the taxpayer, has been channeled into a genuine public service. We are indebted to the members of Congress and the administrators who have developed guidelines sufficiently comprehensive to include the private colleges and their needs.

We are now informed that a change has been proposed by the Office of Management and Budget according to which the authorization permitting Federal grantees to use Federal supply sources would be discontinued. Such a change is contemplated as of July 1. Apparently the primary purpose of this change would be to prevent institutions and agencies from ordering materials under GSA billing which is not already declared surplus, thus preventing the use of GSA as a general purchasing agent for institutions and agencies. It is not clear why it is necessary to include excess property under the same restriction.

Anything which you can do to insure the continuance of the Excess Property program and the eligibility of educational institutions for it will be appreciated. The National Science Foundation reports that about a quarter billion dollars worth of excess property has been acquired by its grantees during the past five years. If the NSF program is of value to the nation, and if dollars are scarce, it would appear to be counter-productive to place restrictions on that program of the sort which is being proposed. Why not utilize the immense amount of government property declared excess or surplus to help in the immense job of training the veteran, and his brothers and sisters, to help improve their contribution both to society and to the economy?

Sincerely yours,

EDGAR M. CARLSON,
Executive Director.

SAINT MARY'S COLLEGE,
Winona, Minn., June 22, 1972.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I am disturbed to hear of a recent action initiated by the OMB to kill Federal grantee eligibility to receive excess property from GSA.

Most institutions of higher education are as concerned about their budgets as the OMB is about theirs. The availability of excess property is one means of maintaining and developing programs at reduced cost to both the institution and to the Federal agencies whose principal obligation is to assist educational programs and institutions.

During the past 12 months, Saint Mary's College has acquired equipment, the acquisition cost of which equipment to the government totaled $38,569. Naturally, market value at the time the college received the property was very much less. Nevertheless, the equipment did fill an authenticated college need justified in terms of the college's contract with the National Science Foundation. In nearly every case, the equipment acquired would not have been acquired if it had not been available through GSA.

The arguments for continuation of the excess property program seem to me to be overriding, especially in view of the fact that the property in question has already been paid for. Since Federal agencies already have the right of first refusal of the property, there appear to be only two alternatives to giving it to non-profit organizations: stock-piling it till it must be thrown away, or selling it, thereby requiring taxpayers to pay again for the same equipment.

I hope you will see the impropriety of this proposed action and the negative effect it will have on higher education at a time when the Congress has moved so dramatically to assist higher education at a time of crisis. And I hope you will act against the proposed change.

Sincerely,

Brother GEORGE PAHL, F.S.C., *President.*

OTTER TAIL-WADENA,
COMMUNITY ACTION COUNCIL, INC.,
New York Mills, Minn., June 22, 1972.

Hon. WALTER F. MONDALE,
Senate Office Building
Washington, D.C.

DEAR SIR: I am writing regarding a memo that we recently received from the State Of-

fice of Economic Opportunity stating that Community Action agencies will no longer be able to purchase GSA supplies or to obtain Federal excess property.

If this comes into effect, the budgets of our programs will be greatly affected. As a result, the low-income people will suffer because their benefits will be limited. We are presently operating on very tight budgets and being able to purchase our supplies at a GSA store and obtaining GSA excess property has really helped. We have as much as a 50–60% saving. Therefore, we have been able to assist more low-income people and carry out our activities more efficiently, which is the primary goal of our agency.

Therefore, we would like to request your concern and assistance in this matter. We would appreciate your support in continuing the present procedure of obtaining GSA supplies and excess property for Community Action agencies.

Thank you for your cooperation and assistance.

Sincerely,

DELANO PERALA,
Assistant Director.

COMMUNITY ACTION PROGRAM,
White Earth, Minn., June 20, 1972.

Mr. M. S. MEEKER,
Commissioner, Federal Supply Service, General Services Administration, Washington, D.C.

DEAR SIR: It has come to our attention that the Office of Management and Budget has requested that agencies such as ours no longer be allowed to purchase or receive supplies and surplus goods from GSA. We would like to request that this action not be implemented as the ability to purchase from GSA has saved the American taxpayer at least $38,917.00 from this one comparatively small agency, alone.

This amount represents the value of goods purchased or received since we began operating in mid-1965. If we had been required to purchase them at retail they would have cost, at a very minimum, at least double that.

Therefore, we would appreciate having proposed ruling carefully reconsidered.

Sincerely yours,

WARREN W. HEISLER, *Director.*

SOUTH CENTRAL COMMUNITY
ACTION COUNCIL, INC.,
Jackson, Minn., June 21, 1972.

Senator WALTER F. MONDALE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: It has come to my attention that final approval is pending on the amendemnt to the Federal Register pertaining to the use of GSA by recipients of federal grants such as community action agencies (41 CFR 101–26, 101–33, 141–43).

I would like to take this opportunity to make a few statements concerning this amendment. As the Executive Director of the South Central Community Action Council, I find that I often travel to the Twin Cities for the purpose of attending meetings, conferences, etc.; and at the same time I can make a trip to GSA and purchase office supplies for the agency. This results in enormous savings to the CAA; and since funding to CAA's is being continually cut, this is a most important savings.

The privilege of being able to obtain federal excess property is also a very valuable one to CAA's.

I am certain that you realize the importance of this service to community action agencies and I would implore you to vote against the proposed amendment to prohibit the use of GSA by recipients of federal grants.

Thank you for your consideration of this matter. I will look forward to the results of the vote on the aforementioned subject.

Cordially,

FRED D. HUEMOELLER,
Executive Director.

MAHUBE COMMUNITY COUNCIL,
Detroit Lakes, Minn., June 21, 1972.

Hon. WALTER F. MONDALE,
Senate Office Building,
Washington, D.C.

DEAR MR. MONDALE: We received the enclosed information relative to the decision to take away the federally funded activities' access to GSA.

This would have a crippling effect on our activities. We hope you will see fit to oppose this action proposed to take effect June 30, this year.

Sincerely,

DELMOURE H. HULTGREN,
Executive Director.

BI-COUNTY COMMUNITY
ACTION COUNCIL,
Bemidji, Minn., June 21, 1972.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR MR. MONDALE: Since our Community Action Agency has been in existence we have been able to purchase supplies through G.S.A. (General Services Administration). We have received notification that on June 1, 1972, an amendment to the Federal Register took effect which prohibits the use of G.S.A. by recipients of federal grants.

Our supply budget for our Program Administration Program is $400 for a twelve month period. We will be unable to purchase supplies locally for our program with our limited budget.

We hope that you will be able to help us.

Thank you.

Sincerely,

(MRS.) LUCILLE A. MOE,
Administrative Assistant.

LAW OFFICES OF
LEGAL SERVICES PROJECT,
Cass Lake, Minn., June 21, 1972.

Senator WALTER MONDALE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: On the Federal Register for Thursday, June 1, 1972 we noticed that the government Services Administration is proposing to change so as to prohibit the use of GSA and other government sources of supply by recipients of federal grants. As an OEO grantee we have been allowed, and encouraged, even urged, to use GSA sources of supply. We have done so and have noted that there is a considerable savings by purchasing our supply from GSA. Now we learned that GSA is attempting to remove this economical source of supply from us, and reverse what seems to have been a general policy of the executive branch to promote the use of GSA by grantees. The inevitable result will be to shrink the amount of funds available for operations of grantee agencies since it is highly unlikely that agency budgets will be increased by an amount to off set the increase costs of supplies procurement through private sources. I wonder how much of this move is actually sparked and motivated by private companies or retailer in the business of selling office supplies and equipment who are outraged by the prospect of grantee agencies administrating federal money being able to avoid the 25 to 40% markup which we have to pay when we buy locally from retailers.

At a time when inflation slowly but surely eats into the dollar value of operational funds in the hands of the grantee agencies, and administrative resistance to any increase of budgets is general, such a move is proposed by GSA can only have regressive impact. Any information you can find as to why GSA proposes the revision of rules, any thing you can do to block it will be very sincerely appreciated.

Yours very truly,

PATRICK J. MORIARTY.

MEEKER-WRIGHT
COMMUNITY ACTION, INC.,
Waverly, Minn., June 23, 1972.

Mr. WALTER F. MONDALE,
U.S. Senator, Old Senate Office Building, Washington, D.C.

DEAR MR. MONDALE: In regards to the June 1, 1972 Amendment to the Federal Register prohibiting the use of G. S. A. privileges for federal excess property.

If the Commissioner Mr. M. S. Meeker would check closely on this directive, I believe he would rescind it immediately.

We as a poverty agency are already working under hardships, as far as funds go, to assist those who are trying to get out of the grasp of poverty. This restriction would just handicap our efforts further.

Please help us in our appeal to have Mr. Meeker change his mind on the amendment.

MEEKER-WRIGHT STAFF.

NORTHWEST COMMUNITY
ACTION, INC.,
Badger, Minn., June 23, 1972.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I would like to comment on some pending legislation and enlist your support in defeating it. I understand that the Office of Management and Budget has directed the General Services Administration to propose discontinuance of the authorization permitting Federal grantees to use Federal supply sources.

If this legislation is passed, it could very seriously hamper the operations of this Community Action Agency. We have been able to secure excess Federal Property at the Grand Forks Air Base that has assisted us in operating a number of our programs at a considerable savings. It appears to me that big business is trying to get bigger by passing legislation that would make Federal grantees ineligible for excess property and other Federal supplies.

Your support in turning down this legislation will be greatly appreciated.

Very truly yours,

DWAYNE S. OTTERSON,
Executive Director.

SANTA BARBARA CHANNEL OIL DRILLING

Mr. TUNNEY. Mr. President, once again California citizens must watch with anger and frustration as the matchless Santa Barbara coastline is threatened with further desecration by oil drilling in the channel.

Offshore oil drilling in the channel continues to be one of the gravest threats to the California environment. Even the infamous blowout of February 1969 which did incalculable damage to marine life and beach property did not serve as strong enough evidence to nudge a reluctant Congress into action.

Finally, last April, Secretary Rogers Morton suspended operations on 35 leases in order to give Congress a chance to consider the legislative solution to the continuing problem of oil drilling in the channel. But on June 20, 1972, a U.S. district court ruled that the Secretary

did not have the authority to take that action.

The citizens of Santa Barbara are understandably disappointed with that decision. I have been in touch with spokesmen for the Santa Barbara community who feel that the case must be appealed. I agree with them completely.

Immediately after I learned of the decision my office contacted the Department of the Interior. Senator CRANSTON and I jointly sent a personal letter to Secretary Morton urging that the Department file an appeal. That same day, I also spoke with Dr. Russell Train, Chairman of the President's Council on Environmental Quality who assured me of his personal concern and interest in the appeal, and that the Council would be following the situation closely.

Mr. President, the point is this: the Interior Department must appeal that decision and appeal it with every effort it can. To fail in filing the strongest appeal possible would be an open admission by the administration that the public interest be damned.

There is no question in my mind that we have long passed the point where we can take a "no action" stand on Santa Barbara. I will be following developments closely and have offered my help to the Interior Department in its consideration of the appeal.

Should we reach the unfortunate result that the issuance of permits on the 11 leases are considered, it is absolutely essential that the environmental impact on the channel of each individual lease be thoroughly and exhaustively evaluated.

SENATOR HUBERT H. HUMPHREY ADDRESSES NATIONAL NEWSPAPER PUBLISHERS

Mr. HUMPHREY. Mr. Presdent, it was my privilege to be asked to address the National Newspaper Publishers Association at its convention in Miami, Fla. The NNPA represents the leading black newspapers of America and their publishers. The present president is Mr. Garth Reeves, publisher and editor of the Miami Times, a highly respected and distinguished citizen of Florida. The president-elect is Dr. Carlton Goodlett, editor and publisher of the San Francisco Sun Reporter. I was presented to the distinguished audience by Dr. Frank Stanley, of Louisville, Ky. Dr. Stanley is the editor and publisher of the Louisville Defender.

One of my distinguished friends is the editor and publisher of the Minneapolis Spokesman, Mr. Cecil Newman. Mr. Newman, like the others that I have mentioned, has brought distinction and honor not only to himself but to his paper and to his people. He is truly a fine citizen of Minneapolis, Minn., and one of our outstanding civic leaders. I mention him because of his great help to me over the years and his many unselfish and meaningful contributions to the black community and to our Nation.

I ask unanimous consent that excerpts from my address to the National Newspaper Publishers Association be printed in the RECORD.

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

I appreciate having this opportunity to meet with my good friends of the black press for a number of reasons.

I want you to know how deeply grateful I am for your many years of confidence and loyal support. You have been among my most reliable friends.

I remember meeting with you in Philadelphia in 1966. On that occasion I was privileged to receive the highly respected Russwurm Award. This is an honor that I cherish to this day.

At that time I suggested that NNPA establish a governmental affairs committee for the purpose of periodic briefings by top officials of the government.

That NNPA Governmental Affairs Committee was very active in '67 and '68 and the heads of the agencies were advised by you on those problems crucial to the interests of black people.

In particular, I received a report on your meeting with Secretary McNamara of the Defense Department, on how several members of NNPA, including Carlton Goodlett, challenged Mr. McNamara on the lack of black generals. And I think it was Mr. Goodlett who said that up to now the two black generals had been members of the Davis family and that black Americans could not afford to wait for the Davises to have more children in order for there to be additional black generals.

That was a highly productive meeting. Secretary McNamara committed himself to do something about the problem. And the fact that five black generals were named last week can be attributed to the efforts of the black editors and publishers in the fall of 1967.

In my recent campaign to win the Democratic nomination, many of you have been very kind and helpful to me.

Regardless of what happens in this city three weeks from now, I want you to know how grateful I am to each of you for your wonderful friendship and support over the years.

The next important thing I want to do is clarify some highly inaccurate press reports regarding the prospects of a Humphrey-Wallace ticket. Let me set the record straight. I never altered my frequently repeated statement that such a ticket is unrealistic. It is the product of an over-eager, story-hungry reporter—I have never suggested such a ticket. There are no deals—nor will there be any. All of this talk is sheer journalistic fiction.

All of my public life I have championed the cause of full and equal opportunity. I have been and shall continue to be in the forefront of the civil rights movement. I was there when the issue of civil rights was unpopular and politically hazardous. I want you to know that Hubert Humphrey, your friend, is not, at this point in his life, going to sacrifice his principles for political expediency.

What I believe in is a legacy of my father . . . and I have not and shall not betray that legacy, through any type of political deals or back-tracking. Nor can there be any sell-out on the part of the Democratic Party in this critical area of civil and human rights.

There has been too much back-tracking already by the Nixon Administration. By his acts and deeds, President Nixon has set the cause of civil rights back 25 years although he tries to hide this fact with fancy press agentry and T.V. prime time political soft soap stories.

But I can think of no segment of the newspaper business less fooled by White House policies today than the people in the National Newspaper Publishers Association.

The Labor Department claims rises in employment and the leveling off of unemployment.

You know that of your male readers, as many as 10 percent are officially listed as unemployed with the actual figures going as high as 40 or 50 percent in some cities.

And you know that the teenage sons and daughters of your readers are unemployed officially at the rate of nearly 40 percent.

The Nixon Department of Housing and Urban Development officially talks of progress made in housing starts.

But you know that few of your readers can afford to buy a new house.

The Nixon Department of Health, Education, and Welfare issues reports of improving national health care.

But you know that your readers receive blatantly inadequate health care, have a life expectancy below that of white Americans and are often forgotten when it comes to the provision of good health care.

The Nixon Justice Department boasts proudly of decreasing crime rates in this Nation.

But you know that your readers are the most often hurt by the intolerable incidence of crime? Blacks suffer 4 times as much robbery as whites, 2 times as much aggravated assault, 3 times as much rape and 2 times as much burglary.

The President himself promised quality education as the other part of his marginally constitutional policy against implementing court decisions for busing.

But you know that all but a handful of your young readers go to poor schools in deteriorating neighborhoods.

I believe there should be Black statistics coming from the White House.

If there is 6 percent unemployment, as many as 30 percent of black male and 50 percent of black women are without jobs

If there are, generally, children suffering for lack of excellence in the arts, mathematics, science because of high education costs, there are a majority of black children suffering for lack of adequate diets and all too many who remain illiterate beyond the fourth grade.

If one in every five white teenagers faces a drug threat, every black child does.

If prosperity is just round the corner for white American families, it is a long way off for black America. Or, to put it another way, when white America has a recession, black America has a depression.

The sad fact is that too many black Americans—even in 1972—cannot follow their white brother into church, into the neighborhood, into the school, into the club, into work, play or home.

The battle we started many years ago to end racism once and for all is not over. It remains where we left it. And in many ways, we are falling back every day.

What we started to do is everywhere undone by an Administration that has a poor record and a half hearted commitment to the provision of social and economic justice to all Americans.

My job is not done. The job we started together is unfinished. I need your help in seeking the presidency. I need your help in guaranteeing that the word "brotherhood" has meaning in this land.

I have an action agenda for black America that I would like to outline today.

It is a program in four basic areas that I will fight for and follow whether I am the President or Senator from Minnesota. I seek to eliminate the social pollution.

I want to guarantee the right to a job for every American—regardless of race, age or sex. This is not a visionary goal. It is embodied in a law which the Congress passed in 1946.

The nation must enforce this law.

We must also embark on an immediate program of public service employment to create

jobs tomorrow where they are needed most—in the rebuilding of urban America and in the revitalization of rural America.

The Humphrey Employment Opportunities Act is now pending before the Congress. I urge you to support it because it holds out the hope of 1 million public service jobs now.

It also attacks the number one problem of black youth—unemployment. The legislation enlarges the Neighborhood Youth Corps fivefold and will provide an additional 250,000 jobs for young people in the cities of America.

Any job program would be inadequate without an upgrading of the Equal Employment Opportunities Commission which would include giving the EEOC the power to issue cease and desist orders and providing them with adequate funding and staff to fight discrimination and meet the complaint backlog.

Jobs are one ingredient for decency and dignity, but a job program must also be accompanied with a program of community self-development which includes vastly increased amounts of minority enterprise aid, and technical assistance.

I am committed to giving black and other minority Americans an important share of Small Business Administration dollars. Without capital, black America will continue to be left behind.

Economic development is one key to opening the door of blocked opportunity.

There are others. Another important one is education.

Second class education is too often the rule for black children. We can never expect to close the economic and social gaps between white and black Americans until we can provide all of our children with decent education.

This takes money—not promises. This takes commitment—not TV or press releases.

In order to get the dollars we need for the immediate upgrading of education for our children, I am in favor of having the Federal Government pay up to one-third of the cost of public education. And this money should be placed in a special Education Trust Fund where it can be protected against those who turn to education when they want to cut government budgets.

And make no mistake about it, busing must be one of several tools we employ to eliminate discrepancies between white and black education.

Open neighborhoods, school district rezoning, new school construction programs are the other tools which local governments must also employ to provide equal educational opportunities.

Jobs, business opportunity and better education are all part of the process of providing all Americans with decent, productive and fulfilling lives.

To this list, we must also add housing and health care.

Poor housing in deteriorating neighborhoods is the story of most black housing in America. We must do better if we are to meet the challenge of preventing complete residential segregation in this nation.

Here are a couple of goals we must meet in the area of housing:

We must catch up in our effort of producing 2.6 million housing units a year;

Interest rates and closing costs for homeownership should be lowered through government control;

There must be full appropriations for federally subsidized housing programs including rent supplements;

Federal financial assistance is necessary to provide incentives to cities and towns so that they can adopt tax reforms geared to the rehabilitation of depressed areas;

The Federal Government should move quickly to provide direct assistance to communities for the cost of public housing and to establish a Federal program of housing management to combat the problem of housing abandonment; and

Lastly, we must embark on a program of special housing for our elderly with at least 125,000 new units a year.

Health care remains the last great frontier of need which this Nation must develop.

The cost of getting sick for white and black Americans has become prohibitive. Good health care in America has become a luxury to be afforded only by persons of wealth.

This is wrong. Today, over 30 million Americans are without health insurance and are open to financial ruin and unbearable hardship. The majority of these people are poor whites, poor blacks, and poor Mexican-Americans.

The house you live in, the job you hold, the quality of education you receive make little difference if you are sick and you do not receive adequate health care.

To change this, I am committed to a program of national health insurance for all Americans that will reduce drastically the cost of health care and improve substantially the quality of health care for all Americans.

Along with a program of national health insurance, we must provide special health programs of Kiddicare, special home health care for elderly persons and a national commitment to cure cancer and improve the ways we deal with heart disease and stroke.

We've all heard the expression: "It's not the man, it's the plan. It's not the rap, it's the map."

Ossie Davis gave us this phrase:

I think it's of special importance today. Plans and maps are what we need if we are to begin to chart a path of progress beyond laws and rules to make our society the land of true equal opportunity for black Americans.

Americans must confront the problems of job discrimination, inferior schools, bad housing and inadequate health care. To say that racial prejudice is not a part of these problems is to ignore one of their root causes.

In this city, in a little less than three weeks, I again would like to lead my party in its struggle to bring this Nation out of the shadow of prejudice and into the sunlight of human rights.

This Nation must march again to end once and for all every last vestiges of racism and hate that pervades American life.

The challenge to the next President of the United States is to achieve a spirit of fellowship and trust in the American community. The erosion of confidence and the lack of trust spells trouble for America. The binding substance of free representative government is that feeling or sense of trust and fellowship amongst all people. This is what we mean when we speak of government of the people, by the people, and for the people. But our noblest aims and fondest dreams will never be realized without strong and persevering leadership.

Three words indicate the dimensions of the task before us—reconciliation, rebuilding, and reaffirmation.

The reconciliation of the differences between our people, learning how to live together and demonstrating the willingness to respect each human being with dignity and acceptance.

Rebuilding our cities and our countryside. We must make America what we often say to be in that famous song "America the Beautiful." This means making our cities livable; cleaning out the obsolescence; the slums and the ghettoes; building the schools and the homes and the parks and those other facilities and services so essential to good neighborhoods and good living.

And finally, we must reaffirm the purpose of this Nation. That purpose is expressed in a most clear and meaningful way in our Pledge of Allegiance when we say, ". . . . one nation, under God, indivisible, with liberty and justice for all." That is the challenge. That is the American dream.

WE ARE PLAYING A DANGEROUS GAME WITH JAPAN

Mr. HUMPHREY. Mr. President, we in the Congress and the American public are all impressed with the success of President Nixon's recent visits to China and the Soviet Union. Nevertheless, I am concerned with what I fear may be the unraveling of the relationship we once had with Japan and the consequences which may ensue. I have cautioned repeatedly against moving abruptly and with only superficial regard for the concerns of Japan. While President Nixon's announced visit to China was a most welcome initiative, we all know that it caused great consternation in the Japanese Government. When the President disclosed his plans for a visit to Peking, I urged him to stop on his way in Tokyo, because I thought it was essential to explain to our Japanese friends the reasons for the abrupt shift in our foreign policy toward China. Sensitive to the anxieties and perspective of the Japanese people, I thought it very ill advised to brush Japan aside in the manner this administration did.

The Japanese were stunned by the sudden change in our policy.

The Nixon doctrine has often been quoted by its apostles as the doctrine of self-reliance. In the case of Japan, the exact formula is unclear. Secretary Laird, during his visit to Japan, led many Japanese to believe the doctrine meant designing a system of defense which went way beyond any requirements for territorial self-defense to include the possibility of Japan's joining the nuclear club. In a letter which I have already made public, I asked Secretary Laird to clarify his statements to the press in Japan. I never received a reply from the Secretary, only polite denials from lesser officials.

Are we then to equate self-reliance with Japan joining the nuclear club and thereby pulling the tension wires throughout Asia?

Another part of the Nixon doctrine is balancing powers. President Nixon's vision of the end of the cold war is ending the chances for bipolar confrontation and increasing the chances for multipolar—five unequal powers to be exact—confrontations. Each power will be kept at bay by a delicate balancing mechanism, the fulcrum being the titan shoulders of the United States.

In a very fine article for the Sunday New York Times, of June 25, the Honorable George Ball discusses the Nixon administration's view of the world, particularly as it affects Japan. He tests the understanding of Japan and her history. His conclusions are anything but comforting.

Mr. Ball displays a keen sense of the dangers of the present direction in our foreign policy toward Japan. He is not any more convinced than I am that Prime Minister Sato's brief stop in San

Clemente or Mr. Kissinger's hastily arranged trip to Japan can resolve the misunderstandings or provide Japan with the kind of assurances she is seeking from the United States. These steps are only palliatives. What remains is the increasing isolation of Japan, the undermining of a developing friendship with the United States. Should this trend not be reversed—and it will not be if the President remains captivated by his grand design—we should not expect the same constructive relationship we had with Japan in the 1970's that we had in the 1960's.

Mr. Ball makes this point very effectively when he says:

The Japanese and informed Europeans interpret the President's concept of five balancing powers to mean only that the United States has abandoned a strategy based on alliances in favor of a strategy of maneuver and independent action.

That may be suitable for Europe, but the same, Mr. Ball notes, is not true for Japan:

Japan is a different matter. Ties across the Pacific are of brief duration and dangerously fragile, and we face enormous problems in trying to understand one another. Nor could a Japan alienated from America and left to her own devices avail herself of anything resembling the kind of constructive alternative that the Europeans can find by unifying; her only realistic alternative would be nationalism.

George Ball is a man of great experience in the field of foreign affairs. His evaluation of what may be in store for a world of five balancing powers, for an alienated Japan, and for a United States under the Nixon doctrine is instructive. I commend it to the attention of all Senators and ask unanimous consent that it be printed in the RECORD.

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

WE ARE PLAYING A DANGEROUS GAME WITH JAPAN

(By George W. Ball)

Although a year ago Americans would have thought the idea preposterous, some strangely prescient Japanese have long been haunted by the fear that the United States might sometime arrange a rapprochement with China without their intermediation or even their knowledge, leaving them isolated. Last July 15 they saw that nightmare beginning to come true.

The surprise announcement that President Nixon would visit China was particularly awkward for Prime Minister Eisaku Sato's Government, for in response to Washington's heavy hand, he and his predecessors had been holding back mounting pressure from Japanese intellectuals, from the left-wing parties and even from significant elements of the ruling Liberal Democratic party to move independently towards the "normalization" of Japanese relations with Peking.

Thus it was only natural that the announcement should stir bitter resentment. Those who had sturdily supported America's leadership felt betrayed; others less friendly hailed the President's action as a "liberation"—an excuse for the Japanese to pursue autonomous lines of policy, to break free at long last from Washington's guiding hand.

But whether betrayal or liberation, the effect was the same. The pressures for an independent course of action toward China have now become irresistible because the insensitive handling of the President's China visit has impaired, if not destroyed, that mutual trust which holds alliances together.

If anything, Japanese suspicions have been intensified by further actions taken since Mr. Nixon's surprise announcement of his China trip. One month later, by an abrupt ukase, the Japanese were informed of the President's new economic policy, which was overtly designed to reduce Japan's trade advantage. Then Tokyo was enlisted in a kamikaze effort to block China's entry into the United Nations, which our Government foredomed to defeat by its own activities.

In less obvious ways, the Nixon Administration has also signaled to the Japanese that their friendship is low on our list of priorities. Disregarding their expressed desire that we send as Ambassador to Tokyo an experienced diplomat with whom they could carry on a dialogue in depth, the President instead appointed Robert S. Ingersoll, a businessman with no prior diplomatic experience. To reassure the Japanese, Henry Kissinger traveled to Tokyo two weeks ago and consulted with Premier Sato. But the belated completion of the twice-postponed trip seemed a grudging afterthought.

Even more important, some of President Nixon's recent statements have flatly negated the alliance relationship that Tokyo has long assumed under the Mutual Security Treaty with the United States. Those comments, which disclose a basic obscurity in the Administration's policy formulations, deserve the most careful scrutiny, since the Japanese may well be more alert than Americans in detecting the drastic change that has occurred in our basic position.

For many years the United States has rested the security of Europe primarily on the Western Alliance (NATO); equally central to the defense of the Far East have been our alliances with Japan, Taiwan and Korea. So long as China remained introverted and discussions with the Soviet Union were concentrated on other parts of the world, there seemed little reason to involve Japan in the diplomacy of the giants in the same way that the United States has closely involved its Western allies in policy decisions affecting security of the Atlantic area.

Nonetheless, most Japanese took it for granted that we would fully consult their Government in advance of any superpower talks that affected Asian power relationships —in other words, that we would treat Japan as a full-fledged ally.

Yet faith in that assumption, already severely shaken by the announcement of the China trip, was further undermined when President Nixon, in an interview reported in Time last Jan. 3, disclosed his ideas of grand strategy. His point of departure was a concept of "five superpowers" which he had first mentioned six months before in a media conference in Kansas City. "We must remember," the President told the Time correspondent, that "the only time in the history of the world that we have had any extended periods of peace is when there has been a balance of power. It is when one nation becomes infinitely more powerful in relation to its potential competitor that the danger of war arises. So I believe in a world in which the United States is powerful. I think it would be a safer world and a better world if we have a strong, healthy United States, Europe, Soviet Union, China and Japan, each balancing the other, not playing one against the other, an even balance."

It was these last words that the Japanese read with astonishment and anxiety, for the idea of five powers "each balancing the other" seemed clearly to confirm that American policy had fundamentally shifted. In announcing his trip to China without consulting Tokyo, the President had clearly not treated Japan as an ally; now, in his conception of the five balancing powers, he had made explicit—or so it seemed to the Japanese—that he had no intention of doing so.

It is therefore easy to understand why many Japanese are now convinced that, during the 15 hours of formal talks the President held with Chou En-lai and the much longer periods Henry Kissinger spent with Chou on his two earlier trips, the Americans almost certainly reached understandings with the Chinese that could threaten Japanese interests. They find it absurd to think that the President would fly 5,000 miles to China and stay eight days merely to move the ambassadorial talks from Warsaw to Paris, make arrangements for tourists to visit the Great Wall, and trade musk oxen for pandas.

The deep suspicions—amounting to mistrust—resulting from all this have created corrosive doubts about the durability of the American security commitment to Japan at the same time as they have pushed the Japanese toward "normalizing" relations with Peking. That Japan feels toward China deep cultural affinity—almost an obligation—seems clear enough. Though the old comparison of Japan as the Rome to China's Greece is far from the mark, the Japanese still feel a sober respect for the depth and richness of China's civilization. Today one even detects a certain pride in the achievements of the People's Republic in turning vast, sprawling China into an orderly, if regimented, nation-state. Added to this is a feeling of guilt. Beginning toward the end of the last century, Japan participated in the sordid rape of China by the great powers; from the invasion of Manchuria in 1931 through the Second World War, Japan was responsible for perhaps as many as 15 million Chinese deaths.

Yet pride and guilt do not tell the whole story. In addition, it is becoming fashionable in sophisticated Japanese circles to express regret that Japan betrayed her Asian heritage when she opted 10 years ago to follow Western patterns in her economic and political development. As a result some thoughtful Japanese now suggest that if their nation's modern industrial society seems empty and insipid, it is because Japan turned her back on the cultural riches of her spiritual fatherland without receiving enough of value from the West. Even at this late date should not the Japanese again try to tap the abundant wellsprings of Chinese culture and wisdom?

Little wonder that this strange chemistry of history and nostalgia has loosed an explosive political force that seems destined to drive any post-Sato Government toward Peking. Nor should one expect resistance from the more materialistic elements in Japanese society, since—though reality may give the lie to hope—most Japanese businessmen see China as a source of needed raw materials and a potential market of almost unlimited dimensions as the mass of the Chinese people gradually achieve incomes above the subsistence level.

The Administration does not yet seem to have considered that Japan's intense compulsion to make her peace with Peking will encourage the Chinese leaders to exact a very high price—and that we have lost any leverage to moderate the result of negotiations between the two nations. China's approach to this game is generally predictable: Though the Chinese Government received President Nixon without a prior resolution of the Taiwan problem, it has made clear to Tokyo that no normalization discussions can even begin until Japan recognizes Peking as the sole legal government of the Chinese people, acknowledges that Taiwan is a part of China, and abrogates its peace treaty with the Chinese Nationalist Government.

The stiffness of these preconditions suggests that the negotiation itself will be rough, protracted and primarily political. Though there were mutterings in the past

that Peking's reparations claims might run as high as $50 billion—a figure manifestly absurd—the People's Republic has lately seemed to play this down. More likely, it will seek payment in psychic and political terms, insisting on humiliating apologies and on conditions that could profoundly affect the American military position in the whole Far East.

Under current arrangements, our air bases in Japan—including, since the coming into effect of the Reversion Treaty, our bases on Okinawa—can be used only for purposes to which the Japanese Government agrees. Nevertheless, our strategic planners have assumed that such agreement would be forthcoming if the United States were ever called upon to defend either Taiwan or South Korea.

Today that is no longer a safe assumption, since it seems unlikely that Peking would settle by having Japan tear up her peace treaty with Taiwan but permit Tokyo to allow us continued use of Japanese bases to defend Taiwan. By itself the denial of such bases might not be of great practical importance, particularly if—as most Japanese firmly believe—the President obtained Peking's commitment that the People's Republic would not use force against Taiwan. But there is reason to believe that the Chinese might also feel required to look out for Kim Il Sung's interests. They have made clear that they are eager to expel all great powers from the Asian mainland, and though it is possible that they might not push too hard so long as the Russian bear continues to prowl the neighborhood, the dynamics of the Communist world would very likely compel them to insist that Japanese bases not be used for the defense of South Korea.

Yet for the Japanese to acquiesce in such demands would strike at the heart of our whole Far Eastern security system. It is no answer that the United States might be able to mobilize substantial sea power to defend both South Korea and Taiwan without using Japanese bases; the costs would probably be prohibitive.

We must therefore face the hard reality that the forces we have unleashed in Japan may well produce a crisis in our Far Eastern relations. If the Government in Tokyo should restrict itself from providing even the passive cooperation needed to enable our aircraft to carry out our Pacific commitments, it would certainly reduce American enthusiasm for the Mutual Security Treaty—which could in turn start the unraveling of our whole relationship.

Yet that is only one aspect of a process. In addition, we must ask ourselves what the forces now in motion may ultimately mean for the higher geometry of Far Eastern *Realpolitik*.

To answer that question one must take account of the striking fact that Japanese history has never been charted by the same kind of wavering curve that has marked the progress of other countries; instead it resembles more a succession of straight lines, broken periodically by sharp angles as the whole nation, moving full speed ahead, has suddenly wheeled like a well-drilled army corps to follow a new course.

There is nothing in all human experience to match it. From the seventh to the ninth centuries, Japan borrowed and assimilated the culture and administrative apparatus of China, creating an eclectic but distinctive civilization of her own; then in 1638, fearing the infection of Western ideas, she abruptly seceded from the world, sealing herself off in almost total isolation for more than two centuries. Not until a hundred years ago did the Japanese once again sharply alter direction as a new generation perceived that, to cope with the Western barbarians at the gates, they must borrow not only their technology—which they mastered—but political institutions alien to their traditions—which they only partially understood. In retrospect it was a fateful decision. To acquire Western weapons while retaining a warrior tradition sent Japan down a dark imperialist road—a road that led to Korea, Port Arthur, Manchuria, Pearl Harbor and Hiroshima until final and total surrender on the battleship Missouri.

Once humiliating defeat had been followed by occupation, there came still another turn of the rudder, revealing a resilience that deceived the experts. Bereft of faith in her prewar institutions and blocked off from China by Mao Tse-tung's takeover, Japan turned for guidance to the America that had defeated her, sublimating her power drive in spectacular industrial achievement. Nor has Japan wavered during the past two decades. As a rising industrial nation, she has fixed her eyes steadily on the West, stubbornly repressing the atavistic pull of the mainland.

Yet it has been a strangely unsatisfying time. Though the Japanese have more than proved their superb competence in the commercial and industrial arena of Western business, they have never felt a full member of the club. For once, to use an obnoxious cliche where it has real meaning, Japan has become a nation in search of an identity.

Where that search will lead—what sharp new turns of the rudder it may produce—cannot be foretold with certainty. Obviously a move toward China rules out anything resembling an alliance with the Soviet Union. But that was never a serious possibility, since dislike of the Russians has strong roots in Japanese history. The Russo-Japanese War at the turn of the century left a bitter memory of diplomatic frustration, while 40 years later, as the Japanese saw it, the Russians stabbed them in the back at Yalta, tearing up their treaty of neutrality in a sordid rush to grab a share of the spoils. Undoubtedly, economic interest provides some countervailing attraction, but though Japan would like to take the lead in exploiting the natural resources of Siberia—including both oil and gas—it is hardly likely to give economic hostages to the one country that might pose a serious military threat.

None of these problems exists with regard to China, and the time seems ripe for a reconciliation. President Nixon's decision to go to Peking was, in Japanese eyes, a clear indication that the United States no longer considers China an expansionist power. At long last the Pentagon's frantic insistence that China must be "contained"—which reached peak intensity in 1965 following the publication of Lin Piao's famous dissertation on "Wars Of National Liberation"—has yielded to the reassuring belief that China's primary interest is in buffer areas and the integrity of her borders. It is hardly surprising that that Japanese have welcomed this analysis as giving legitimacy to their own views, for though wary of the Soviet Union's expanding naval ambitions, they feel no imminent threat from a China with vast internal problems, an unusable nuclear arsenal, little air capability and no navy beyond that needed for coastal defense.

How then are Sino-Japanese relations likely to develop? Once haggling over the conditions of "normalization" has been completed—and it will take a long time—a kind of honeymoon period might ensue: Japan would pay for "normal" relations with what amounts to neutralism, while China would seek to exploit Japan's potential as a source of technology and capital. But it is hard to envisage much survival value in such a marriage; the inherent contradictions in the relations of a backward China and an industrially striving Japan are almost certain to lead to rivalry for hegemonic primacy in the Far East—a rivalry that will pit the magnetic pull of China's vast population against Japan's increasing economic leverage over the whole of Asia.

Two such proud and regionally dominant nations cannot avoid competition. China is far too determined to control her own economic development to accept more than minimum dependence on a Japan she basically mistrusts, and already there is the foreshadowing of a bitter struggle for raw materals—oil under the China Sea, for example—that will inevitably lead to serious dissension .

Not that such dissension is likely to involve military force; yet as the interests of Japan and China clash in more and more sectors, as Tokyo's faith in America's security commitments grows gradually dimmer and as the Soviet Union seeks to fill more and more of the vacuums created by a diminishing United States presence, it would be quite unrealistic to expect Japan forever to refrain from translating her extraordinary industrial competence into the traditional muscle of military strength.

Without doubt, a Japanese decision to build a full-scale military force would encounter formidable domestic resistance, but one institutional obstacle to re-militarization has already lost much of its potency. Only seven years after Gen. Douglas MacArthur insisted on writing into Article IX of the Japanese Constitution the flat promise never to maintain "land, sea, and air forces," this self-denying ordinance was interpreted to permit the maintenance of a modest defense capability.

Today, as Japan's prosperity coincides with our new isolationism, American resentment at Japan's "free ride" on our security commitment has become increasingly vocal—to the point where we now seem to be urging the Japanese to do what we had once demanded they should never do. Particularly since the enunciation of the Nixon Doctrine our sotto voce suggestions that they should shoulder a large share of the defense burden have given way to more strident exhortations, with the result that Japan is not at all sure what America expects of her.

Nor does she any longer take at face value formal statements by the Nixon Administration suggesting that Japan increase her military establishment only enough to protect the Japanese islands from external aggression. Secretary of Defense Laird, presumably expressing the Pentagon view—and speaking almost as a separate sovereign—recently indicated that Japan might need to send a fleet as far afield as the Indian Ocean in order to defend her long sea lanes from the Persian Gulf, while mutterings from the Secretary's staff suggested that a nuclearized Japan might even be necessary.

Though this latter idea was subsequently denied it gained a kind of tentative credence in Japan because our Government has recently appeared to change its position—or at least its tactics—with respect to the Nuclear Nonproliferation Treaty. We no longer urge Japan to ratify the treaty but insist instead that it is an issue Tokyo must decide for itself. Correct as this position may be in traditional dipomatic terms, it contrasts so sharply with the Administration's blunt manners in bilateral economic discussions that many Japanese believe the United States no longer cares about limiting the number of nuclear powers.

All this deepens Japan's nuclear quandary. Sentiment against becoming a nuclear power is still a powerful force in public opinion and one should not underestimate the internal political agony Japan would face in revising her Constitution so as to go down the nuclear road. Yet pressure is mounting in that direction, especially as China moves to develop operational ICBM's capable of reaching North American targets. "Who is foolish enough to believe that America would jeopardize her homeland by firing nuclear weapons in Japan's defense?" the skeptics will ask. It is de Gaulle's old question, but it may find a special echo in Japan.

Still, the greatest pressure on Japan to become a nuclear power is less likely to stem

from anxieties over security than from a desire for political status. Alert Japanese are impressed by the fact that with the admission of Peking to the United Nations the five permanent members of the Security Council are precisely those powers that have nuclear weapons, and they have noted the implications of President Nixon's statement that his China trip was necessary because of the "great danger of the most populous nation in the world becoming a major nuclear power" 15 or 20 years from now.

Clearly there is no problem of capability. Apart from the social and political upheaval that might be involved in opting to be a nuclear power, Japan unquestionably has the scientific competence and industrial might to build a modest nuclear arsenal within a remarkably short time. The working principle is generally recognized as the goal of "N–2," which means that she will keep her technology constantly up to date so as to be able to produce operational nuclear weapons within two years after a decision to proceed.

Such a principle is, of course, welcomed by Japanese businessmen who believe that nuclear weapons technology would offer valuable spin-offs to private industry. As one might expect in the highly involuted algebra that shapes Japanese policy, the managers of heavy industry provide a key element of pressure for re-militarization—and to an extent we strengthen their hand when we continue to push Japan to increase expenditures for her military establishment. From experience in our own country we should know enough not to expect that a highly industrialized nation such as Japan will long continue to buy from us the military hardware her own enterprises can produce quite as well. And we should never lose sight of the fact that the uniquely intimate structure of Japanese business and government relationships is tailor-made for the emergence of a "military-industrial complex."

If the Japanese do decide to become a nuclear power, what of it? To the abstract question, the answer may be that it would not much matter—which is a view that may well prevail in the top reaches of the Administration. Why should we worry if there is one more nation with a nuclear arsenal? After all, there are five already, and the nuclear stalemate still seems to work.

Like all issues in international politics, however, the question will not arise as a sterile academic problem but in a context providing special color and meaning. Thus it seems clear from the circumstances I have described that the Japanese will go down the nuclear road only if they feel alienated from the West and strongly nationalistic—and these are the very conditions that might render Japan's nuclear power disruptive and dangerous.

It is this that makes our recent conduct particularly reckless. It is one thing to envisage a nuclearized Japan tied closely to the West and quite another to have to cope with an alienated nationalistic Japan armed with nuclear weapons. A great nation such as Japan, rootless and turned in on itself, could be an unpredictable force in world politics, threatening the stability of the Far East like a loose cannon on a ship in high seas. If that is so, why have we let the genie out of the bottle?

One reason we have failed to recognize the future importance of Japan in international politics is that the Japanese most Americans now encounter appear as narrowly focused economic men. It is their misfortune that they often seem to caricature the notorious American qualities of thinking in short time spans and carrying pragmatism altogether too far.

Yet in regarding the Japanese too narrowly in economic terms we Americans disclose an ideological bias that has frequently led us astray—our tendency to swallow the Marxist myth that all nations (except, of course, the United States) shape their foreign policy in slavish conformity to their presumed economic advantage, despite the fact that history is filled with situations where the opposite occurred. Thus we are tempted to take it for granted that because the United States is currently the most important single outlet for Japanese goods, we can behave pretty much as we wish toward Tokyo "because the Japanese have nowhere else to go."

But pride, nationalism and often downright irrationality are more likely to shape Japan's political relations than any informed calculation of economic interest. In spite of the current vogue for "linkage," we will never persuade Japan to adopt a political course at odds with her popular consensus, whether by threats of protectionism or commercial policy concessions. Let us not forget that when we sought to discourage Japan's expansionism in 1940 by cutting off her petroleum supplies, we did not stop her from going to war; we merely speeded her timing.

Nor should we draw false conclusions from a mistaken conception of her economy. Japan is not a Hong Kong that lives by importing raw materials, transforming them and selling them on the markets of the world: She is first and foremost a vast and burgeoning internal market. In contrast to a nation such as West Germany, whose exports total almost a fourth of her gross national product, Japan's exports and imports each constitute not much more than 10 per cent—or considerably less than one year's annual growth. Certainly Japan is dependent on imported raw materials, but most of these are obtainable from the so-called Third World, including China, and if Japan should find herself increasingly excluded from Western markets—or if she should find her major political interests jeopardized or disregarded by the West—she is far more likely to seek a privileged position with such developing countries than to bend her political policies to appease or mollify the United States or Western Europe.

This by no means suggests that the problem posed by aggressive Japanese competition is unimportant or that it does not demand intense and careful attention. Within the past few years, as our own external trade balance has deteriorated, many Americans in both business and government have felt angered and frustrated by Japan's behavior in international trade, and though they sometimes overstate the problem, they unquestionably have a legitimate complaint.

Unhappily our reaction has been uninformed by a coherent policy. Under pressure of the individual complaints of particular industries, we have resorted to restrictionist improvisations worked out through bilateral discussions. We have ignored the point that Japanese industry has its own special history, structure, institutions and relationships; to bring it into a trading system constructed largely in response to Western institutions and habits of thought is an intricate task that cannot be accomplished by America alone, but only by a common effort of all the industrial trading nations.

But if preoccupation with Japan as an industrial competitor has led us to overlook her political significance, that only partially explains our aberrant actions during the past year. Fully as important as our preoccupation with Japan as an industrial competitor has been the lack of professionalism that has increasingly marred the execution of policy ever since the White House opted to become its own foreign office—or, more accurately, sought to get along without one.

Troublesome as this problem has been for our relations with other parts of the world, in regard to Japan it has got completely out of hand. It is significant that there is no Japanese expert among the 165 members of Mr. Kissinger's White House staff; and since the State Department's own experts are no longer consulted, it is easy to understand why we have disastrously underestimated Japan's capacities for good or evil.

Still, it would be oversimplifying the problem to attribute Japan's threatened estrangement merely to the obtuseness of a White House too egocentric to delegate, for it has also reflected a self-conscious decision by the Administration to regard the reactions of Japan as of only secondary interest.

And this brings us back to the President's image of five balancing powers, which deserves a closer second look. In terms of present-day realities it would be fanciful to speak of "an even balance" among entities of such disparate size and weight as the United States, Western Europe, Russia, China and Japan. Two have massive nuclear arsenals, two have relatively puny nuclear capabilities, and one has no nuclear weapons at all; two have world-circling political interests and activities while the political interests and activities of the other three are merely regional in scope; four are major industrial powers while one is a vast underdeveloped country.

Even if Europe someday achieves real political unity and Japan becomes a world political force, the conditions would not exist for a static equipoise of five equidistant powers. Something of that kind was possible among the Italian city-states of the 15th century and later among the sovereigns of Europe; in those cases the political units shared a common intellectual and social heritage. But historical, social, ideological and economic differences could not be more profound than among the five powers the President says he would like to see in even balance. Thus the conditions clearly do not exist for a static equipoise, nor can one envisage a balance of power in the 19th-century pattern, with alliances reversing and coalitions shifting to prevent any one nation from gaining a position of hegemony over the others.

For one thing, there is no pivotal power to "hold" the balance—a role that Great Britain played by throwing its weight with whichever seemed the weaker side. And given the fundamental ideological cleavages both between the Communist powers and in the rest of the world, it is bizarre to think of the United States combining with China against Japan or Western Europe, just as it is difficult to believe that Japan might combine either with the Soviet Union or China against Western Europe or the United States. Thus the Japanese and informed Europeans interpret the President's concept of five balancing powers to mean only that the United States has abandoned a strategy based on alliances in favor of a strategy of maneuver and independent action.

Certainly that is the game the White House seems to be playing today, dealing bilaterally with Moscow and Peking, trying to play one off against the other, while we let our allies—particularly Japan—shift for themselves. In the case of Europe this may do little harm, provided it does not inspire a flurry of bilateral diplomacy with each small European state trying to make its own separate deal with the Russians and thus producing a weak and fragmented West. An optimist might even hope, on the contrary, that a lone-wolf American policy could speed Europe toward unity—which would clearly be a good thing. With a shared heritage of institutions and ideas and a settled habit of talking easily with one another, the Atlantic nations are quite unlikely to work at cross-purposes, whether or not our alliance relations are institutionalized.

But Japan as a different matter. Ties across the Pacific are of brief duration and dangerously fragile, and we face enormous problems in trying to understand one another. Nor could a Japan alienated from America and left to her own devices avail herself of anything resembling the kind of constructive alternative that the Europeans can find by

unifying; her only realistic alternative would be nationalism.

That is why many of us have contended for many years that America should take the lead in building a coalition of major non-Communist industrialized nations by Mutual Security Treaty into a mature coalition, then progressively integrating that relationship into an expanded Atlantic partnership that would include in its purview the Far East as well as the West.

The assumption underlying this proposal was that over the years ahead Europe would slowly expand its political horizons to resume an interest in Far Eastern affairs, while Japan would, along with its global industrial role, extend its political interests on a worldwide basis. Thus by bringing Japan into existing Atlantic economic institutions and developing political institutions to include the Far East, we might in the long run be able to build a broad and solid base from which a reconciliation could gradually be worked out with the Soviet Union and China.

It was a bright vision but it is rapidly fading, and if we persist in our present course of action, it will fade irrevocably. Perhaps it has already during this past traumatic year.

CED REPORT ON CRIMINAL JUSTICE

Mr. PERCY. Mr. President, I congratulate the Committee for Economic Development upon its issuance of a most significant document entitled "Reducing Crime and Assuring Justice."

CED is a group of businessmen and academicians who study some of the more pressing problems that face our society, and recommend ways to deal effectively with these problems. Although its primary concern is, as its name implies, economics, its latest report deals with the problem of criminal justice. The product of its 2 years of in-depth study is an example of what some of the best minds in this country feel that we, as a nation, must do.

Crime is not just something that preys upon the weak and the poor, although they are most often the victims of violent crime. Crime is also a very expensive societal illness. CED estimates that crime costs the business community at least $16 billion a year. The overall cost of crime to society has been estimated at $51 billion per year. The CED report recognizes the enormous drain on both our economy and our national spirit produced by crime.

The most interesting aspect of the CED report is its focus on the need for a coordinated, unified, systematic approach to the problems of crime control. Too often, we see piecemeal efforts by the Congress dealing with a particular aspect of crime. But, as the CED points out—

> Piecemeal efforts to reform the highly fragmented, patchwork structure of criminal justice will inevitably fail.

It goes on to say that—

> The problem is deeper. The committee believes that the ineffectiveness of the present structure is rooted in the organizational and administrative chaos that characterizes the Nation's uncoordinated system of criminal justice, and in the management weaknesses prevailing in agencies at all levels. The committee therefore proposes a complete overhaul of the criminal justice system and a redistribution of responsibilities, functions and financial support among the various levels of government.

It is interesting to note that if the CED's proposals had been implemented in Illinois in 1970, local governments would have saved an estimated $165 million.

This is not the radical conclusion of wildeyed idealists. This is the conclusion of 2 years of concentrated study by hardheaded businessmen. It is their conclusion that the criminal justice system is a complete failure. As I have stated repeatedly, the criminal justice system bears little, if any, relation to anything even vaguely resembling a system. Instead, it is a loosely connected string of uncoordinated agencies, moving around blindly, presuming to do a job they are unable to do.

As a former businessman, I concur in this assesment. In fact, I have introduced S. 3185 as an attempt to reorganize the Federal system of justice. S. 3185 is a recognition of the need to approach the problem of crime on a systematic basis, not with just piecemeal solutions.

It is always heartening when different people independently evaluate the same problem and arrive at a similar solution. A complete reorganization of the criminal justice system is needed to end the increasing spiral of crime, and return this society to a state of quiet respect for the law founded on a solid belief in justice.

Mr. President, I welcome this newest, imaginative, and in-depth report by the CED, and I recommend it very highly to all Senators. The report marks a turning point in insuring that the issue of crime control is not just the concern of the police or the courts. It is the vital interest of every citizen, and every citizen must become involved in the process of coming to grips with the problem of crime in a free society. It is only with the enlightened and concerned support of the citizenry that we in the Congress can go ahead in this most necessary struggle. The CED has been most helpful in putting this information before the public.

THE PRESIDENT'S ORDER ON MEAT IMPORTS

Mr. METCALF. Mr. President, an Assiniboine leader of the Fort Peck Reservation in Montana telephoned me today to suggest that in view of the President's order eliminating restrictions on meat imports, perhaps the Indians should consider going back into the buffalo business.

Buffalo meat grown on our plains and subject to U.S. standards of wholesomeness is one thing. Quite another is increasing the amounts of meat imported from abroad that is not as rigidly inspected as our own domestically produced meat and that has been proven too often to be contaminated.

My disappointment in Mr. Nixon's action is total. It is a move to put a ceiling on a raw farm commodity price before it has even reached 100 percent parity, though in World War II and the Korean war, Congress prohibited farm price ceilings at any level less than 110 percent of parity.

It is true that cattle prices are at 91 percent of parity when last calculated on May 15 and that they have even risen a little since then. But they have not gone to a 100 percent level nor approached the 110 percent figure that was considered fair to farmers in previous price control periods.

The action has one mysterious aspect and that is the whereabouts of the holder of the Wounded Steer Award given by the Newspaper Farm Editor's Association. Many Senators will recall that the Secretary of Agriculture, the honored recipient, vowed publicly at many farm meetings that he would fight price controls on livestock price and other farm commodities like a "wounded steer." Strangely, there has been no news report whatever that Mr. Butz was in or around the White House prior to the lifting of the import quotas or that the wounded steer has even bellowed one bellow before or after the event.

TO COMBAT THE SPREAD OF POVERTY IN AMERICA

Mr. HUMPHREY. Mr. President, I strongly urge the Senate to adopt the Economic Opportunity Amendments of 1972, S. 3010, as reported by the Senate Committee on Labor and Public Welfare.

I found it incredible that the President, last December, would veto original legislation authorizing an intensified war on poverty that was strongly supported by Congress. For the first time in a decade, we have witnessed a serious increase in the number of people living in poverty, to over 25 million, after a steady annual decline. We know that this has been primarily the consequence of an administration-engineered recession, with unemployment remaining at a crisis level for months on end. But what we may not readily recognize is that these misdirected policies have also resulted in 22 million more people now being classified as near-poor.

The time has come for decisive action to combat this extensive degradation and despair of human life. We must launch a major program of balanced urban and rural development to restore hope, confidence, and choice in job and living opportunities to the American people. In addition to enacting emergency unemployment compensation assistance, we must take legislative action to establish extensive public service job opportunities in work that is vitally needed by our communities. Federal fiscal assistance should be immediately channeled to our cities and States where it is absolutely required for the maintenance and long-overdue development of public facilities and services. We must bring essential relief to lower- and middle-income families bearing a disproportionate share of the tax burden and to elderly couples struggling to meet the rising cost of living on fixed and limited incomes—measures which can also go far toward strengthening the consumer purchasing power that is the foundation of a growing national economy. And, in addition to reforming public assistance programs to achieve a national program of effective help to families in need, we must

now focus national priorities and spending on the critical needs of people for jobs, decent housing, quality health care, full educational opportunities, a clean environment, and essential social welfare services.

But a key element in a comprehensive national program designed to meet the rightful expectations of our citizens for a better America in the decade of the 1970's, must be an intensified war on the human deprivations of hard-core poverty. The lessons learned from the operation of economic opportunity programs over 8 years since the enactment of the original and historic antipoverty law focus on the necessity for the concentrating forces and establishing priority objectives in this new offensive against poverty. This is why I strongly support the specified authorizations provided under the present legislation for four programs: local initiative; legal services; emergency food and medical services; and alcoholic counseling and recovery. The amounts earmarked for these programs constitute the bare minimum allocations that are absolutely required. I also believe it is essential to prohibit the delegation of further Office of Economic Opportunity programs to other agencies in at least two instances, as provided in this bill: local initiative, the network of 930 community action agencies assuring a local impact and innovative experimentation in the antipoverty program; and the new community economic development program, focusing more sharply on both rural and urban community-based, economic self-development corporations, providing essential grants as well as loans to low-income farm families and rural cooperatives, and providing technical assistance and long-term loan funds for urban and rural areas.

Designating the retention of such programs in the Office of Economic Opportunity is crucial to the continued and strengthened existence of CEO itself as the only Federal agency with a primary mission of eliminating the paradox of poverty in the midst of plenty—the one tangible symbol of the Federal Government's commitment to the war on poverty; and the key focal point where the poor can make their voices be heard.

I am also deeply gratified that this legislation responds to my strong plea for a major expansion of the Neighborhood Youth Corps manpower program to combat the crisis of extensive youth unemployment. The committee report notes my testimony of April 1971 calling for a new program focused on community improvement job opportunities for youth, coupled with the provision of extensive opportunities for young men and women to continue their education. And, in contrast to reductions made by the present administration in Neighborhood Youth Corps out-of-school program enrollment slots, the present bill calls for an additional special authorization of $500 million to create 100,000 more work and training opportunities. I also fully support a new, year-round youth recreation and sports program for disadvantaged and poor youth, authorized under this bill, and building upon successful demonstration programs.

There are further program authorizations that make it vitally important that this legislation be enacted without delay:

A new program of assistance to low-income residents of urban and rural poverty areas to affectively participate in the planning and development of the physical environment of their communities;

A more realistic and equitable method for determining eligibility for participation in economic opportunity programs;

An additional authorization of $50 million for projects to help the elderly poor, who too often are not served under present antipoverty programs;

The strict requirement that 10 percent of all nationwide enrollment opportunities in the Headstart program be made available for handicapped children, with the provision of services to meet their special needs;

The addition of two new special emphasis programs, to provide job opportunities for low-income people in Environmental Action, and to combat the acute rural problem of inadequate housing through experimental projects on home rehabilitation and repair, in addition to present housing assistance programs;

And the funding, on a permanent basis, of OEO demonstration programs to provide vitally needed assistance to lower income consumers through consumer cooperatives, credit unions, and education and complaint-response programs—self-help projects to combat consumer exploitation, one of the most vicious dimensions of poverty, but projects that are being defunded under OEO under a totally incorrect assumption that other financial resources are available and that consumer problems should not be a priority concern of the Agency.

These vital new directions in an expanded war on poverty, authorized in the Economic Opportunity Amendments of 1972, must not be overlooked in the Senate debate on the provisions in this legislation to establish an independent and long overdue National Legal Services Corporation. I fully endorse the creation of this private, nonprofit corporation to provide comprehensive legal services and assistance to low-income persons.

The denial of the equal protection of the laws is the harsh reality of poverty. It is the height of hyprocisy to counsel a poor family that ours is a government of laws when, under those laws, they find no recourse in the face of an eviction notice, or outright fraud, or unexpected interest charges that make it impossible to meet loan payments, or a civil or criminal action without adequate defense counsel. Respect for the law demands effective recourse to legitimate systems of settling disputes. Equality before the law means that low-income persons must have the same access to justice as do more affluent Americans.

The time has come, therefore, to raise OEO's Legal Services program to the status of an independent institution, accountable to Congress, the Executive, and the professional bar, but substantially free from political and bureaucratic interference. Only in this way can the scales of justice be truly balanced, providing effective advocacy on behalf of poor families and individuals to achieve the resolution of grievances through the legal system.

I believe the present legislation effectively meets the President's objections to administrative provisions in the original bill for the establishment of a National Legal Services Corporation—provisions relating to the constitution of the Corporation's board of directors, to the transition process, and to activities by Corporation personnel in accord with their professional responsibilities. And I fully support the earmarking of $71.5 million of Economic Opportunity Act appropriations over 2 fiscal years and an additional authorization of $100 million, to provide the essential resources for effective Corporation activities.

I urge the Senate to approve the establishment of the National Legal Services Corporation to give millions of poor Americans the greater access to legal services that is demanded if we are to bring into reality the promise of equal justice and opportunity.

EXTENSION OF WEST FRONT OF CAPITOL

Mr. HOLLINGS, Mr. President, because of the imminent debate on the legislative appropriations bill of 1972, I want Senators to have access to information that I think is relevant to the study of this bill. The disagreement in conference resulted from the longstanding argument on the extension of the west front of the Capitol. My rider would prohibit the expenditure of any money for final planning or actual construction of the extension without a vote of Congress. Therefore, a vote for my rider does not mean that Senators are in favor of extension or restoration, but that they feel the future of the Capitol is worthy of congressional consideration. The conference stalemate allows both House and Senate conferees to go back and inform their colleagues of the issues, so that instructions can be given their conferees.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks "The Fact Sheet on the West Front of the U.S. Capitol Building." This sheet gives some background information on the controversy. I would also suggest that Senators refer to the March 20, 1972, CONGRESSIONAL RECORD and read the entire text of the Praeger report. The Senator from Wisconsin (Mr. PROXMIRE) had the text of this congressionally commissioned report printed on pages 9040 to 9046.

I also ask unanimous consent for the printing of the American Institute of Architects "Task Force Report on the West Front of the United States Capitol." This report was in response to a request from the Architect of the Capitol, George M. White, "to have the AIA review the information and circumstances involved in the proposed extension of the west front." The task force reviewed the information provided by the Praeger report and found that they unani-

mously endorsed the findings and conclusions of Praeger-Kavanaugh-Waterbury.

Mr. President, I am greatly concerned that we cannot reach an agreement on the issue of restoration. The five conditions set by Congress were met easily by the Praeger report and were backed up by the AIA. I only hope that Senators will study this information as carefully as I have. Once that is done I am sure they will decide that the extension of the west front is not only a waste of $60 million, but also a meaningless alteration of our greatest national monument.

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

FACT SHEET—WEST FRONT OF THE U.S. CAPITOL BUILDING

For more than a decade the controversy on the future of the West Front of the U.S. Capitol Building has been raging.

Some officials desire extension in order to create more facilities for tourists and more office space and meeting rooms for Members of Congress. Others, including The American Institute of Architects and The National Trust for Historic Preservation, favor restoration in order to retain the last remaining visible facade of the main Capitol Building and avoid undertaking a major project on Capitol Hill without comprehensive planning. (The AIA firmly believes that the present perimeter of the Capitol Building should be declared inviolable so that future generations of Americans will be able to read the heritage of our country in the face of our Capitol. AIA feels that the original 172 year-old sandstone walls of the West Front—that some propose be buried behind a cold Twentieth Century marble extension—must remain visible forever as living history.) In addition, the proposed extension would result in the world's most expensive office space, $375.00 per net square foot, according to the latest estimates.

In 1969, Congress commissioned a study to determine the feasibility of restoring the West Front. The results of the study were to be used by the Commission for Extension of the U.S. Capitol in reaching a decision on whether to restore or extend the West Front. The members of the Commission include Vice President Agnew, House Speaker Carl Albert, Senate Majority Leader Mike Mansfield, Senate Minority Leader Hugh Scott, House Majority Leader Hale Boggs, House Minority Leader Gerald Ford, and Architect of the Capitol George White.

At the same time, Congress approved $2 million to be used for the preparation of plans for extension if the Commission was satisfied that five specific conditions relating to restoration were not fulfilled:

(1) That restoration could be undertaken without creating unsafe conditions and that it would be durable and beautiful for the foreseeable future;

(2) That restoration would not cause any more vacation of existing space than extension;

(3) That the plans for restoration would be adequate for competitive lump sum bidding for the final project;

(4) That the cost of restoration would not exceed $15 million; and

(5) That the time for restoration activity would not exceed the time necessary for extension.

The feasibility report done by the Praeger-Kavanagh-Waterbury engineering/architectural firm was completed in December, 1970 and concluded that all five conditions for restoration could be met.

Following the release of the Praeger report, the AIA appointed a Task Force on the West Front, which reviewed the report and concurred in its findings. Anticipating that cost would be an important element in any decision by Congress, the AIA Task Force stressed that the Praeger report's methods and budget allowed adequate contingency for restoration costs. In September, 1971, the Institute's Board of Directors accepted and endorsed the Task Force's findings as a reaffirmation of the Institute's long standing position supporting restoration of the West Front. The Task Force members included Milton L. Grigg, FAIA, William W. Caudill, FAIA, Leon Chatelain, FAIA, F. Donald Lethbridge, FAIA, and Harry Weese, FAIA.

Early this year (March 8) the Commission for Extension of the U.S. Capitol voted unanimously to proceed with the preparation of plans for extension, apparently rejecting the findings of the Praeger report. It is believed that the Commission reached its decision due to increased pressures for additional office space and uncertainty that restoration could be accomplished for $15 million, despite the findings of the Praeger report and the endorsement of the AIA.

The Commission's action made the $2 million previously approved available for the Capitol Architect for the preparation of plans for the proposed extension.

REPORT OF THE 1971 AMERICAN INSTITUTE OF ARCHITECTS TASK FORCE ON THE WEST FRONT OF THE U.S. CAPITOL, SEPTEMBER 1, 1971

In response to a request from George M. White, FAIA, Architect of the Capitol . . . "to have The American Institute of Architects review the information and circumstances involved in the proposed extension of the West Front of the United States Capitol", the President of The American Institute of Architects, Robert F. Hastings, FAIA, appointed a review Task Force.

The AIA members appointed by President Hastings to this Task Force were: Milton L. Grigg, FAIA, Chairman; William W. Caudill, FAIA; Leon Chatelain, Jr., FAIA; Francis D. Lethbridge, FAIA; Harry M. Weese, FAIA; and Maurice Payne, AIA, Staff.

They were directed by President Hastings, "to examine AIA's position on the West Front of the Capitol now that the engineering report (the Praeger Report) has been submitted."

The full Task Force met at AIA Headquarters in Washington, D.C. on May 26 & 27, 1971, to review background material previously distributed including the Praeger-Kavanaugh-Waterbury report on "Feasibility and Cost Study for Restoration of the West Central Front of the United States Capitol". Architect White, Assistant Architect of the Capitol Mario E. Campioli, AIA, and Philip L. Roof, Executive Assistant to the Capitol Architect, met for a period of time with the Task Force and were the gracious hosts for a general tour of the Capitol building by the Task Force on the afternoon of May 26th.

Subsequent detailed inspections of the Capitol and informal meetings with the Capitol Architect were held.

THE WEST FRONT OF THE U.S. CAPITOL, TASK FORCE REPORT—RESTORE THE WEST CENTRAL FRONT OF THE U.S. CAPITOL

Having studied and analyzed the report by Praeger-Kavanaugh-Waterbury on "Feasibility and Cost Study—Restoration of the West Central Front—United States Capitol—January 1971", the AIA Task Force is unanimous in endorsement of the method of analysis, the general findings and the conclusions of the report. It offers conclusive evidence to sustain the Institute's resolution for, and belief in the practicality of restoration of the West Front in situ.

It is our opinion that the proposed restoration as recommended by the Praeger Report fulfills the five conditions for restoration as set down by Congress in Public Law 91–145:

1. That the restoration can, without undue hazard, be made safe, sound, durable and beautiful for the foreseeable future.

2. That restoration can be accomplished with no more vacation of the west central space than would be required by any extension plan.

3. The Praeger Report provides proper methods of restoration. The Task Force recognizes that the work could be done on a competitive, lump sum, fixed price construction bid or bids but we feel that competitive bidding for a fixed profit and overhead with the work being done on a cost basis should be strongly considered in the same way the White House restoration was accomplished.

4. It would be impossible for anyone at this stage of study to guarantee a total restoration cost. However, the Task Force felt that the Praeger Report methods and budget allowed adequate contingency.

5. The Task Force is certain that the restoration work would not exceed the projected time estimated for accomplishing the extension plan.

This Task Force recommends that the present perimeter facades of the Capitol building be declared inviolable and the surrounding grounds, bounded by First Streets, East and West, and Independence and Constitution Avenues, be declared open space, devoid of significant structures protruding above present grade levels. Extant mature tree groupings in these surrounding grounds also should be declared inviolable and sub-surface development be encouraged but confined to areas now either in grass, paving or shubbery.

PREPARE A COMPREHENSIVE PLAN FOR LONG RANGE DEVELOPMENT OF THE PROPERTIES UNDER THE JURISDICTION OF THE ARCHITECT OF THE CAPITOL AND THE SURROUNDING AREAS

The Task Force observed, that the present space usage in the Capitol is crowded, misused or underused; that many functions now located in the Capitol have questionable need of being there; and some functions are duplicated. The Task Force was made aware of the need for additional space by Members of the House of Representatives especially space adjacent to the House Chamber.

Present preliminary findings of the Architect of the Capitol following a space need study of the House of Representatives would seem to indicate that any proposed future extension of the Capitol will not begin to meet present least of all projected space needs.

The Task Force reaffirms the AIA's historic position that Master Planning of the Capitol must be undertaken if impetuous action by the Congress is to be avoided. This planning should include (1) an inventory space utilization of present buildings; (2) an analysis of floor area ration within the confines of the present Capitol area; (3) a study of possible new land acquisitions; (4) a study with particular reference to below surface development capability, categories of use, and environmental factors.

Consideration must be given to the displacing of routine services or lower priority functions now occupying space in the Capitol to new locations.

With the realization of the Metro system, the Visitor's Center at Union Station and the emergence of new people-mover systems, all parking should be remoted and the Capitol's surrounding grounds cleared of all but official business cars. New system of shuttles, horizontal elevators and even a Metro branch should be considered. They could provide fast, automatic, safe and frequent service between all of the buildings in the Capitol complex and would make ready proximity a question of time rather than distance.

It is the recommendation of the Task Force that the Architect of the Capitol could and should request the counsel and guidance

of leading architects and other design professionals. Since the future of our Capitol is of deep concern to all Americans, their gratuitous participation in the development of a comprehensive plan can be expected.

TASK FORCE OBSERVATIONS ON THE PRAEGER REPORT

SETTLEMENT

(1) Soil pressures are such that there is a 2-to-1 factor of safety.

(2) Further settlement can be expected over the next 150 years, but in order of the ½ inch of the past, which occurred at the outset.

(3) There has been no evidence of differential settlement.

CRACKING

(1) Thermal movement and frost action over the years, as between the interior rubble wall and the sandstone face, has caused local failure of cut stone creating a natural pattern of vertical cracks from top to bottom approximately 30 feet apart. This is a natural phenomenon which designed control joints obviate. The report recommends making control joints of the existing pattern of cracks. There is no reporting of settlement cracking nor out-of-plumb walls.

EROSION AND SPALLING

(1) Sandstone weathers well when laid on bed faces for natural drainage of trapped moisture from within the wall. Improper stone cutting in some cases, but more important, the use of oil paint over the years, has trapped moisture and contributed to surface spalling. The effect is superficial and akin to accelerated weathering. Modern paints which allow the wall to breathe obviate this. The aesthetic effect is that of time making its mark. No attempt should be made to deny these minor inroads of time.

(2) Significant deterioration was noted on marble surfaces on the Olmsted terraces—a condition that should "flash a warning" whenever future consideration is given to wearability of various stone surfaces.

LOOSE OR CRACKED STONES

(1) Certain stones, voussoris, flat arches, quois, and cornice members are in need of affixing to the backup masonry. They are visible and can be treated with modern rock bolting techniques and post tensioning.

WALL STRENGTH

(1) The facing stone is bonded to the rubble wall with alternate courses, making a physical bond uniting the wall in a series of vertical shafts separated by the aforementioned natural control joints. These walls are over 4 feet thick at the foundations. They are not overstressed, taking 236 p.s.i. maximum loading with the stone itself capable of 6000 in the case of sandstone and 14,000 for rubble fieldstone. The lime mortar is the limiting factor, but there is no reporting of vertical displacement or cracking of interior walls. It is proposed that a grout injection to fill voids in the mortar matrix and bond the exterior wall to the interior would add strength.

After paint removal and patching and further measurements, it may prove that grout injection could be limited to the lowest story or localized or could be eliminated altogether. It is not clear that so-called solidification of the wall is called for, but this task force defers to the judgement of the Praeger report.

(2) On page 10, near the conclusion of the portion of the report on the experimental wall grouting, amplification and clarification would seem desirable. The type of epoxy as a final bonding material is questioned and should be clarified to the extent that description is not found with respect to the viscosity of the material proposed. Elsewhere, it is reported that various formulations seem to be identified. Furthermore, experience elsewhere indicates that ferrous metals and certain epoxy compounds are not mutually compatable and that deterioration may occur in both materials through chemical action; hence, use of iron reinforcing rods should be evaluated.

(3) There is discussion of the thermal effect of solidification of the wall resulting from the infilling of the present cavity. This phenomenon is not discussed in great detail other than to conclude that there is to be predicted a 10% net increase in heat gain or heat loss in the solidified wall. The effect of this change in the internal structure of walls of such comparatively great mass bears closer investigation.

It is probable that it will require an interval of time, perhaps 18 months to 2 years, for the long stabilized thermal and hydro balance within the walls to become re-established, responsive to modifications resulting from the filling of the voids and the possible modification in the reverse permeability or breathing property of the wall.

MOISTURE

(1) It is difficult to accept the categorical statement that "condensation in the wall will not occur during the summer". The computations on Figure 22 do not appear to indicate a recognition of the lag in change of the ambient humidity and temperature of the internal wall volume and it is possibly questionable whether the conclusions shown thereon are valid without further experimental documentation.

(2) The Praeger Report does not contain a bibliography, therefore the following paper may have been available to the authors. Reference is made to *Consolidation des Monuments D'Architecture par injection dans les Maconneries,* Moscau N. Zvorikine. From this, it is seen that the Russian experiences indicate that the epoxy infilling should not be impermeable to moisture; therefore, the formulation of the material ultimately used should be investigated in light of these reported results.

It was found that the dilution of the epoxy with a solvent helped to provide better penetration and greater adhesion and, at the same time, did not produce a mass incapable of "breathing".

In the same connection, we were informed by Dr. R. M. Organ, Chief, Conservation—Analytical Laboratory, Smithsonian Institution, that Savestone is an excellent material, particularly if the manufacturers are at this time employing the Lewin Sayre patents. Acrylic plastic compounds have elsewhere been found to be very deleterious in these uses and should be avoided.

The Report suggests quite discouraging results from the several experimental methods of removing the old paint from the stone. From other sources, it has been found that the Methylene Chloride paint remover which was used, while not formulated for removal from stone surfaces, actually can be made very effective when combined with a neutral jelly to create an emulsion, keeping the mixture moist for a longer period. (Actually, in the results cited, the coated stone surfaces were covered with aluminum foil to prevent accelerated evaporation.) The latter expedient might increase the effectiveness of the gel remover reported.

In this connection, it is somewhat surprising to find that the report does not cover the matter of vapor transmission more positively. It would seem desirable to investigate the advantages of providing a vapor barrier back of the plaster on exterior wall surfaces. It is possible that this will alleviate the tendency for plaster fatigue through thermal and moisture changes as well as more effectively stabilizing the moisture content of the interior of the interior of the wall volume. This vapor barrier, if found to be necessary, could be of the framed-in-place variety, thus avoiding extensive replastering.

(3) Apparently, the authors of the Report have not found conditions to indicate the desirability of horizontal moisture barriers in the base of the walls to offset the capillary action often found in walls of this mass and porous character.

PERFORMANCE DESIGN

(1) The Praeger Report analyzes the structure and loadings of the West Front portion of the Capitol building and proves they are within the parameters of sound practice. The effects of static and dynamic loadings and soil pressures due to dead load, live load, wind and seismic forces, and sonic booms have been given complete attention and analysis.

PAINTING

(1) The continued use of oil paint in many applications 15 to 105 mils thick has caused accelerated but not severe weathering. Modern breathing paints will obviate this difficulty.

The Capitol is made of three materials: yellowish sandstone (original wings), Walters' marble House and Senate extended wings, marble East Front extension and the cast iron dome. White paint on the sandstone and dome is used to unify the ensemble. This has been the style for more than 100 years. The White House is painted stone. London abounds in painted stone. The tradition of painting should continue.

EXTENSION OF WEST FRONT OF CAPITOL—EDITORIAL FROM THE WASHINGTON POST

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD the editorial entitled "It's Up to the Senate To Save the West Front," that appeared in the Washington Post on June 26, 1972.

The editorial makes the point that I have been making over and over; that is, that the future of the west front of the Capitol is being made by the Commission for the Extension of the Capitol, a group composed of the leaders of Congress. This group meets in closed sessions to make final decisions that could change the facade of the Capitol without congressional consideration.

The Washington Post is doing its job in educating the public that their greatest national shrine is in danger of being "stampeded into destruction." Now it is time for Congress to decide whether it is going to save the Capitol or sit by while the Commission for Extension decides on extension.

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

IT'S UP TO THE SENATE TO SAVE THE WEST FRONT

It is ironic that the House of Representatives, or rather its conferees, should suddenly be so eager to restore the old Senate and Supreme Court chambers and yet stubbornly insist on the extension of the West Front of the Capitol. Restoring the old chamber nestled within the central building is a nice, sentimental thing to do. Before the Senate moved into its present wing in 1859, this semi-circular, domed hall resounded to the orations of Calhoun, Clay and Webster. Thereafter it served the Supreme Court for 75 years until the court's own building was completed in 1935. Since then the old chamber has been closed to the public and fallen into disuse, save for an occasional committee meeting or conference. The proposed $1.5

million restoration is essentially a reconstruction of the historic Williamsburg kind. The galleries, which have once been described as "stuffy" and which have long been removed, are to be put back again and some of the original Senate furnishings are to be reproduced from old pictures and paintings. It will make a fine museum for tourists to admire. The extension, on the other hand, would do the exact opposite on a much larger and, we think, tragic scale. It would obliterate the genuine article—the last remainder of William Thornton's original Capitol building which George Washington praised for its "grandeur, simplicity and convenience." What is more, it would completely alter the magnificent terraces designed by our greatest landscape architect, Frederick Law Olmsted. And that is another irony.

The genius of Olmsted is just being fully recognized as we celebrate his 150th anniversary of his birth this year. There are celebrations all over the country and this fall the National Gallery of Art will mount a special exhibition of his work, including, of course, the Capitol Terraces.

All practical, technical arguments for this destruction have now been dealt with and to our mind, refuted. Competent engineers have established that the historic sandstone facade is safe and sound and therefore need not be replaced by a new, marble one some 80 feet further out. A new visitors' center has been approved at nearby Union Station, so there is no need for more tourist facilities, cafeterias and such within the Capitol. New offices for both the Senate and the House can be provided by adding to the New Senate Office Building and on the vacant Providence Hospital site, so there is no need to alter a national shrine for that reason either. The argument thus now boils down to the simple question of whether Congress wants to respect this country's first and most cherished building or irretrievably tamper with it.

Senator Ernest F. Hollings (D.-S.C.) believes this important question ought to be put to a vote by the entire Congress. The Senate Appropriation Committee has supported him on this. Rep. Bob Casey (D.-Tex.), his counterpart in the House, believes there is no need for a vote because the Commission for the Extension of the Capitol, composed of the leaders of Congress has decided in closed session last March to go ahead with its 17-year-old scheme. The issue is now at a stalemate in conference. We fervently hope the Senate side holds out. The Senate conferees have agreed to the restoration of the Old Senate Chamber. It would be a contradiction were they now to agree to let Congress and the American people be stampeded into the destruction of the old West Front and its terraces.

FORTHCOMING RETIREMENT OF GEN. WILLIAM C. WESTMORELAND

Mr. HOLLINGS. Mr. President, one of South Carolina's most distinguished sons is preparing to retire. I refer, of course, to our Army Chief of Staff, Gen. William C. Westmoreland.

It has been my privilege and pleasure to know General Westmoreland for many years. He has always been a soldier's soldier and a patriot's patriot. He has dedicated his energy and efforts to the Armed Forces ever since he entered The Citadel in 1931. And the years between have been filled with great event upon great event, and with honor upon honor. A man trained in the strategies and tactics of war, he has always been deeply committed to the ideals of peace. He has won the respect of several Presidents, world statesmen, and those of us who serve in the Congress. He has won the esteem of Americans everywhere for his selfless dedication to duty under the most trying of circumstances and limitations of his superiors' policy. And he has always had the respect and devotion of the men serving under his commands. General Westmoreland understood full well that the battle is not just strategy and tactics and logistics—more than anything else it is human beings—human beings under fire, being asked to make their ultimate commitment on the field of war. That care and humanity toward his fellow soldiers was always uppermost in General Westmoreland's mind.

This past Sunday, June 25, there appeared in the New York Times, a statement, a valedictory, written by the General. It is an eloquent and moving piece. In it we find old and honorable values alive and well. We find love of country, concern for one's fellows and pride in belonging to the country's Armed Forces.

This statement deserves to be read by as wide an audience as possible. Therefore, Mr. President, I ask unanimous consent that it be printed in the RECORD.

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

A SOLDIER LOOKS BACK

(By W. C. Westmoreland)

WASHINGTON.—I will put away my uniform on the first of July, 36 years after pinning on the bars of a second lieutenant. This leads me to reflect, not without some nostalgia, upon the Army I have known and served. In so doing, I find certain constants—truths and principles which have determined the character of the United States Army throughout its proud history. I also find marked evidence of change as the Army responded over the years to the changes in our society and the challenges to our national security. Both—the immutable character, and the change and growth—have opened the way to far greater opportunities for young men entering the Army today than were open to me long ago.

If there was ever doubt, one simple truth has been reaffirmed beyond question during the time I have been a soldier: the United States must have an Army if it is to remain free and great. A healthy skepticism of all things military has been woven into the fabric of our nation since its birth, but no reasoning person can proceed from this skepticism to a conclusion that we do not need armed forces. In a world peopled with imperfect human beings, a world forever in ferment and often threatening, our armed forces are indispensable to our freedom and, indeed, to human progress.

There is another constant etched indelibly in the character of the Army, and that is the code of ethics by which the American soldier lives, works, and fights if need be. The code is best expressed in the credo of West Point: Duty, Honor, Country." In reflecting on the long reach of American history, I am deeply impressed by the way the Army as a whole has lived up to this code—as an institution, and man by man.

Related to the foregoing, one other constant which I would emphasize is the total loyalty which the American Army has given to the nation and the society it serves. This willing and proper subordination of military force to the leaders, principles and purposes of our civilian society is in itself one of the greatest successes achieved by those who charted our original course nearly 200 years ago.

On the other hand, the Army is a dynamic organization that has changed dramatically during my term of service. Its size has ranged from a Depression level of 165,000 men to a World War II peak of nearly six million. Even at this moment, we are contending once again with the turbulence and manifold difficulties of reducing the Army in size by nearly a half, all the while being required to remain vigiliant and competent to carry out our missions.

The changes in Army equipment have been equally striking. The technological revolution has provided materiel far more effective than that with which the Army of the thirties was equipped. The horse and the mule have entered history's stables, to be supplanted by the jeep, the tank and the helicopter. Electronic miracles are commonplace. And of critical importance, the gear of the soldier himself has been markedly improved.

Some other changes come to mind. On a personal note, my monthly base pay as a second lieutenant was $125, which itself was generous indeed compared to the $21 a month paid to a new private. The Depression-era civilian populace, resentful of even the imprudently inadequate military budgets of those days, had little use for the man in uniform and virtually no use for spending money on him. In those days, the very word "soldiering" was a demeaning term implying that someone was slacking on his job. Along with this, troop units were so short of money and equipment that they often were able to do little more than go through the motions of drill without any sense of real purpose or achievement.

Fortunately for the Army and the nation, there were corps of officers and noncommissioned officers in that long-ago Army who understood why they existed, and who had such a sense of mission that they used the time available to prepare themselves professionally for the challenges which came. They understood—in peacetime—the need for an Army. Since their time, neither the nation nor its armed forces have been free to idle in the backwaters again.

The Army to which young men come in 1972 offers certain enduring opportunities: first of all, the opportunity to belong to an institution which remains essential to our survival and well-being and has as its first mission the preservation of peace through preparedness; and secondly, the opportunity to work at something which puts duty, honor and country above self—a chance to serve other men.

Along wtih these, there are other circumstances far more attractive than those I remember when I first took my oath. The base pay of a recruit has advanced more than fifteenfold since 1936, with N.C.O. and officer salaries now competitive in most cases with those found in industry. Given the time, the resources and public support, the Army will soon be able to offer young men adequate housing, exceptional training facilities, and almost unparalleled chances for men of all ranks to advance themselves vocationally and academically. Many strides have already been taken in these directions.

There is room within the Army of today for men of many backgrounds, talents, skills and interests. There is equal opportunity to advance on merit. There is interest and meaning in what they do. There are open doors through which they can communicate ideas aimed at improving the Army's effectiveness. And with all this, there remain the mental and physical challenges to the modern soldier.

A look back, then, confirms for me the enduring truths and principles on which the United States Army is based. It reaffirms for me the great pride I have always taken in wearing the khaki and the Army green. It puts in astonishing perspective the strides which have been taken by the Army during my lifetime and the challenging opportunities—personal and professional—which lie

before the soldiers of today and tomorrow. If I were able to stand on the Plain at West Point once again and take the same oath, I would do so with equal pride, and even more anticipation.

AIR FARES FOR ALASKA

Mr. GRAVEL. Mr. President, Alaskans and people wishing to visit our beautiful State are extremely dependent on air transportation. To drive to Alaska requires traveling over 1,000 miles of gravel roads through Canada. It is impossible for the average family from the continental United States to drive up the highway on a 2-week vacation, as the driving time alone is a week each way. Only our sister State of Hawaii is as dependent on the airlines for interstate travel. Yet I find that people flying to—and within—Alaska are being discriminated against in the sense that certain preferential and promotional air fares that apply on many routes around the United States do not apply widely to Alaska.

For example, if I wished to fly to California, Hawaii, or Florida tomorrow, I could take a 7- to 21-day excursion for a fare substantially below the CAB regulated coach rate. Were I to take my family with me for a vacation this summer, we could go together at a special family rate. But I am unable to obtain these special fares on flights to Alaska.

Only in the winter can I fly on a family rate and then on only three of the four interstate airlines serving Alaska. Night coach fares are available on only two of these four carriers. Only one of our airlines publishes so-called tour-basing fares—reduced rates which apply when the passenger purchases some lodging and/or ground transportation—and these only over certain routes at certain seasons. None of the four carriers have interstate excursion fares, though Western Airlines does have a triangle fare to Hawaii.

Despite the great distances and heavy dependence on air travel around the State of Alaska the intrastate picture is also pretty bleak with no family fares, no nightcoach fares, and no youth fares.

The tradition of thinking of travel to and from Alaska as really an international flight with the higher international rate structure built into our air fares has long been a great hindrance to us in getting travel expenses down.

Some time ago I wrote to the CAB outlining my feelings about the relative lack of reduced fares for people flying to and from Alaska. In reply I was told that it is up to the airlines to set the discount fares and not the CAB. Upon further investigation I found that the month of February 1972, around 40 percent of the passenger revenue miles flown by coach passengers of major airlines—Eastern, National, American, United—were at a discount rate. This indicates the importance of these promotional fare to airline receipts and that they surely are applying them elsewhere. Discount fares are particularly prevalent on routes of 1,500 miles or more connecting major cities and tourists areas—routes which are similar to the ones that Alaskans fly when coming "outside." But as I mentioned earlier there are no excursion fares to Alaska, nor are there family fares in the summer, nor is there an abundance of tour-base fares like the ones that fill the pages of the Washington Post announcing special fares to all sorts of places.

Mr. President, the basic aim of our regulatory system in the field of air transportation should be equitable service at fair rates for all travelers. In this instance, I do not feel that the principles of equity and fairness characterize the rates, routes, and service available to Alaska. I intend to pursue this matter further in an attempt to secure Alaskans and visitors the opportunities and advantages offered to other travelers on comparable air routes. I hope others will join me in this pursuit.

If there are valid reasons that stand up to analysis as to why this discrepancy exists, then we should all know about them. In no case should there be any trace of the philosophy that Alaskans will put up with inferior service and inequitable treatment. That may be a vestige of some other Alaska at some other day. It surely has no place in anyone's thinking today.

COOKWARE AT THE AMERICAN FOLKLIFE FESTIVAL

Mr. HARTKE. Mr. President, I invite the attention of the Senate to an important part of the Festival of American Folklore, to take place at the Smithsonian Institution from June 30 through July 4. The Cookware Group of General Housewives Corp., which is located in Terre Haute, Ind., will give live demonstrations of the process of manually casting metal in sand molds.

I ask unanimous consent that a news release explaining this demonstration be printed in the RECORD .

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

MANUAL SAND-CASTING PROCESS FEATURED AT THE AMERICAN FOLKLIFE FESTIVAL AT THE SMITHSONIAN

The age-old process of manually casting metal in sand molds will be featured at the sixth annual Festival of American Folklife at the Smithsonian Institution, June 30, 1972, to July 4, 1972, according to an announcement made today by J. Carroll Fletcher, President of the Cookware Group of General Housewares Corporation.

This molding process will be demonstrated live four times daily by Sylvester Hoying, Plant Superintendent of the Wagner Division of General Housewares Corporation which is located in Sidney, Ohio. This foundry manufactures cookware in both iron and aluminum, using the most modern methods and equipment. To illustrate the contrast in these methods, the exhibit will include a motion picture film furnished by the American Foundries Society.

In the live demonstration, Hoying will show how a sand mold is compacted around a pattern in two halves, the pattern removed, and the mold assembled to receive the molten metal. Molten aluminum will be supplied by a small electric furnace which is included in the exhibit.

"We are extremely proud to have our products used in this Festival, and we plan to donate the products to the Institution upon completion of the Festival," stated Fletcher. Last year over 800,000 persons attended the four day Festival.

FOREIGN TRADE AND INVESTMENT ACT OF 1972

Mr. HARTKE. Mr. President, to save American jobs and to preserve the diversified industrial base that has made America the most prosperous of nations, I introduced my Foreign Trade and Investment Act of 1972.

Again and again, I have pointed out that we are confronting a radically different world from that with which we dealt in the 1950's and early 1960's. Large trading blocs have been formed, prosperous European and Asian economies compete as equals in the world marketplace, and the transnational corporation has emerged as a major force in world commerce.

New worlds need new solutions, and I have promised just that in the Hartke-Burke bill. It would bring rampant imports under reasonable constraint and place the American transnationals back under democratic control.

Nat Goldfinger, research director of the AFL–CIO, has been among the first to identify the characteristics of the new world economy. He has been a leader in seeking new ways to preserve America's economic strength.

In a recent article in the Washington Post, Mr. Goldfinger clearly pinpoints the continuing problems in foreign trade and the role of the Hartke-Burke bill in their solution.

Mr. President, because of the importance of this issue to every American, 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:

IMPORTS UNDERMINE AMERICAN INDUSTRY

(By Nat Goldfinger)

The American economy is in trouble at home and abroad. The deterioration of the American position in international trade resulted in the net loss of about 900,000 job opportunities from 1966 to 1971. The situation is worsening at present. The industrial base of the American economy is being undermined and narrowed.

Merchandise imports were $2.9 billion greater than exports in 1971, according to the Commerce Department's official accounting—the first reported trade deficit since 1893. This deficit jumped to a yearly rate of $6.5 billion in the January–March quarter of 1972. Many more jobs are being wiped out by the rising tide of imports than are involved in exports.

Between 1965 and 1970, there was a loss of 122,500 jobs in radio, TV and electronic component production, according to the industry association. Scores of thousands of additional jobs have been wiped out in a rapidly spreading number of industries. Communities throughout the country are adversely affected.

Estimates indicate that, last year, imports of autos were about 20 per cent of the U.S. market, TV receivers more than 30 per cent, radios and tape recorders more than 90 per cent, sewing machines and calculating machines nearly 60 per cent, cassettes 100 per cent and baseball mitts about 90 per cent. Similarly, large proportions of U.S. production of other industries are being displaced—typewriters and shirts, industrial equipment and knit goods, pianos and steel, tires and work clothes, shoes, textiles and glassware.

This process, which displaces U.S. production and employment, often results in very little, if any, price benefit to the consumer, who is also a wage or salary earner. Imports are sold at the American price or close to it. So the economy loses a growing part of its productive base, workers lose their jobs, while the benefits go to profits. Moreover, the recent devaluation of the American dollar—which was loudly advertised as the solution to these problems—has actually contributed to the continuing inflation that plagues the American people. And the U.S. position in the world economy continues to get worse.

This deterioration has been accelerating in the past decade. Imports of manufactured products more than quadrupled between 1960 and 1971—from $6.9 billion to $30.4 billion. In the January-March quarter of 1972, manufactured imports were up to a yearly rate of $35.9 billion. Moreover, in 1960, such imports were only about half the level of manufactured exports; by the first quarter of this year, the United States imported a greater volume of manufactured goods than it exported. The major causes of this deterioration are the following:

In the world of the 1970s, nations manage their economies. Other countries have direct and indirect subsidies for their exports plus direct and indirect barriers to imports. The result is that foreign products surge into the huge American market, while U.S. exports are often blocked or their expansion is retarded.

The export of American technology has been reducing or eliminating America's technology and productivity leadership in many industries and product lines. U.S. firms have transferred American technology and know-how to their foreign subsidiary plants. And there have been additional technology transfers through patent agreements and licensing arrangements of U.S. firms with foreign companies.

As a result, foreign plants, operating with American technology, probably are nearly as efficient as similar factories in the U.S. But employment costs frequently are 50 to 90 per cent lower, and there may be the additional advantages of lower taxes and operating in markets protected by foreign governments.

Sharply rising investments of U.S. companies in foreign subsidiaries have been key factors in the export of American technology and the loss of American jobs. Direct investments of U.S. firms in foreign facilities shot up from $3.8 billion in 1960 to about $15 billion in 1971. The book value of such investments in foreign facilities rose from almost $32 billion in 1960 to more than $78 billion in 1971.

Although an estimated 25,000 foreign affiliates are controlled by about 3,500 U.S. corporations, the bulk of these foreign operations is highly concentrated among the corporate giants. Prof. Peggy Musgrave of Northeastern University reports that, in 1966, "Over 80 per cent of taxable income which U.S. corporations received from foreign sources . . . went to 430 corporations with asset size in excess of $250 million."

The Chase Manhattan Bank's newsletter reported last year that "foreign sales of U.S. affiliates in manufacturing alone totalled almost $60 billion in 1968 and are estimated at between $70 and $75 billion in 1970." That is more than twice the volume of exports of manufactured goods from the U.S.

The mushrooming growth of multinational corporations, most of them U.S.-based, is a new factor in the accelerating deterioration of the American position in the world economy.

A U.S.-based multinational corporation can produce components in widely separated plants in Korea, Taiwan and the U.S., assemble the product in Mexico and sell the item in the U.S. at American prices, possibly with an American-brand name. Or the item is produced and sold in foreign markets, in competition with U.S.-made products.

U.S. Rep. James Burke and Sen. Vance Hartke have introduced the Foreign Trade and Investment Act of 1972, which is aimed specifically at dealing with these basic causes of America's deteriorating position in the world economy.

The bill, for example, would remove the tax subsidies and other incentives that encourage U.S. companies to establish foreign subsidiary operations. It would provide government regulation of the export of American technology and capital. It would also set up a "sliding door" limitation on most imports, related to the level of American production—annual import quotas, based on the number of items imported into the U.S. in 1965–1969, as a percentage of U.S. output. In that way, imports would be permitted to increase as U.S. production rises.

The Burke-Hartke bill's restraints on imports and on the outflows of technology and capital are tailored to meet America's needs in a world of managed national economies and multinational corporations. The bill represents a practical way of dealing with a serious economic and social problem.

ELECTRICITY—THE SOLUTION, NOT THE PROBLEM

Mr. ERVIN. Mr. President, it is no secret that our Nation is faced with the prospect of a serious energy crisis. Congress has been aware of this problem for some time. The Senate Interior and Insular Affairs Committee has been holding hearings on Senate Resolution 45, a measure providing for an energy policy study. A number of other congressional committees are looking into various aspects of the energy crisis.

The matter does not rest with the Congress alone. Those who supply us with electricity are also exploring ways and means of insuring that Americans will continue to have adequate power when they need it. Shearon Harris, president of the Carolina Power & Light Co. of Raleigh, N.C., has served with distinction for the past year as the chairman of the Edison Electric Institute, an organization of 183 investor-owned electric utilities. On June 5, 1972, he reported to the members of that institute at its 40th annual convention held in San Diego, Calif. Giving an account of his stewardship, Mr. Harris pointed out some of the challenges which face our investor-owned utilities as they seek to provide clean and safe energy today and in the years to come.

I ask unanimous consent that Mr. Harris' remarks entitled "Electricity—The Solution, Not the Problem," be printed in the RECORD.

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

ELECTRICITY—THE SOLUTION, NOT THE PROBLEM

(By Shearon Harris, chairman, Edison Electric Institute)

It has become traditional that your Chairman at this time renders a report on his stewardship. I would like to acknowledge the great experience that it has been for me to serve in this capacity. Between the Cleveland and San Diego Conventions, I have devoted 106 days away from the Carolina Power & Light Company system to industry matters, or about 40 percent of the working days in that period, and have traveled over 65,000 miles in the performance of these duties. While it has been a strenuous year in some respects, it has been a tremendous learning experience for me and one which has been most gratifying because of the very high degree of cooperation I have enjoyed from everyone.

I should like to acknowledge my gratitude to our Company's Board of Directors for encouraging me to arrange our Company affairs so as to serve the industry and my gratitude to my associates in our Company for their extra devotion to duty while I was busy with industry matters. The Edison Electric Institute is most fortunate, indeed, to enjoy the services of a highly competent and thoroughly dedicated professional staff. I should like to acknowledge my personal appreciation for the very splendid way that every member of the Edison Electric Institute staff has performed his responsibilities during the past year. I should like to pay a special tribute to Don Crawford and to emphasize the good fortune that our industry enjoys in having him as the President of the Institute. Finally, I want to express a word of appreciation to the member companies for the grand spirit of dedication to the industry's commitments manifested during the past year.

It is no news to anyone in this room that there is a real possibility of a power supply problem, which might begin this month. It *could* happen, unless court rulings concerned with the implementation of the National Environmental Policy Act are modified promptly by appropriate legislation to avoid further delays in the installation and operation of vitally needed generating plants.

Delays could result from the Calvert Cliffs, Quad Cities, and 1899 Refuse act decisions of last year.

Keep in mind that this summer there will continue to be some areas in which power supply reserve margins are less than desirable. But, on a national basis, generating capacity as planned and scheduled, would be adequate—if it can come on the line.

Last spring at this time, we predicted a summer margin for 1971 of 18.3 percent. As you know, it actually turned out to be 19.9 percent. We are basically conservative in our forecasts—but, of course, much depends, too, on how hot a summer we experience.

Our forecasts for this summer of 22 percent and for succeeding summers are all above the 20 percent reserve which the Federal Power Commission states is essential to insure adequate and reliable electric power supply. But—and this is a big "but" indeed—we cannot expect to attain these margins nationwide unless we are able to install and get into operation the facilities we have planned and are building. We hope that timely and effective legislation will be passed to assist us in achieving these results.

Looking further to the future, the total electric utility industry will about double its generating capability from 1970 to 1980. At the end of 1971, capability was about 364 million kilowatts. By the end of 1975 this will have increased to more than 531 million kilowatts, and by 1980 to more than 600 million kilowatts.

Our best estimate for electric utility generation by 1975 is 2.138 trillion kilowatt-hours, and for 1980 about 2.795 trillion kilowatt-hours. This compares with the 1.614 trillion kilowatt-hours generated in 1971.

We continue to hew closely to the trend line established in the EEI forecast made 13 years ago, indicating electric utility generation in the vicinity of 9.5 trillion kilowatt-hours by the year 2000. The forecast, through 1971, has a cumulative error of about 8/10ths of 1 percent.

Last year, the investor-owned companies spent a record $11.9 billion for new construction of electric plant, or 14.6 percent of the new construction expenditures by all

American industry. This year, new construction expenditures will total about $13 billion.

The total investment of the companies in electric plant and equipment reached about $104.5 billion at the end of 1971, and we estimate this will reach about $116.4 billion by the end of this year. The investor-owned electric utility industry continues to be the nation's largest industry from the standpoint of investment.

There has been growing recognition by the regulatory commissions of the need for rate increases to enable the electric utility companies to carry out their responsibilities in the face of higher costs all along the line. During 1971, it was reported to EEI that 107 investor-owned electric utility rate increases were granted for a total of $826 million, and at the end of the year there were 99 applications pending for increases totaling $1,157 million. During the first quarter of 1972, it was reported that 35 rate increases were granted, totaling $304 million. This compares with 25 increases totaling $177 million during the first quarter of last year.

There are indications, despite the variety of challenges we are facing, that our position with the public has improved somewhat over the already good esteem in which we have been held. A nationwide survey of urban customers of investor-owned electric utility companies was taken early this year by Central Surveys for PIP—our industry's public information program. It shows that 91 percent of those questioned feel that electric service is as reliable and dependable as it should be—up from the 88 percent reading in 1971. Only 8 percent felt service should be better.

Here is another question of interest: "If you had a choice, would you rather receive electricity from the company that serves you now, or would you rather have the electric system owned by the city, the state or the Federal government?" Seventy-six percent said they preferred company ownership; 15 percent preferred government ownership; and 9 percent had no preference. This is reassuring, but I would not suggest that we be complacent about it.

Turning to the environment, there is evidence that people feel that air and water pollution is of less concern this year. Forty-one percent say that air pollution is a serious problem, compared to 52 percent last year, and 55 percent in 1970. Water pollution is deemed a serious problem by 63 percent in 1972, compared with 69 percent in 1971 and 63 percent in 1970.

Keeping this in mind, consider the responses to the next three propositions. First, "Air and water pollution present a serious danger to human health and safety in many parts of the United States." Ninety-three percent agree with this—most of them strongly.

The response to the next statement will not give aid and comfort to extreme environmentalists. Electric company customers were asked to give their opinion on this: "The only way to clean up the environment is to drastically reduce the use of energy and fuels of all types and return to the way of life of 30 or 40 years ago." Only 15 percent agreed with this position. Eighty-two percent disagreed—most of them strongly.

Finally, this statement was presented: "The science and technology that have created problems of air and water pollution can also solve those same problems." Ninety-one percent agreed—most of them strongly.

More directly to the matter of electric energy consumption, 83 percent of those asked felt that household use of electricity should *not* be restricted to help reduce the need for new power plants. Seventy-five percent said that businesses and industries should *not* be restricted in their use of electric power. With regard to that last question, when it was pointed out that such restrictions might mean a loss of jobs in the area, 11 percent changed their vote, so that the grand total shows 86 percent against restrictions on business and industry.

This should give us some encouragement as we work to demonstrate that electricity is indeed the solution, not the problem. While our customers generally are more realistic on these matters than are some of the more vocal proponents of energy restrictions, while our customers do not make headlines or attention-getting statements of dubious validity, they do appear to be exercising their common sense. We need to keep them adequately informed so that their views can be effectively expressed.

One very strong impression has lingered with me from the past year's experience as I moved about over the country and talked with industry leaders from nearly every member company. It was most heartening to observe the degree to which so many companies view their position as a part of the total industry. There was repeatedly manifested a willingness to think in terms of the total industry as distinguished from the impact in a given situation upon an individual company. We have made a lot of progress along this line in system and regional planning through the work of the reliability councils. Continued progress has been observed in the pursuit of our common interests in the field of public affairs. Our almost amazing response in support of the Liquid Metal Fast Breeder Reactor Demonstration project is further evidence of our advanced thinking as a total industry.

Perhaps the sharpest disappointment with which I was poignantly stricken during this period of service was the significant number of companies that in some instances looked at themselves individually as a total end within themselves. The challenges that face this industry in the years ahead require us to find ways in some instances to subordinate personal views and short-range advantages to the common welfare of the industry as a whole. We have said to ourselves and to each other that the great diversity of our industry is one of its great strengths. While we need diverse ideas in finding the solutions to our problems, it is my personal conviction that we need to develop a higher sense of value for and a stronger sense of commitment to the industry-determined solutions to our problems. I suppose that what I am trying to convey is simply that we need to take another step—a rather large step—in the direction of thinking more like one whole industry and less like 183 separate companies that belong to the same trade association.

In my remarks at Cleveland last year in accepting the chairmanship, I said: "I have concluded that the mission of my leadership period should be an attempt to lift the perspective of our industry in the field of research and development." Most of you are familiar with the emphasis that I have put on R&D during the year and it is not necessary for me to review that effort. The address of the Honorable Joseph C. Swidler on Wednesday will be devoted to that subject.

We have seen the endorsement of the R&D Goals Task Force Report to the Electric Research Council as an EEI objective. We have seen the Executive Committee of the National Association of Regulatory Utility Commissioners endorse our industry's program with some appropriate conditions attached. In the NARUC report is the statement: "We should add that the utilities do not have much time to demonstrate their will and capability to tackle the R&D job."

In March of this year the Senate Commerce Committee held hearings on Senator Magnuson's bill to levy a tax on electric service to support R&D and to create a government agency to conduct the program. In my appearance before the Senate Commerce Committee, I told your story of what you have done, what you are doing and what I believed you would do. Under hard questioning as to whether our industry would really perform in a reasonable period of time, I asked the Senate Commerce Committee to suspend consideration of that bill and take a reading on our progress in March 1973. The NARUC statement that "the utilities do not have much time" became a reality in those Senate Commerce hearings.

The investor-owned electric utility industry today stands at the most important fork in the road since it survived the battle of nationalization in the 30's. It may mount and implement a really creditable research and development effort in the next few months or it may fumble its great opportunity. It is unthinkable that we would choose either deliberately or by failure to act the road to failure in this great opportunity. To travel the road of success will call for a considerable amount of courage and faith. It is going to take a lot of courage to commit the financial support that our R&D program requires and to seek the needed revenues either by rate adjustments or by rate surcharges at a time when so many of us are so sorely pressed by revenue requirements. It is going to take a lot of faith in our industry leadership to develop a program that all of us must support with a lot of money, but which cannot possibly accommodate the individual ideas of all of the financial supporters.

I believe that you already appreciate the great opportunity that is ours, that you already possess the courage to take the needed action and that you already have the faith in your industry colleagues to do a reasonable and constructive job of implementing the R&D program; therefore, I predict that this industry will choose the road to success which will lead our industry to newer and higher levels of service, to a greater appreciation from our public for that service and to a substantial contribution to the preservation of our industry's existence as a viable component of the American investor-owned free-enterprise system.

For the privileged of being your servant and for the patient and courteous attention you have extended to me here, I am deeply grateful.

RENEWED NERVE GAS TESTING

Mr. GRAVEL. Mr. President, on June 14 the Army held its first briefing in 17 years at the Dugway Proving Grounds, where a nerve gas accident killed more than 4,000 sheep in 1968. According to the Salt Lake City Tribune June 15, the Commanding Officer of the Army's Utah CBW test facility said that the Army is now preparing an impact statement prerequisite to resumption of open-air testing of lethal chemical weapons. To continue to experiment with new kinds of lethal chemical weapons would be inconsistent with our proclaimed concern for strengthening international safeguards against precisely these weapons. Further testing can only contribute to an escalatory spiral, thus weakening international restraints against the use of chemical and biological weapons. I hope that the Army will decide not to conduct further open-air tests with these much-abjured weapons. I ask unanimous consent to have printed in the RECORD a news dispatch on this subject entitled "Army May Resume Nerve Gas Testing in Utah, "written by Dr. Richard A. Fineberg.

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

ARMY MAY RESUME NERVE GAS TESTING IN UTAH

(By Richard A. Fineberg)

(NOTE.—Richard A. Fineberg, a Washington-based Dispatch correspondent, has written extensively on chemical-biological warfare and other politico-military affairs.)

WASHINGTON, D.C.—Nerve gas testing may be resumed at Dugway Proving Grounds, the Army's vast Utah test facility where an errant aerial test of the lethal chemical warfare agent killed more than 4,000 sheep in 1968.

Brigadier General Max Etkin, commanding officer at the Deseret Test Center, the Salt Lake City administrative center for the proving grounds, told reporters at Dugway's first press briefing in 17 years that nerve gas tests are presently being conducted in controlled laboratory experiments. "We'll do everything we can short of field tests to get what we need," Etkin said, "but there will come a time when we'll have to fire the agent."

Etkin was referring to the Army's latest innovation in chemical warfare, known as the binary weapons system, in which two harmless chemicals in separate cylinders are mixed on firing to form a lethal compound. According to DMS, a McGraw-Hill subsidiary that charts trends and provides information for defense contractors, the binary system "is expected to replace existing chemical stockpiles, since it eliminates almost all of the presently-feared handling and storage hazards."

President Nixon renounced the first use of chemical weapons in November 1969, but the Army continues to develop its chemical arsenal for possible retaliatory use. Nerve gas weapons are still deployed on a global scale from Johnston Island, a tiny Pacific atoll on the Asian perimeter, to West Germany.

The briefing at Dugway June 14th was held "to foil apprehensions about activities at the test facility, which is larger than the state of Rhode Island, according to Army Test and Evaluation Command Information Officer August T. McColgan. McColgan said that reporters toured chemical, biological, meteorological and photographic facilities in unclassified areas of Dugway, but they were not shown the still-secret chemical facility, where laboratory nerve gas testing is presumably conducted, or the biological laboratories deep within the sprawling test center.

In the wake of the 1968 test accident at Dugway, Congress stipulated that prior to open-air testing of lethal chemical or biological agents the Secretary of Defense must seek recommendations from public health officials and must notify Congress and the governor of the states involved in the test activity. The President can over-ride these procedures in the interest of national security.

In addition, Etkin noted, the Army must clear an environmental impact study with state and federal agencies. According to the Salt Lake City Tribune, Etkin told reporters that the Army has begun preparing the impact study prerequisite to resumed nerve gas testing, but the Army subsequently denied this report.

In his 1969 statement, the President also renounced biological warfare and limited research on biological weapons to "defensive measures." Because it is difficult to distinguish offensive from defensive research, some observers have questioned whether this limitation is meaningful.

THE FCC SATELLITE DECISION

Mr. GRAVEL. Mr. President, the recent FCC decision on who can operate communications satellites and under what conditions was a welcome and good one. The national and even international implications of the policy and guidelines set out in the June 16 decision are wide ranging and substantial.

And so are the regional implications for Alaska. It is, of course, too early to know all the implications for Alaska communications, but several outlines and directions are clear. Through a rather heavy correspondence and frequent contacts with FCC, Comsat, and other parties I have kept in close touch with what became FCC Docket 16495. I commend the agency for its landmark actions in this case.

What is it, then, that we seem to have won? The FCC stated a domestic satellite policy in favor of multiple entry, of active competition among the carriers. It placed needed and significant constraints on A.T. & T.'s and Comsat's behavior in the long distance communications field. It rightfully encouraged applicants like General Telephone and Electronics and Hughes Aircraft to come forward with service proposals which would "tend to lessen A.T. & T.'s dominance and economic influence in the domestic communications field."

Of great importance to Alaska is the kind and amount of attention the FCC devoted to our State in rendering its decision. Two extremely important rulings were made which I have personally been fighting for for a long time.

One is that the establishment of domestic satellite service would require submission of proposals for the integration of Alaska into the rate scheme for the rest of the United States. In other words our rates would be averaged over the nationwide system instead of standing alone for Alaska. This should, of course, mean lower rates and better communication service—the twin goals of any communications policy for Alaska.

In striking this public interest blow in favor of system averaging the FCC recognized that one of the principal virtues of satellite technology is that costs as a function of distance are deemphasized, thus largely eliminating one of the most punitive factors in ratemaking for Alaska. Henceforth, the old vestiges of treating Alaska as a foreign entity are over and domestic levels of charges and rate patterns will be prescribed as policy.

Second, the FCC explicitly recognized Alaska's urgent needs for improved intrastate communications and the possible role satellites may play in meeting those needs. A detailed plan will be required of RCA or any other applicant proposing earth stations in Alaska for intrastate service, and A.T. & T. or any other wholesale carrier will have to allow access to their system capacity for the purpose of intrastate Alaska service.

Mr. President, there is at least one other implication in this FCC decision specific to Alaska. Senators will recall that when the Congress authorized the sale of the Alaska communication system a few years ago a very important device was written into that law; namely, that bidding by interested buyers was to be mainly on the question of levels of rates and promised capital improvements and only secondarily on exceeding an upset price established by the Air Force as seller.

The sale was consummated with RCA, and that company subsequently embarked on its required modernization program for Alaska communications. Now halfway through the 3-year time frame for modernization RCA is substantially less than halfway through its capital improvements. Undoubtedly the uncertainty surrounding the outcome of the whole domestic communications satellite issue which was before the FCC was a legitimate factor in slowing RCA's progress. Corporate investment decisions in plant and equipment are understandably hard to make not knowing what, if any, role the whole satellite technology might be able to play when the FCC decision finally came.

Now, however, that is behind us and considerable uncertainty has been removed. Accordingly I believe that the Congress, the Air Force, the Alaska Public Service Commission, and the Alaska public at large should now be able to look forward to RCA completing its required modernization program over the coming year and a half. We will keep closely abreast of their progress and the evolving communications proposals and prospects in the wake of the FCC's milestone decision of June 16.

All this is not to say that I am without misgivings and some disappointment over the decision. Many hard decisions were avoided by the FCC, and the companies were sent back to the drawing board on quite a few of these areas. I would not want to have the upshot of this be a delay in the timetable for implementation of improved commercial satellite communications in Alaska. Guidelines are important to lay down, but hard decisions of investment and service offerings are still better. We, in Alaska, look forward to these.

SENATOR PERCY GIVEN AWARD OF MERIT BY NATIONAL COUNCIL OF SENIOR CITIZENS

Mr. BROOKE. Mr. President, on June 9, the National Council of Senior Citizens—one of the largest and most effective advocates of the rights of senior citizens—awarded to Senator PERCY its award of merit.

Each year, the award of merit is given to one Senator and to one Member of the House of Representatives for outstanding work in behalf of elderly citizens.

As a fellow member of the Senate Special Committee on Aging, and a past recipient of this citation, I can confirm that Senator PERCY has taken a deep interest in the problems of the elderly and worked very hard in this area.

Mr. President, I ask unanimous consent that both the citation given by the National Council and the Senator's speech on that occasion be printed in the RECORD.

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

AWARD OF MERIT CITATION TO CHARLES H. PERCY

Exceptional concern for the welfare of the nation's older generation has marked the

career of Senator Charles H. Percy (R., Ill.) since the 52-year-old lawmaker entered public life in 1966.

Senator Percy is a co-sponsor of Amendment 999 to House Resolution One (H.R. 1), the House-passed Social Security and welfare bill. The amendment would raise from 5 to 20 per cent the amount of Social Security increase incorporated in H.R. 1.

Percy has been tireless in his efforts to make life better for the elderly. Thus, from March through June, 1971, Percy was occupied on a daily basis with appeals to fellow lawmakers to promote support for a year's extension of 28 nutrition projects funded by the U.S. Administration on Aging under the Older Americans Act. The projects, which had proved so beneficial to the elderly, were due to expire June 30, 1971.

The Senator's campaign proved successful. The Nixon Administration re-programmed cash necessary to keep the projects going pending passage of S–1163, a bill to expand the elderly nutrition program.

Percy has energetically sought to raise standards of care in nursing homes receiving Federal funds and last year told a meeting of the Metropolitan Chicago Nursing Home Association to raise standards in their establishments or get out of business.

Percy is author of legislation to provide more Federally funded job opportunities for the low income elderly, to provide better transportation services for them, to boost Social Security benefits for widows and dependent widowers and otherwise improve the Social Security Act.

Percy, whose home is Wilmette, Illinois, has a brilliant record in both public and private life. At age 29, he became president and chief executive officer of a major corporation (Bell & Howell, camera manufacturers). He left this post in 1966, the year he was elected U.S. Senator. He is a four-year Navy veteran of World War II.

The nation's elderly have no more zealous advocate in Congress than Senator Charles H. Percy to whom this award is made.

REMARKS OF SENATOR CHARLES PERCY

Lades and Gentlemen:

It is a great honor to accept the National Council's Award of Merit, and I do so with a tremendous amount of pride and humility.

At the outset, let me acknowledge the persistent and vigorous efforts made by Nelson Cruikshank and Bill Hutton, and the National Council as a whole, in their campaign to improve the lot of our elderly citizens. The Council has worked extremely hard and aggressively to bring about improvements in the lives of our older people. Let me also offer my warm congratulations to Congressman Brademas, Charles Killinger, Mrs. Pemberton, Mr. Newburgher, and Assemblyman McCarthy for their awards.

I have often said that I believe elderly Americans have been the most callously ignored minority group in the country for many, many years. For a public official to receive such an award for service to America's elderly is a tribute to be treasured. But if this award marks how far we have come in alleviating the problems facing the elderly it surely marks how much further we have to go.

As we meet today, one in every four elderly Americans is living on a poverty income. Moreover, the post-65 generation is the only age group in which poverty is actually increasing. Today over one million elderly Americans are living in nursing homes, although less than half of the homes are served by skilled nursing help.

But rather than dwell on statistics and paint a bleak picture of elderly incomes, health services, transportation needs, and the need for programs to combat loneliness, I want to emphasize what we are trying to accomplish. Frankly, I am encouraged because I think our efforts now have the support of public officials at all levels of government, from both political parties. Even more important they have the support of the American people.

As you know, important legislation is likely to pass the Congress soon. Of particular importance are the amendments to the Social Security Act. Among them we will hopefully pass an immediate, 20 percent across-the-board increase in Social Security benefits and provide automatic cost-of-living increases thereafter. We are also likely to pass legislation that will guarantee full benefits to widows.

I have had people come to me and say that these measures and others which I have sponsored in the Congress are too expensive. They say, for example, that it would cost too much to include all costs of prescription drugs under Medicare. It would be too expensive to permit the deduction of all medical expenses for taxpayers over 65. Their complaints sometimes include proposals to improve nursing homes, to guarantee nutritious meals to the needy elderly and to construct community centers.

To those who raise such complaints I say "hogwash." We could totally abolish poverty among the elderly for what it costs us to run the war in Vietnam for three months. We could broaden medicare coverage to include all out-of-hospital prescription drugs for what we spend for one aircraft carrier. We could establish a comprehensive older Americans manpower program for what we spend for one submarine. The costs for these programs for the elderly are small compared to other government investment of funds, and for my part, I think they deserve just as high a priority.

This can be a crucial year in our efforts to see that these programs get the attention they deserve. With the elections just five months away, nearly every candidate for public office is beginning to devote considerable rhetoric to the problems of the elderly. I urge you and all your friends to encourage candidates in 1972 to do more than talk. I urge you to demand to know which proposals a candidate supports, what constructive alternatives to existing proposals he or she favors and how they intend to implement their recommendations. If we can mobilize enough Americans to raise the issues, to review the various proposals and lobby for passage of those they support, we will make important headway. I want you all to know that my office stands ready to assist you in whatever way we can.

KENNEDY CORRESPONDENCE ON WARRANTLESS WIRETAPPING

Mr. KENNEDY. Mr. President, yesterday I announced that the Subcommittee on Administrative Practice and Procedure will hold a hearing this week on the implications of the Supreme Court's June 19th decision regarding warrantless electronic surveillance. The subcommittee, during the year 1971, had the benefit of a lengthy exchange of correspondence which I had with the Department of Justice on this subject. This correspondence was also referred to in the argument in the Keith case and in the opinion of one of the Justices. So that this material may be made available generally at this time, I ask unanimous consent that it be printed in the RECORD.

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

TEXT OF LETTER BY SENATOR EDWARD M. KENNEDY, CHAIRMAN, TO MEMBERS OF ADMINISTRATIVE PRACTICE SUBCOMMITTEE REGARDING NONCOURT ORDERED ELECTRONIC SURVEILLANCE, DECEMBER 17, 1971

DEAR SENATORS: As you may have noticed in two recent speeches and at Judiciary Committee hearings a few weeks ago. I referred to the fact that there has been three to nine times as much federal listening going on as a result of warrantless electronic surveillances as there has been on devices operated under judicial authorization.

Some of the members of the Subcommittee have asked for the factual data underlying my statements on this subject, and I thought I would take this occasion to forward to all of the members copies of the correspondence I have had with the Justice Department which gave rise to these observations. I would also like to share with you some other preliminary conclusions I have reached about issues raised in this correspondence in keeping with the significant oversight this Subcommittee has exercised with respect to the subject of electronic surveillance in the past.

Briefly stated, study of the correspondence and related public materials suggest that: 1) the number of federal wiretapping and bugging devices installed without court authorization is substantially greater than the Executive Branch has led the public to believe; 2) the average duration of such devices is many times longer than the average duration of court-approved devices; 3) as a result, the total amount of federal electronic eavesdropping without court permission far exceeds the eavesdropping with judicial approval; 4) there is strong reason to doubt the validity of the repeated public assurances by the Justice Department that it fully complies with the 1968 Congressional standards before installing any tap or bug without a court order; and 5) despite the Department's assertions to the contrary there is an absence of well-defined procedures which would promote compliance with the statutory standards and permit meaningful Congressional scrutiny of this extraordinary Executive activity.

I am sure you are aware of the fact that numerous public statements have been made by high federal officials during the past year suggesting that there is a comparatively limited amount of federal electronic surveillance operated without court orders.

For example in April President Nixon told the annual convention of the American Society of Newspaper Editors:

Now in the 2 years that we have been in office—now get this number—the total number of taps for national security purposes by the FBI, and I know because I look not at the information but at the decisions that are made—the total number of taps is less, has been less than 50 a year.

And, just three months ago the Solicitor General told the Supreme Court in a brief filed in the *Keith* case (the case still pending on the constitutionality of warrantless electronic surveillance) that only 36 warrantless telephone surveillances were operated in 1970.

The above figures are flatly contradicted by Assistant Attorney General Mardian's March 1 letter to me, in which he reveals that a total of 97 warrantless telephone taps were operated in 1970—almost double the President's figure and almost triple the Solicitor General's figure. (This ratio excludes the 16 microphone installations in 1970, which neither the President nor the Solicitor General took note of.)

Further, the repeated references by Government officials to the limited number of warrantless devices ignore the far more significant question of the duration and total usage of these surveillances. I am extremely concerned about the fact that in 1970 there were from 3.4 to 9.6 times as many days of federal listening on warrantless devices as

there were on devices installed under judicial authorization. To assist you in your assessment of this problem I am attaching a chart which reflects the figures upon which these ratios are based. You will note that the calculations we have made also reflect that for the two-year period 1969–1970, warrantless devices accounted for an average of 78 to 209 days of listening per device, as compared with a 13-day per device average for those devices installed under court order. Duration figures for non-court ordered devices are given in terms of maximum and minimum levels because the information provided is in terms of duration ranges. See pages 1, 2, 3 of March 1 letter.

In short, Mr. Mardian's March 1 reply poses the frightening possibility that the conversations of untold thousands of citizens of this country are being monitored on secret devices which no judge has authorized and which may remain in operation for months and perhaps years at a time. The figures certainly seem to suggest that the Attorney General was being less than accurate last April when he said on the David Frost Show that these Executive-ordered devices "relate to particular subject matters at a particular time", if he meant to imply that such devices were installed only briefly and only to enable the Government to prevent specific acts threatening immediate peril to the security of the nation.

Apart from the indication that these surveillances are apparently far more pervasive than any of us had ever realized, the correspondence raises the recurring problem of whether any standards and guidelines are being followed in the employment of these techniques. As you will recall, in enacting the Safe Streets Act of 1968, Congress described five categories of danger to the Nation for which warrantless devices might be utilized if they were constitutionally permissible at all, namely: (1) to protect the Nation against actual or potential attack or other hostile acts of a foreign power; (2) to obtain foreign intelligence information; (3) to protect national security information against foreign intelligence activities; (4) to protect against the overthrow of the government by force or other unlawful means and (5) to protect against other clear and present danger to the structure or existence of Government. Of course, there is a substantial issue, now before the Supreme Court, as to whether any such warrantless electronic surveillances are permissible under the Fourth Amendment, but on the assumption that some are, the Justice Department has repeatedly assured the courts that it is operating under procedures and standards which assure strict control and complete adherence to the statutory categories.

For example, briefs and memoranda filed by the Department in several cases in support of this claim that warrantless electronic surveillances are lawful contain the following unequivocal assertions:

Another restraint on the exercise of the power is the existence of strict standards, recognized by the Congress which are met before the President or the Attorney General acts. Additionally, there exists a compelling wisdom in the policy of having one official, the Attorney General acting for the President, to authorize such a surveillance in accordance with the standards set forth in the Omnibus Crime Controls and Safe Streets Act of 1968, in order that such policy will provide a uniformity in the application of those standards . . . [See, e.g., Memorandum in *U.S.* v *Bieber*, 71 CR. 479, E.D.N.Y.]

Indeed, the Solicitor General's most recent brief on the subject, which was filed in the Supreme Court in the *Keith* case just three months ago, contained the assurance that:

The standard of the national security that the Attorney General applies in authorizing electronic surveillance without a warrant is the same standard that Congress provided in the Omnibus Crime Control and Safe Streets Act of 1968.

The brief then refers to the five statutory categories described above and says: "Three of these categories relate to the hostile acts of a foreign power and to foreign intelligence activities and are not directly involved here." It continues: "The two other categories are 'to protect the United States against the overthrow of the Government by force or violence or by other unlawful means, or against any other clear and present danger to the structure or existence of Government,' " citing the 1968 statute. It concludes: "These were the grounds upon which the Attorney General authorized the surveillance in the present case."

Obviously this officially asserted Executive compliance with Congressional standards is vital in an activity which lies in the grayest possible area of Constitutional law. Certainly Congress expected that well-defined procedures would be established to guarantee that each warrantless surveillance would clearly meet one or more of those categories when installed, and the public has the right to assume that these limits on electronic surveillance are being assiduously applied in every instance. Moreover, precise prior categorization of such surveillances is necessarily central to Congressional review of the implementation of the 1968 law, and is essential to a full understanding of the overall figures, discussed above, relating to the amount and duration of bugging and tapping on the sole discretion of the Executive Branch. For example, if it were true that 95% of the total number of installations were initiated for the sole purpose of obtaining foreign intelligence information from aliens, and only 5% for the purpose of surveilling domestic dissidents whom the Attorney General genuinely considered to be a clear and present danger to the existence of the Government, the meaning of the statistics might be quite different from the meaning if the percentages were reversed. Indeed, if the "clear and present danger" category were being used at all regularly, the Congress would certainly want to hear more about the nature of that danger.

It was with these considerations in mind that my original letter asked the Attorney General to provide a breakdown of the Executive-ordered surveillances by statutory category. I was therefore disappointed when Mr. Mardian's first reply failed to provide such a breakdown, allegedly because the "installations cannot be categorized exclusively under a single criterion," although he did assure me that each installation met one or more of the statutory criteria.

I thereupon indicated that the breakdown could be made in terms of more than one category. This time I was surprised and dismayed to receive a response which said not only that the subject matter "is such as to preclude categorization under a single criterion," "but also that no such categorization exists."

I next requested merely that the Department provide the number of installations which fell into either of the categories which the Department itself had spelled out in its court submissions, namely those employed to gather "foreign intelligence information" and those employed to gather "intelligence information deemed necessary to protect the nation from attempts of domestic organizations to attack and subvert the existing structure of Government," the latter of which, I should point out, is not one of the statutory categories. Mr. Mardian's response to this request was absolutely shocking, in view of the position of the Department in the Courts. "The Department," he said, "has never attempted such a categorization."

Thus, despite the litigative positions taken by the Department and the assurance by Mr. Mardian, in his March 1 letter to me, that the Attorney General's discretionary wiretaps and bugs all fall within the statutory categories, the Department now admits in essence that it actually does not know—and thus presumably does not care—which installations fall into which categories. It seems clear from the correspondence that when the Attorney General is asked to authorize a warrantless electronic surveillance, he is not told what category or categories justify its use, nor how the statutory elements for the category or categories are met by specific facts; for if he were, the Department would have had no difficulty at all providing the statistical breakdown I requested.

This conclusion is strengthened by the Department's response to my effort to determine the precise nature "of the administrative practices and procedures which culminate in a determination whether (the statutory) criteria have been met." In court, of course the Department has consistently asserted that in applying the statutory categories, "there exist adequate procedures to insure that the standards are met." (See, e.g. Memorandum in *U.S.* v. *Hoffman*, CR. No. 973–71, D.C.) But in his answer to my inquiry, Mr. Mardian, on behalf of the Attorney General, was "unable to supply" any information on those procedures, other than to say that applications for electronic surveillances to be ordered by the Attorney General "have come from the Director of the Federal Bureau of Investigation personally," and "are handled exclusively by the Attorney General acting for the President."

Apart from the fairly explicit admission, once again, that there really are no procedures to assure adherence in advance to the statutory standards, the response raises new questions of who is doing what and why. For in June, on the one hand the Attorney General, in a speech in Roanoke, Virginia, was stating flatly that "only the President is in a position to evaluate adequately" the kinds of sensitive information relevant to so-called "national security" surveillances, because only the President is familiar with "the various intelligence data submitted by the independent agencies within the intelligence community." On the other hand, the Deputy Attorney General the same month was arguing (on the Liz Drew Show) that the requisite judgements should be made in the Executive Branch because of the presence there of "professional career people" who "understand" sensitive materials. Yet if Mr. Mardian's response is accurate, it is neither Presidential expertise nor career expertise that is being applied but the lone judgement of the Attorney General based on each separate submission to him by the investigators who wish to do the surveilling, and without specific focus on the statutory criteria.

The answer to this seeming inconsistency, and to other issues raised in the correspondence, such as whether federal dissemination of information from warrantless taps and bugs—not identified as such—to state law enforcement agencies may be tainting many local cases across the nation, will have to await the Subcommittee's further pursuit of these matters next year, but I wanted to bring you up to date in view of the inquiries from some Subcommittee members, as well as from the academic and legal communities and the press.

At the very least, the correspondence demonstrates that any reliance on Congressional scrutiny as a continuing constraint on Executive abuse of "national security" eavesdropping is misplaced. The Deputy Attorney General has specifically suggested (on the Liz Drew Show) that "Congress . . . is in-

formed regularly" with respect to the "categories" of such surveillance. According to the Department's brief in Keith placing sole responsibility in the Attorney General permits "greater control over use of this technique by facilitating close Congressional oversight of the Executive's action." The correspondence, however, shows plainly that the Department has no procedures or record-keeping practices which allow, let alone facilitate, any meaningful Congressional review of the purposes for which warrantless taps and bugs are being used, or the way in which the statutory criteria are being met.

The copy of the correspondence I am enclosing is unedited, but the Justice Department has requested that the specific surveillance duration figures not be released, and the copies made publicly available will have those figures excised. I believe that you will find the enclosed chart, which is derived from these figures but does not disclose them, adequate for any public discussion of this material.

I look forward to working with you on these and other subjects of mutual interest during the coming year, and I thank you for your assistance and participation during 1971.

With best holiday wishes.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Administrative Practice and Procedure.

FEDERAL WIRETAPPING AND BUGGING, 1969–70

	Court-ordered devices		Executive-ordered devices			Ratio of days used: Executive ordered, court ordered		Average days in use per device		
				Days in use					Executive-ordered devices	
	Number	Days in use	Number	Minimum (rounded)	Maximum (rounded)	Minimum	Maximum	Court-ordered devices	Minimum	Maximum
1969	30	462	94	8,100	20,800	[1] 17.5	[1] 45.0	15.4	86.2	221.3
1970	180	2,363	113	8,100	22,600	3.4	9.6	13.1	71.7	200.0
Total 1969–70	210	2,825	207	16,200	43,400	5.7	15.4	13.5	78.3	209.7

[1] Ratios for 1969 are less meaningful than those for 1970, since court-ordered surveillance program was in its initial stage in 1969.

Source: (1) Letter from Assistant Attorney General Robert Mardian to Senator Edward M. Kennedy, Mar. 1, 1971. Source figures withheld at request of Justice Department. (2) 1969 and 1970 reports of Administrative Office of U.S. Courts.

U.S. SENATE,
Washington, D.C., February 5, 1971.

Hon. JOHN MITCHELL,
Office of the Attorney General, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: As you know, the Subcommittee on Administrative Practice and Procedure has in recent years been extremely interested in the subject of electronic surveillance, both in connection with its continuing study of practices of federal agencies and others that may constitute invasions of privacy and its role in the development and processing of the legislation which eventually became Title III of the Omnibus Crime Control and Safe Streets Act of 1968. Both of your immediate predecessors and other Department officials appeared before the Subcommittee and their assistance was extremely valuable in our work. I know that your knowledge and interest in this area will also prove helpful to us, and we look forward to working closely with you and your staff.

There has been increasing concern in the Congress and in the Nation in regard to the current practices of the Federal government in the utilization of electronic surveillance. You yourself have announced a six-fold rise in the number of court-ordered wiretaps and microphone eavesdrop installations between calendar 1969 and calendar 1970, and there have been a growing number of court cases involving surveillances initiated by the Federal government without court orders. You have offered detailed and impressive defenses of the increase in installations under court order, and, of course, we will be assisted in reaching our own conclusions as to that type by the annual reports of the Department on its applications to the courts for wiretap and eavesdrop orders.

In the case of electronic surveillance installations made without court orders, the public impression is that such installations are not only being made more frequently, but also that they are being used in a growing spectrum of types of cases. Many citizens fear that installations without court order are being used to avoid the requirements governing court-ordered installations, and especially the necessity for the government to prove probable cause as to commission of specified criminal offenses to obtain a court order. They reason that if there were facts to establish that such criminal offenses were involved in a given case, the government would proceed by court order, and that the increasing avoidance of this procedure reflects increasing surveillance of individuals and groups whose only offense is disagreement with government policies, personal eccentricity, outspokenness, or participation in lawful activities of organized dissent, or a combination of these.

The problem for those of us who must assess these concerns is that in the field of purely Executive wiretapping and eavesdropping, as opposed to Executive tapping and bugging under Judicial authority, we have scant information on which to base our judgments. The Director of the Federal Bureau of Investigation has annually testified as to the number of "national security" installation, and other Department officials including the Attorney General have from time to time also referred to such a figure in Congressional testimony or correspondence. I believe that the most recent such report referred to 36 wiretaps and 2 microphones.

In view of your own statements as to the increased number of non-court-ordered installations, the growing public concern, the need of the Congress and the public for more information from which to determine whether and how the limitations on such installations in Section 2511(3) of Title III are being adhered to, Constitutional questions aside, I am confident that you will agree that this would be an opportune time to shed some light on Federal practices in this area.

Would you, therefore, kindly provide the following information as soon as possible, sending us immediately those items of information which are readily available, and the remainder when obtained. I recognize the fact that some of the statistics requested will be based on documents which are classified, but the requests have been phrased so as to admit of answers which should be able to be unclassified. However, If you see a need to classify any particular answer, please provide it separately, and it will be handled on a classified basis.

A. For the period June 19, 1968 to December 31, 1968, for calendar 1969, and for calendar 1970, please provide:

1. The number of electronic surveillance installations placed in operation or continuing in operation at any time during the period, counting each device, connection, or other unit as a separate installation where more than one installation was utilized to surveil the same subject or group of subjects.

2. Of these, for each period the number of each type of installation, i.e., wire communication intercepts, oral communication intercepts, combination intercepts, or other.

3. For each period, the number of installations in each of the following categories: under 1 week, 1 week to 1 month, 1 month to six months, over six months.

4. For each period, the number of installations in each use category itemized in Section 2511(3) of Title 18, U.S. Code, as added by Title III of P.L. 90–351, i.e.

a. to protect the Nation against actual or potential attack or other hostile acts of a foreign power,

b. to obtain foreign intelligence information,

c. to protect national security information against foreign intelligence activities.

d. to protect against the overthrow of the government by force or other unlawful means,

e. to protect against other clear and present danger to the structure or existence of government (for this category, describe general nature of danger).

5. For each period, the number of installations the dissemination of whose product fell in each of the following categories.

a. Disseminated only to 5 or fewer persons within the Federal government,

b. Disseminated only to 5 to 50 persons within the Federal government,

c. Disseminated to over 50 persons in the Federal government only,

d. Dissemination total unknown but available on request to properly cleared Federal employees only,

e. Disseminated to state, local, or private agencies.

B. In the light of the recent conflict among the Federal courts as to the Constitutional and statutory limits of the government's power to initiate electronic surveillance without judicial authority, what interim standards and procedures has the Department adopted pending ultimate determination of these limits on a nation-wide basis?

I appreciate your assistance and look forward to your reply.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Administrative Practice and Procedure.

DEPARTMENT OF JUSTICE,
Washington, D.C.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Administrative Practice and Procedure, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Attorney General has asked me to respond to your inquiry of February 5, 1971, with respect to administrative practices and procedures relative to electronic surveillance.

In accordance with your suggestion, we would ask that the breakdowns furnished with respect to the duration of surveillance be treated as confidential since an examination of the breakdown might indicate a fixed number of permanent surveillances.

With respect to your questions A1, A2, and A3, we submit the following:

June 19 to December 31, 1968; Telephone Surveillances.
In operation less than one week
In operation 1 week to 1 month
In operation 1 to 6 months
In operation more than 6 months
Total, 50.
Microphone Surveillances.
In operation less than one week
In operation 1 week to 1 month
In operation 1 to 6 months
In operation more than 6 months
Total, 6.
Calendar Year 1969, Telephone Surveillances.
In operation less than 1 week
In operation 1 week to 1 month
In operation 1 to 6 months
In operation more than 6 months
Total, 81.
Microphone Surveillances.
In operation less than 1 week
In operation 1 week to 1 month
In operation 1 to 6 months
In operation more than 6 months
Total, 13.
Calendar Year 1970, Telephone Surveillances.
In operation less than 1 week
In operation 1 week to 1 month
In operation 1 to 6 months
In operation more than 6 months
Total, 97.
Microphone Surveillances.
In operation less than 1 week
In operation 1 week to 1 month
In operation 1 to 6 months
In operation more than 6 months
Total, 16.

The annual totals set forth above can be misleading in that they reflect the total installations authorized or in place during the periods described. The total maximum number of surveillances in operation at any one time during the periods described are as follows:

June 19 to December 31, 1968
Telephone Surveillances, 45.
Microphone Surveillances, 6.
Calendar Year 1969
Telephone Surveillances, 59.
Microphone Surveillances, 5.
Calendar Year 1970
Telephone Surveillances, 56.
Microphone Surveillances, 6.

With respect to your question A4, the installations cannot be categorized exclusively under a single criterion; however, each installation meets one or more of the criteria itemized in Section 2511(3) under Title 18 of the United States Code.

Departmental records do not, as a practical matter, permit us to answer question A5 with the specificity you request. However, Departmental policy limits dissemination of information of the nature inquired of to persons on an actual "need to know" basis. Appropriate security classifications and control markings are imposed on such information. None of this information is disseminated to state or local governments or agencies except in rare instances in order to prevent the commission of a serious felonious act. In such instances, the source of the information is not divulged.

In response to question B, we would advise that since the *Katz* decision in 1967, the Department has operated under the more restrictive guidelines dictated by that decision and the standards enunciated in the Omnibus Crime Control and Safe Streets Act of 1968, which codified the parameters of the "national security" exception. No changes in Department practices or procedures have been initiated by reason of the conflict in the recent district court decisions to which you refer.

Sincerely yours,

ROBERT C. MARDIAN,
Assistant Attorney General.

U.S. SENATE,
Washington, D.C., March 12, 1971.

Mr. ROBERT C. MARDIAN,
Assistant Attorney General, Department of Justice, Constitution Avenue and Tenth Street, NW., Washington, D.C.

DEAR MR. MARDIAN: Thank you for your letter of March 1 replying to some of my inquiries relating to electronic surveillance.

Although I can appreciate that each of the surveillances operated without court order may not necessarily be susceptible of categorization exclusively under any single criterion enumerated in Section 2511(3) of Title III of the Omnibus Crime Control and Safe Streets Act of 1968, we would nevertheless like to have a numerical break-down by category or categories of the installations described in your letter. In this regard, we would also appreciate your supplying us with a detailed description of the administrative practices and procedures of your Department which culminate in a determination whether Section 2511(3) criteria have been met and whether a recommended surveillance should be approved.

I appreciate your assistance.

Sincerely,

EDWARD M. KENNEDY.

DEPARTMENT OF JUSTICE,
Washington, D.C., March 23, 1971.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Administrative Practice and Procedure, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As indicated to you in my letter of March 1, 1971, the subject matter of question A–4 is such as to preclude categorization under a single criterion and no such categorization exists.

I am unable to supply you with a "detailed description of the administrative practices and procedures" you request, other than to say that all requests for telephonic and microphonic surveillances, at least since January 20, 1969, to the Attorney General have come from the Director of the Federal Bureau of Investigation personally. Such requests are handled exclusively by the Attorney General acting for the President of the United States.

This Department has heretofore publicly set forth the considerations involved in making such determinations and the reasons for refusing to disclose the bases for the Executive's decision. In the brief of the United States filed recently in the Ninth Circuit Court of Appeals we said:

"In authorizing the use of electronic surveillance, the President through the Attorney General must weigh many factors, not all of a purely factual nature, which he cannot, and should not be required to, produce before a magistrate. Moreover, in making such a decision the President must rely upon the entire spectrum of information available only to him, much of which is derived from sources which, by their nature, are secret. Such information, more often than not, involves both the Nation's foreign and domestic affairs inextricably intertwined. Any attempt to legally distinguish the impact of foreign affairs matters from internal subversive activities or to isolate one particular factor upon which an eventual decision is based, is an exercise in futility and eloquently demonstrates the wisdom of leaving these decisions to the Chief Executive who alone is in a position to make such a judgment and who is answerable to the people from whom the power is derived.

Another weighty factor bearing upon this issue is the fact that disclosure of the bases for the Attorney General's decision or the fact that such a surveillance is to be conducted may in itself prejudice the national interest."

We hope the foregoing will be of assistance to you.

Very truly yours,

ROBERT C. MARDIAN,
Assistant Attorney General.

APRIL 1, 1971.

Mr. ROBERT C. MARDIAN,
Assistant Attorney General, Internal Security Division, Department of Justice, Washington, D.C.

DEAR MR. MARDIAN: I am writing with reference to your letter of March 23 advising that there is no categorization of the surveillances operated without court order under the criteria enumerated in Section 2511 (3) of Title III of the Omnibus Crime Control and Safe Streets Act of 1968.

In view of the position taken by your Department in the courts that certain of such surveillances are employed for the purpose of gathering "foreign intelligence information," and that other of such surveillances are employed for the purpose of gathering "intelligence information deemed necessary to protect the nation from attempts of domestic organizations to attack and subvert the existing structure of the Government", would you please provide us with a numerical break-down of the installations described in your March 1 letter under these two classifications.

I appreciate your assistance.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Administrative Practice and Procedure.

DEPARTMENT OF JUSTICE,
Washington, D.C., April 23, 1971.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Administrative Practice and Procedure, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your most recent letter of April 1, 1971, in which you request a numerical breakdown of those surveillances operated without court order, which are employed for the purpose of gathering "foreign intelligence information" and those which are employed for the purpose of gathering "intelligence information deemed necessary to protect the Nation from attempts of domestic organizations to attack and subvert the existing structure of the government." You indicate that these two categories are derived from the position recently taken in the courts by the Department of Justice.

The position taken by the Department in the courts has drawn a distinction between two separate but closely related powers of the President, pursuant to which he may constitutionally authorize electronic surveillance to gather intelligence information without securing a prior warrant. In the brief of the United States filed recently in the Ninth Circuit Court of Appeals we said:

In *United States* v. *Belmont*, 301 U.S. 324, 328 (1937), the Court recognized the existence and extent of one of these inherent Presidential powers when it held that "the conduct of foreign relations was committed by the Constitution to the political departments of the government, and the propriety of what may be done in the exercise of this power [is] not subject to judicial inquiry or decision." . . . the President, in his dual role as Commander in Chief of the armed forces and Chief Executive, possesses another serious power and responsibility—that of safeguarding the security of the Nation against those who would subvert the Government by unlawful means. (Brief, pages 2–3).

As we have indicated, the inherent powers of the Chief Executive to conduct foreign affairs and to protect the national security, while somewhat related, are separate and distinct. The Congress itself recognized the distinction in the Omnibus Crime Control and Safe Streets Act of 1968. (Brief, pages 17–18).

This position was not intended to imply that any single surveillance could be considered as being employed solely pursuant to either one of the aforementioned powers. As I have indicated previously, the decision to employ such surveillance is based on a consideration of information involving "both the Nation's foreign and domestic affairs inextricably intertwined." Accordingly, the Department has never attempted such a categorization.

We hope the foregoing will be of some assistance.

Sincerely,

ROBERT C. MARDIAN,
Assistant Attorney General.

GENERAL AMNESTY VERSUS SELECTIVE AMNESTY

Mr. MILLER. Mr. President, the May issue of the American Legion magazine contains a timely and informative article entitled "The Amnesty Question for Draft Evaders: Are They All the Same?"

I have publicly stated my opposition to general amnesty and my support of a program of selective amnesty following the return of our troops and prisoners from Southeast Asia. The evidence cited in this article reinforces my belief in the correctness and justice of my position.

I ask unanimous consent that the article be printed in the RECORD.

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

THE AMNESTY QUESTION FOR DRAFT EVADERS: ARE THEY ALL THE SAME?

(By Leavitt A. Knight, Jr.)

Today, some sort of blanket amnesty for those who illegally evaded the draft or deserted from the military during the Vietnam war is being widely debated, discussed, aired, promoted and opposed.

In all this discussion there has so far been a good deal of silence on what is most certainly the central question. The key word is not "amnesty," it is "blanket."

Without exception, the proposals for amnesty for Vietnam war draft evaders and deserters that are now being debated would either treat them all as one group, or divide them into large classes (such as between draft dodgers and deserters). Every such proposal is a proposal to avoid examining individual cases, to offer forgiveness to 70,000 John Doe's if we offer it to one John Doe.

The assumption behind all blanket amnesty proposals is that all draft evaders and/or deserters are the same, so one judgment will do for all. Very often the case of one or two men with a sympathetic ring is cited to support amnesty for 70,000.

But they are not all the same, and the whole debate, as it gets to the public, stands on a false assumption.

There are John A. Doe's who were too illiterate or mentally retarded to understand their draft boards' instructions. There are John Z. Doe's who were wanted for murder, and avoided registering for the draft to keep justice from catching up with them.

In between is a whole alphabet of John Doe's. Some stood on private conviction against all war, knew that what they were doing was illegal, and chose to take the consequences. Others were not actually against the Vietnam war as they claimed. They were in it on the side of the enemy, with whom they conspired (sometimes openly) not to stop the war but to assure a victory for Hanoi.

The actual motives of many draft evaders cannot be determined from what they *said* their motives were. What they said was often ground out on mimeo machines and printing presses by others and handed to them to be cited as their own statements. Some draft evaders openly refused to register or report. Others never openly resisted the draft, but cheated by feigning mental or physical disabilities or making false claims for exemptions. As we all know, a whole business grew up "educating" draft-eligibles on ways to disqualify themselves by lying.

It is entirely possible to carry out any sort of justice the nation decides it wants to render, be it stern or lenient, by pursuing a policy which is applied to each case according to the facts of the case.

It is impossible to render any sort of justice by enacting a blanket amnesty which closes its eyes to what it is doing in each case.

If we take the sternest approach, and punish all who even technically avoided the draft, we will hurt many relatively innocent men who might be shown to be victims of draft board error or overzealousness. If we only exact some mild sort of penance from every draft dodger, such as Sen. Robert Taft's proposal to let them work for three years in government service in some agency, we will require too much of men who are victims of error. You cannot find error if you do not look at each case.

In WW2, a few overzealous draft boards instituted charges of draft dodging against Japanese-Americans who had been relocated from the West Coast as "undesirable citizens." And technically, they had dodged the draft by failing to register. But when President Truman's Amnesty Board (*which looked at each case*) caught up with these charges they were dismissed out of hand. And so should any similar purely technical charges be dismissed today, instead of offering the accused a chance to buy a pardon with a three-year tour of government duty.

Most appeals for blanket amnesty today state that *all* draft evaders and/or deserters were acting on high principles which are grounds enough for granting amnesty to all of them. It is irrelevant to debate at this point whether or not it is "high principle" to avoid service—sometimes by lying—under conditions that require that another man go in one's place. A blanket amnesty would let all the so-called "high-principled" off, and with them it would let off all the "low-principled"—the stickup men and wanted murderers who failed to register in order to flee justice.

One thing is clear. *Blanket* amnesty is wrong no matter what amnesty might be right, if any. The experience of the WW2 Amnesty Board is enlightening on this point.

In 1946, President Harry S. Truman appointed a three-man Amnesty Board to recommend Presidential clemency for WW2 draft evaders. He named to it then-recently-retired Associate Justice of the Supreme Court Owen J. Roberts (chairman); Willis Smith, then President of the American Bar Association and later U.S. Senator from North Carolina, and James F. O'Neil, who had been a special assistant to the Secretary of the Navy in WW2 and is presently the publisher of this magazine.

Justice Roberts was highly in favor of blanket amnesty when the board began its work. In fact, his name appeared on the letterhead of the Fellowship for Reconciliation, a pacifist organization. His initial proposal to the whole board was to treat all of the draft evaders the same—to recommend executive clemency for all of them to President Truman. Smith and O'Neil proposed to review the cases individually, and persuaded Justice Roberts to review a sample and see if he still wanted blanket amnesty. After he reviewed a few, he agreed that each of 15,805 cases should be reviewed. It took a year, with help from the Justice Department staff. In the end, the Board recommended executive clemency for 1,523 cases. President Truman had earlier arranged for pardons for another 1,518. In all, out of 15,085, pardons were granted to 3,041. As he handed the Board's report to the President, Justice Roberts said that the review of each case had saved him from a great mistake, for he "never realized how many were not entitled to amnesty."

Here is one quotation from the unanimous report of the Roberts Board:

"Examination of the large number of cases at the outset convinced us that to do justice to each individual as well as the nation, it would be necessary to review each case upon its merit with the view of recommending individual pardons, and that no group would be granted amnesty as such."

Two further passages indicating what examination of each case revealed are also enlightening:

"In perhaps one half of the cases considered, the files reflected a prior record of one or more serious criminal offenses. The Board would have failed in its duty to society and to the memory of the men who fought and died to protect it, had amnesty been recommended in these cases. Nor could the Board have justified its existence, had a policy been adopted of refusing pardon to all. . . ."

"Many of the wilful violators were men with criminal records; many whose record included murder, rape, burglary, larceny, robbery, larceny, of Government property, fraudulent enlistment, conspiracy to rob, arson, violations of the narcotics law, violations of the immigration laws, counterfeiting, desertion from the U.S. Armed Forces, embezzlement, breaking and entering, bigamy, drinking benzedrine to deceive medical examiners, felonious assault, violations of National Motor Vehicle Theft Act, extortion, blackmail, impersonation, insurance frauds, bribery, black market operations and other offenses of equally serious nature; men who were seeking to escape detection for crimes committed; fugitives from justice; wife deserters, and others who had ulterior motives for escaping the draft. . . ."

There were just about 7,500 such cases, and there's no reason to believe that an examination of Vietnam military evaders would not show similar numbers.

The WW2 Board, by looking at each case, found all sorts of other people who could hardly be classed as being all the same or reasonably subject to the same consideration. On their records they deserved anything from extreme leniency to the sternest punishment. Today, because no such close look is being taken, the draft evaders and deserters are being lumped together under all sorts of misnomers.

A recent headline in the New York Times is typically foggy. It reads: "Amnesty is Asked for All War Foes." Here, the Times headline writer represents everyone who is opposed to war as one in need of amnesty. The use of such language is a smoke screen of the kind we need less of in airing public questions.

It's a fair presumption that everyone in the United States is opposed to war. It is certainly no crime and nobody needs amnesty for abhorring war. Of course, the story under the headline was not about "all war foes." It reported a petition circulated by 16 people to grant total amnesty to all Vietnam draft evaders and deserters—that is, lawbreakers. As usual, the petition stated that all 70,000 or so of them had ducked the draft or deserted for the same reasons, which seemed honorable to the 16 petitioners.

Now, it is a fair bet that virtually every man who served in Vietnam or any other of our wars hated every bit of it. In short, millions of war foes registered for the draft and served. It is certainly kidding the public to give the distinction of war-hater uniquely to those men who illegally avoided war service. Yet both the Times and these 16 petitioners did exactly that, and they are not alone in such gross misidentification in today's amnesty debate. I don't object to these folks having and sticking to their opinions. But I most certainly object to the sand they throw in other people's eyes, and to their representing their wildest and most undemonstrable beliefs as fact.

The petitioners, in this case, claimed it as a fact that the deserters and draft dodgers "wherever they are, are already concerned with the making of a better America." All of them. Justice Roberts, pacifist though he was, would roll over in his grave at the suggestion that these petitioners could possibly know what they were talking about. Of course, the way to find out is to examine every case, as Justice Roberts and his colleagues did. But it is exactly the point of all such petitioners that every case should *not* be examined.

One error leads to another, or rather scores of others. Legionnaire Benjamin Truskoski, of Bristol, Conn., pointed out in a letter to a Congressman that Senator Taft's proposal to give amnesty to any draft evaders who would serve for three years in a government agency—such as VISTA, the VA hospitals, etc.—is loaded with pitfalls and injustices. Senator Taft seems to view government service as a sort of punishment. To some it *would* be punishment. Just what will happen to the quality of service in VA hospitals and other agencies that load themselves up with sullen men who look upon their jobs as punishment, and who have a record of breaking the law when it doesn't appeal to them, is quite a question. The government service, Truskoski noted, has a hard enough time without taking on thousands of such. The WW2 Roberts Commission found that some of the draft evaders were mentally unstable. That Senator Taft would view government employment as a penance is itself a little eyebrow-raising. Another side of the question is that government jobs are *sought after* by many. There are loads of Vietnam veterans who are walking the streets looking for jobs, while scores of volunteers and organizations are trying to help them. What an irony, said Truskoski, to offer 70,000 federal posts to draft evaders, while any men who didn't evade it go unemployed after having fought the war!

I don't mean to beat Senator Taft over the head. He is probably as much a victim of fog as everyone else. The hidden evils in his proposal are the sort of things that follow basing a whole public debate on false premises. Once you start pretending that all draft evaders are the same—once you decide not to look at their records one by one—it follows that whatever you propose to do will be full of mischief because it stands on the false ground that they can be treated justly as a class.

All we need, after the Vietnam war is over, is for some board or agency to do for the President what President Truman's Amnesty Board did for him. The President has full powers to grant executive clemency, and justice can only be served by basing it on the facts of each case. If I'm wrong on that, our whole concept of justice has been wrong since we established our courts, our appeals courts and the pardoning power. Until now, we always thought it was a virtue of our system that every accused man should have his day in court. If we don't stay with that, we can't avoid being too soft on some and too hard on others.

One argument that has been widely publicized in favor of a blanket amnesty should be taken very seriously if it is found to hold water. It states that the draft evaders are such a large and important part of our population that—quite apart from the justice or injustice of forgiving them en masse—we must accommodate them in some special way in "order to cement a divided nation back into one piece."

If the facts are correct, this is not a specious argument. After the Civil War, when half the nation had fought the other half and the Confederate Army had actually taken up arms against the victorious Union, the wisest leaders recognized that the nation could ill afford to subject everyone in the Confederate cause to prosecution as a lawbreaker. Lincoln instituted a policy of blanket amnesty in his instructions to Grant who, at the surrender of Lee's army at Appomattox Court House, told Lee to send his men home with their horses for the next plowing. Every one of them was technically subject to prosecution as one who'd taken up arms against the United States.

With the assassination of Lincoln, and the Northern cry for vengeance, his amnesty policy was the subject of bitter recrimination and turmoil for years. (Which illustrates that the amnesty did not cement the nation but continued to divide it.) In fact, Congress passed a law to wipe out a later amnesty granted by President Andrew Johnson (which Johnson ignored).

The question then was not a question of either justice or injustice. It was a statistical question. The nation could not afford to prosecute close to half its citizens, and the enormity of that conflict dictated Lincoln's policy to "bind up the nation's wounds." Since the question is based on statistics, and not on justice, its relevance today stands on the question of numbers, as it did in the Civil War.

Are the Vietnam draft evaders and deserters such a significant part of the population that the nation cannot afford to give them even justice but must try to deal with them as a class, as Lincoln proposed to do for the South?

Statistically, it would be more important to forgive our other lawbreakers as a class, if the nation stands in danger of alienating large classes of citizens by prosecuting them evenhandedly. In 1969, more than five million people stood accused of serious crimes in the United States for which they were arrested. Auto thieves alone came to over 870,000. Most unofficial guesses estimate the accumulation of Vietnam draft evaders and deserters since 1964 or thereabouts at about 70,000. They are a small fraction of lawbreakers (less than 1 in 500 over an eight-year period). They are a small number compared to those who did serve in the military, and in fact they are not a fifth as numerous as those who were killed, wounded or reported missing in Vietnam. They are a tiny part of the total population—averaging out to the population of one small hamlet of 1,400 people in each state.

Thus the statistical approach claiming that we can ill afford to give them the same sort of justice we give everyone else because they are so important a segment of the nation is only empty verbiage. Put them in the Los Angeles Coliseum and there would be 6,000 empty seats, if the 70,000 figure is correct. However, both the Justice and Defense Departments have testified in the Senate that the total number who could face prosecution is much smaller than 70,000.

This review of the insignificance of their numbers in the nation is not said for or against the draft evaders, but only to reveal what an attempt at hoodwinking the public is involved in the claim that they are too important a part of the nation to be dealt with like everyone else who stand accused of lawbreaking. Fog and sand-in-the-eyes are found everywhere on the amnesty question.

The "blanket" question has created more fog than that. It has generated an illusion that anyone who is opposed to *blanket* amnesty is opposed to all amnesty, and another illusion that those who may deserve amnesty on the merits of their cases won't get it unless some blanket amnesty is provided. Of course, there was no blanket amnesty after WW2, yet Truman—under existing powers of the President—gave it to more than 3,000 men, including everyone whom the extremely liberal Justice Roberts thought was entitled to it. What blanket amnesty does, by contrast, is to assure that those who are not entitled to it also get it.

National Commander John H. Geiger, of The American Legion, testified on the amnesty question before a Senate subcommittee on March 1 of this year. Let's close this by quoting liberally from the meatier parts of his testimony. It seems to be right on the ball, and also lets readers of this magazine see what their organization said most recently on the subject. Said Commander Geiger:

"Today my appearance and the position I take on amnesty are based upon Resolution 207 adopted at our 1971 National Convention. . . . The delegates who unanimously adopted Resolution 207 represented every one of the 50 states and the District of Columbia. They were all honorably discharged veterans of wartime service, and represented a cross s ction of American ethnic, cultural, political and economic life. Resolution 207 also has the unanimous support of The American Legion Auxiliary whose nearly one million members are the wives, mothers, sisters and daughters of men who served their nation.

"Like you, we Legionnaires are deeply concerned over the complex problems presented by the issue of amnesty. It is an emotional problem with overtones of justice tempered with mercy and understanding. Amnesty is particularly difficult to consider today because of the profound and bitter division in our land over the Vietnam conflict—our longest war and—like the Revolutionary, Mexican and Civil Wars—a bitterly divisive one. A large number of our young men are involved in the amnesty question—though far more were involved in this question in the Civil War.

"Today, our Vietnam casualties far outnumber our draft evaders. Over 70,000 by unofficial estimate are either military deserters or selective service evaders. For many, their excuse is the 'immorality' of the participation of the United States in the conflict in Vietnam. Canada, Sweden, and, to a much lesser extent, other countries have given some of these young men asylum. Their cause is now being popularized and propagandized by many and diverse groups in the United States and abroad—including several candidates for high public office in our own country. Let us hope that as a result of these hearings, earnest and full consideration will be given to all facets of the issue of executive clemency so that we shall be able to discover and follow that difficult line between the dictates of the law and the charity our moral heritage demands.

"The American Legion has an intense and direct interest in amnesty because of the fact that its members all were subject to the laws, regulations, pressures and responsibilities of military service in defense of the United States and most also were subject to the operation of the Selective Service System. . . .

"Proponents of amnesty at the present time fall into two categories. One group advocates unconditional amnesty for all military deserters and draft evaders. This group reasons that the Vietnam conflict is an 'immoral' war for the United States; that those who recognized this and followed their conscience ought not suffer any legal penalties for 'being right while their country was wrong'; and, therefore, amnesty should be a blanket recognition of this.

"Some spokesmen for this view go so far

as to advocate full veterans rights and pensions for deserters and draft evaders for their *sufferings* in Canada, Sweden and elsewhere. The second group of proponents offer amnesty to draft evaders but not to military deserters, provided that draft evaders prove their sincerity by performing alternate service for their country.

"The American Legion believes that most draft evaders and deserters consciously decided to refuse to accept their responsibilities by fluoting our laws and legal remedies rather than by going through the available, legal channels of redress; that their actions in declining to obey certain laws distasteful to them is contrary to sound legal and moral standards; and that the obligations of citizenship cannot be applied to some and evaded by others.

"The American Legion resolved that: 'We go on record as opposing any attempt to grant amnesty or freedom from prosecution to those men who either by *illegally* avoiding the draft or desertion from the armed forces failed to fulfill their military obligation to the United States.'

"In other words, we of The American Legion firmly believe that giving any wholesale amnesty—whether conditional or unconditional—would make a mockery of the sacrifices of those men who did their duty, assumed their responsibilities in time of conflict, and—in many cases—were killed, seriously wounded, or now lie in a prison camp somewhere in Indochina. Over 50,000 men have paid the supreme price of patriotism and citizenship. Another 302,602 have been wounded or injured. Over 1,600 are prisoners or missing in action in Vietnam, or Cambodia. And the casualties have not ended.

"How can any general amnesty be explained to these men? How can amnesty be explained to parents, wives, children—all those who have lost a son, husband or a father in their country's service? How can we excuse ourselves to the prisoners of war, the missing in action, or to their suffering families for offering amnesty?

"Furthermore, what would be the effect on the morale of our Armed Forces if amnesty were granted to those who have violated the law and their oath of service by turning their backs and fleeing their country? In our opinion, it could only badly undermine that morale and cheapen the value of honorable service to one's country—at the very moment these values are most in need of strengthening. . . .

"It is clear from the Legion's resolution that our official opposition to amnesty is not a total opposition to it, but an opposition to any sort of amnesty (with or without conditions) all draft evaders *as a class*. Our resolution asks that all draft evaders be prosecuted. This means that we would like each case to be heard in court, and tried on its merits. The courts can deal with the particulars of each case, and exercise leniency or sterness, based on the actual facts brought out in hearing about each particular draft evader. Surely the courts will find those who are innocent, and who should be excused without any further conditions.

"It is also implicit in our resolution that those found guilty would still have open to them the right of appeal. Should appeal fail they would have recourse to the President's pardoning power, if, on review of the facts in each case, he wishes to extend additional leniency beyond what the courts may extend. This is implicit in our resolution, because any request for prosecution implies not only the possible finding of guilt but the finding of innocence, and the avenues for redress, appeal and pardon that are available to all persons who are prosecuted.

"Our request that draft evaders be prosecuted does not deny to them their full rights under the law, or the opportunity for executive clemency. Our resolution, in effect, opposes any form of blanket amnesty, and asks that each case be considered on its merits. The only other example in our history of amnesty for wartime draft evaders certainly bears out the wisdom of this approach and, of course, it is consistent with the whole American system of justice, which is based on hearing the charges and the facts of each case.

"After WW2, the Roberts Board tried to treat all 15,805 WW2 draft evaders the same, as all proposals for blanket amnesty do. The Board threw up its hands at the injustice of any such operation. It found sinners of all degrees, as well as innocent men, among the WW2 draft evaders. In the end, with the aid of the Justice Department staff, it reviewed each case. That was not the easy way out, but the Roberts Board shouldered the huge job of review rather than accept the onus of dispensing justice by the shovelful.

"There are some in this country who would create the illusion that every Vietnam draft dodger was acting on high principle out of deep-seated convictions against war. When all cases were judged individually by the Roberts Board after WW2, nearly half were found to have been men wanted for murder, robbery, desertion of their families and other serious crimes.

"On the other hand, others were found to have been legally exempt from military service, or they fell afoul of the law through ignorance or illiteracy. President Truman gave a complete pardon to 1,523 and a conditional one to 1,518, while more than 12,000 did not merit such treatment.

"If the Vietnam draft evaders are all prosecuted, courts will be able to judge each case on its merits. They will again find a mixture of victims of error, deliberate conspirators and professional criminals. The President could then have them screened and consider recommendations for clemency in each case.

"An act of Congress to provide an across-the-board three-year stint of government service in exchange for amnesty would offer that penance to some for whom it is too heavy a penalty and to others for whom it is too mild a punishment. The most flagrant offenders will get the best break and the least offenders the worst.

"This is hardly equal justice under the law. At least ten Presidents, from Washington to Truman, have handled the amnesty question under existing machinery. An act of Congress that decides all cases without a hearing is neither necessary nor desirable.

"There was no amnesty granted after the Korean War. It is therefore clear that amnesty has not been lightly given by our modern American Presidents. And it has been granted only after the shooting has stopped and the war is over.

"Lastly, an argument much used by advocates of unconditional general amnesty is that the Vietnam conflict is 'immoral,' therefore no American should be prosecuted or punished for refusing to take part in any direct or indirect way in an 'immoral' war. I am not aware of the precise moral standards used by those who would label our military assistance to the Republic of Vietnam 'immoral.' It is rarely defined.

"And the assumption that the Vietnam conflict is now, or was from the beginning, an immoral war is much in dispute. We Legionnaires reject the simplistic labeling of our effort in Vietnam as immoral.

"We reject it on the grounds that such allegations are patently false. The United States commitment to the government and people of South Vietnam is just and moral—we are committed to providing south Vietnam the means whereby it can defend its independence and its right of self-determination.

"The Viet Cong were committing genocide in South Vietnam at the time we became heavily involved in that conflict—systematically slaughtering innocent civilians wholesale as a means to gaining political control. We knew this then, we know it now. Everyone within sound of my words knows it. But when discussion of the morality of the Vietnam war arises today, the fact that we intervened against genocide, when the United Nations would not, is simply omitted from the discussion. One cannot admit it and still define our role in Vietnam as immoral. We hope and believe that the Congress will not decide such a moral question by closing its eyes to genocide.

"We cannot believe that the Congress will ever decide that those who violated the law have the superior moral position to the President, the Congress and to the men who served.

"If Congress should decide that they *do*, we wonder who next will take up the pretext and use the precedent to claim a moral superiority over some fresh enactments of the Congress.

"We wonder what future legal dilemmas will be in store for us if we create such an extraordinary precedent as the Congress assenting to the right of citizens to determine unilaterally which laws they will obey.

"Any determination of amnesty based on the moral superiority of draft law violators is contrary to our concept of justice.

"Historically, the Congress, the President and the Judiciary have struggled to determine the extent of power of each. Should we now add a new dimension to this three-sided struggle—namely any citizen who claims that his unilateral view of morality is superior to the Congress, the courts and the President alike? If we establish this as a correct view, the day will arrive when there will be little further use for the Presidents, the courts or the Congress.

Our involvement in Vietnam was authorized under proper Constitutional procedures and was sustained by the Congress.

"In summary, The American Legion's position on amnesty is:

"1) We oppose any attempt to grant amnesty now.

"2) After the conflict ends, peace is established, and our prisoners of war and missing in action have been repatriated or accounted for, each case should be reviewed under existing procedures available to the courts and the President."

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

FOREIGN ASSISTANCE ACT OF 1972

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now return to the consideration of the unfinished business (S. 3390), which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 3390) to amend the Foreign Assistance Act of 1961, and for other purposes.

A 15-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 15 minutes.

The motion was agreed to; and at 9:30 a.m. the Senate took a recess for 15 minutes.

The Senate reassembled at 9:45 a.m., when called to order by the Acting President pro tempore (Mr. ALLEN).

QUORUM CALL

Mr. ROBERT C. BYRD. 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. ROBERT C. BYRD. 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.

TIME LIMITATION ON TUNNEY AMENDMENT TO S. 3390

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as an amendment to be proposed by the distinguished Senator from California (Mr. TUNNEY) to the unfinished business, S. 3390, is called up and made the pending question before the Senate, there be a time limitation thereon of 40 minutes, to be equally divided between and controlled by the distinguished Senator from California (Mr. TUNNEY) and the distinguished manager of the bill (Mr. SPARKMAN) or his designee; that the time on any amendments to the amendment, debatable motion, or appeal in relation thereto be limited to 10 minutes, to be equally divided between the mover of such and the distinguished manager of the bill, Mr. SPARKMAN, or his designee.

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

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

Mr. ROBERT C. BYRD. I yield.

Mr. TUNNEY. Is it the intention of the leadership to have a vote at 12 noon on my amendment, or is that not part of the unanimous-consent request?

Mr. ROBERT C. BYRD. No; that would not be part of the unanimous-consent request at this time. It has not been determined as yet as to whether or not the Senate will be ready to proceed to the consideration of the amendment by Mr. TUNNEY this morning. That knowledge should be available shortly. If it is possible to proceed with the amendment this morning, we would then seek to get consent to vote at a certain time today, to protect members of committees who are presently at the White House for discussions there.

Mr. TUNNEY. I thank the Senator.

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

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

ORDER FOR RECOGNITION OF MR. HARRY F. BYRD, JR., ON FRIDAY, JUNE 30

Mr. ROBERT C. BYRD. Mr. President, a little earlier today, I received unanimous consent on Friday next to proceed to the consideration of the bill making appropriations for Public Works, immediately after the two leaders and their designees had been recognized.

I had forgotten that the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) is to be recognized, under a previous order, for not to exceed 15 minutes, following the recognition of the two leaders.

I therefore ask unanimous consent that the public works appropriation bill be laid before the Senate on Friday following the remarks of the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) on Friday next, and any other Senators for whom 15-minute orders have previously been entered.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR CONSIDERATION OF TUNNEY AMENDMENT THIS MORNING

Mr. ROBERT C. BYRD. Mr. President, I shall shortly move to recess for 5 minutes.

I ask unanimous consent that following the recess the distinguished Senator from California (Mr. TUNNEY) be recognized for the purpose of calling up his amendment on which there is a time limitation.

I further ask unanimous consent that a vote occur on the Tunney amendment at 12 noon today.

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

A 5-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 5 minutes.

The motion was agreed to; and at 10:15 a.m. the Senate took a recess for 5 minutes.

The Senate reassembled at 10:20 a.m., when called to order by the Presiding Officer (Mr. PASTORE).

FOREIGN ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (S. 3390) to amend the Foreign Assistance Act of 1961, and for other purposes.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me briefly?

Mr. TUNNEY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished Senator from Arkansas (Mr. FULBRIGHT), acting as Senator SPARKMAN'S designee, to yield back his time on the amendment, and I now, therefore, yield back that time.

Mr. President, I ask unanimous consent that upon the expiration of the time allotted to Mr. TUNNEY, under the order previously entered, the Senate temporarily lay aside the pending amendment and the unfinished business and proceed at that time to the consideration of the bill making appropriations for the Department of Labor and HEW.

Mr. TUNNEY. Mr. President, reserving the right to object, and I shall not object, I wonder if the distinguished Senator from West Virginia would be prepared to save 5 minutes of the time for the committee because I have received word that another Senator wants to come to the Chamber and speak on this matter. My remarks will take between 15 and 20 minutes so, if we could, I would ask that we reserve 5 minutes of the committee time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from California may be allotted 25 minutes, rather than the 20 minutes previously agreed to.

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

Mr. TUNNEY. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 9, line 7, strike out "subsection" and insert in lieu thereof "subsections".

On page 9, line 14, strike out the end quotation marks.

On page 9, between lines 14 and 15, insert the following:

"(y) No military assistance shall be furnished under this or any other Act, and no sales shall be made under the Foreign Military Sales Act, to Brazil until such time as the President reports to the Congress that the Inter-American Commission on Human Rights has determined that the Government of Brazil is not engaging in the torture of political prisoners."

Mr. TUNNEY. Mr. President, on behalf of Senators CRANSTON, HART, MCGOVERN, PROXMIRE, RIBICOFF, KENNEDY and myself, I am pleased to call up this amendment to S. 3390. Our amendment would deny any military assistance to Brazil so long as the Brazilian Government is engaged in the torture of political prisoners.

Mr. President, I would think that it would be a universal proposition that the United States should not support with military assistance any government which is using torture as an instrument of national policy.

I can think of nothing in the American tradition which would justify our providing military assistance to a regime which tortures its own citizens. I cannot understand the rationale which would support the contention that torture should be overlooked by American policymakers; that the United States should continue to provide military support to a government which, using the excuse of anticommunism, abuses, mistreats, and represses its own citizens.

In fiscal 1973 our proposed military assistance to Brazil totals $15,988,000—$988,000 in military grants and $5,000,000

in military credit sales. None of those funds will be spent in the interests of the national security of the United States. In fact, none of them are necessary even to the national security of Brazil. Instead, they provide an indication that, in spite of international protest and overwhelming condemnation, the U.S. Government continues to support and sustain a repressive military dictatorship which has engaged in the most horrendous of practices.

Last month, Mr. President, the Inter-American Commission on Human Rights, an organ of the Organization of American States, approved a resolution which contained the following language:

> Because of the difficulties that have hindered the carrying out of the examination of this case, it has not been possible to obtain absolutely conclusive proof of the truth or untruth of the acts reported in the denunciations. However, the evidence collected in this case leads to the persuasive presumption that in Brazil serious cases of torture, abuse and maltreatment have occurred to persons of both sexes while they were deprived of their liberty.

The Brazilian military government has refused to allow the Commission to send an observer to the country to investigate the charges of alleged maltreatment of political prisoners.

Various religious groups have been prominent and vociferous in attributing torture of political prisoners to the Brazilian regime. In 1970, the Brazilian Conference of Bishops stated:

> . . . It is a well known fact . . . that there exists among our own people, as well as among other peoples throughout the world, the firm conviction that there are repeated cases of torture in Brazil.

The Latin American Department of the National Council of Churches has stated officially that "accounts of the most brutal and humiliating tortures have been filtering out of—Brazil—since the fall of 1969." Some have argued in the recent past that the situation has improved, that the torture has been decreased. In fact, the situation does not appear improved one bit.

On March 22, 1972, the U.S. Catholic Conference, Division for Latin America, petitioned the President of Brazil "to allow an international team of impartial observers to investigate the longstanding and widespread charges of systematic repression, torture, and violation of basic human rights."

Last month, on May 1, 1972, two prominent Brazilian clergymen stated that:

> In our city, disappearances, abductions and arrests are steadily increasing . . . As Pastors responsible before God, before our own conscience, and before the people who place their trust in us, we declare that the infliction of incredible physical and moral tortures is becoming the order of the day.

Only 2 weeks ago, on June 12, 1972, the Brazilian Conference of Bishops accused Brazilian authorities of torturing prisoners physically, mentally, and morally to the point of ill health and even death.

On October 29, 1971, our distinguished colleague from Idaho, Mr. CHURCH, provided us with a careful and constructive evaluation of our foreign assistance efforts during the decade of the sixties. He made the following statement:

> "Looking back on the sixties, no one can deny that we were indeed "the greatest power in the world" and that we surely did "behave like it"—if throwing our might and money around is the correct measure of "behaving like it." Nonetheless, we not only failed to accomplish what we set out to accomplish ten years ago; we have been thrown for losses across the board; in the name of preserving peace, we have waged an endless war; in the guise of serving as sentinel for the "free world," we have stood watch while free governments gave way to military dictatorship in country after country, from one end of our vast hegemony to the other. Today, confidence in American leadership abroad is as gravely shaken as is confidence in the American dollar.

It is self-deceiving to believe that American support, even if it is only tacit, for repression, or for cruelty, is in any way whatever in the best interest of the United States. It is shortsighted to accept the rationale that an unacceptable and immoral means is somehow justified by a noble end. To tolerate torture and to enable its proponents to pursue their policies without American opposition is not in the interests of the United States of America.

Some will say that this measure is directed against Brazil. Nothing could be further from the truth. I have long supported a close partnership between the United States and her neighbors to the south. I have long believed that economic and social assistance is essential to the peoples of South America. I have long admired and respected the people of Brazil and of the other Latin American countries.

My amendment is consistent with that view. It is unproductive and irresponsible to provide assistance which will enable a repressive government to continue to torture its citizens. It is anti-Brazilian to support such repression. For only in the openness of the political marketplace of ideas, only in the fresh air of free expression, will progress be achieved in Latin America.

To accept the view that the United States must support repression to resist communism, or that the United States must support dictatorial policies in order to show friendship for Latin America, is foolish.

For in the long run, the strength and vitality for our policies in Latin America must rest upon the foundation of popular support. Tacit North American complicity in the repression of Brazilian citizens will only inure to the detriment of the United States.

There is no doubt that Brazil is, potentially, the most powerful nation in Latin America. Thus, U.S. policy toward Brazil will command the attention of the Americans in a way that our relations with a small nation will not.

Given the political nature of foreign aid as an instrument of foreign policy and recognizing that aid is influence, whether given or withheld, the United States is in position to demonstrate its concern for the emergence in all of the developing third world, of a community of nations that seek to insure a better way of life for their peoples.

Our foreign aid must certainly respect the diversity of cultural and historical traditions in Brazil, but the Brazilian Government must indicate, which it has failed to do, its concern for its own people and for the emergence of a strong, representative, pluralist society.

My amendment does not permanently cut off aid to Brazil. It falls far short of that. First, it deals only with military aid. It does not affect our economic assistance programs. Furthermore, my amendment does not permanently cut off even the military assistance. It merely cuts it off until it is found that Brazil is not torturing her political prisoners.

Mr. President, I do not believe in putting strings on American aid and I do not believe in U.S. intervention in the domestic affairs of another nation.

I have never accepted the view that our aid policies should have any influence upon the nature of the government we assist. I have disagreed with those who accept the view that American intervention should be used to strengthen one faction against another or that the United States can tell another nation how it should be ruled. The strength of any nation will be determined by its own domestic circumstances.

But I do believe that certain minimum conditions must be observed by a nation if it is to receive American assistance. I cannot accept a policy which will grant funds to another nation while that nation tortures its own citizens. I cannot accept a policy in which the United States is viewed abroad as an instrument of repression because of the notoriety of the acts of torture practiced by a government. I cannot support a program which forces the United States into the position of being viewed as an accomplice to torture.

Mr. President, arguments have been made against my amendment, and I would like to discuss a few of them. One of the arguments that is made is that the U.S. views are well known. Some people contend that the United States, through the Department of State, has, on a number of occasions, expressed concern with regard to the treatment of prisoners in Brazil. It is argued that the subject was thoroughly aired by Senator Church's subcommittee of the Foreign Relations Committee and that there is some evidence that the situation is improving.

Well, to begin with, I think that the quotations I have presented to the Senate from the Inter-American Commission on human rights and from the Brazilian Conference of Bishops indicate very clearly that there is substantial evidence of ongoing torture, and that there does not appear to be any amelioration of those practices by the Brazilian Government. But further, and to me quite disturbing, is the assertion that the U.S. Government has made its viewpoint in condemnation of torture well known throughout Latin America and throughout the world.

I would like to quote from a colloquy that occurred before Senator CHURCH'S subcommittee of the Foreign Relations Committee. Senator CHURCH was holding hearings in the Subcommittee on Western Hemisphere Affairs on May 4, and I would like to quote from the record of the hearings dated May 4, 1971:

Senator CHURCH. Do you think that the Brazilian police are today known for their restraint and humane methods in dealing with Brazilian people?

Mr. BROWN. ——

Mr. Brown is Theodore D. Brown, Chief Public Safety Adviser, U.S. AID, Brazil, testifying on U.S. AID policy in Brazil. Mr. Brown replied to Senator Church:

Well, they certainly advocate this and through training at their academy, through inservice training, through the mobile training courses. This is one of our principal thrusts.

Senator CHURCH. In light of the many reports that we hear of torture in Brazil, do you think you have been successful in inculcating humane methods in restraint?

Mr. BROWN. Yes, sir; I do, Senator.

Senator CHURCH. You do. You think our program has been successful in Brazil in achieving its objectives?

Mr. BROWN. Yes, sir.

Senator CHURCH. You really believe that?

Mr. BROWN. Yes, sir.

It is not necessary to belabor this point. Suffice it to say first, that the testimony of high U.S. officials before the Senate subcommittee continue consistently in that line; and, second, that the reports of torture continue.

Finally, I do not believe that our State Department or our executive branch has made it clear to the people of Brazil and of Latin America that the United States condemns the practices of torture by the Brazilian Government.

I am not trying to condemn the State Department, nor am I trying to condemn American policy toward Brazil. I understand the problem that the State Department has. They feel that they have to maintain good relations with the Brazilian Government so that they can negotiate accords on areas of mutual interest. But that does not mean that the Congress of the United States must vote taxpayers' dollars for military assistance to a government that is utilizing torture as a standard domestic policy.

I cannot accept that policy. I think that it ought to be made clear to the Brazilian Government, and perhaps more importantly to the Brazilian people and the other people of Latin America, that the United States is not going to continue giving military aid to a government that has been condemned internationally for utilizing torture against its own citizens.

In my trips to Latin America, one of the standard refrains from many people, not officials of Government but citizens of many different countries, has been, "When is the United States going to stop supplying oppressive governments with military equipment, which equipment is used against their own people?"

If I felt that there was any international threat to the security of Brazil I might view this matter somewhat differently. That would require a weighing of other values. But weighing the values, as I have to, on the facts as they have been presented to the Senate and to Congress, I just cannot support any longer the giving of military aid to Brazil, when they have the kind of public record of torturing political prisoners that they have. The time has come to say no. The time has come to say that we are not going to continue any longer these policies, which are bankrupt in the extreme.

I hope that the Senate will stand on principle and support this amendment, to make it very clear not only to the people of Brazil but to the people of all Latin America and to our own citizens, that the concepts of human dignity and human justice are pervasive aspects of our foreign aid policy.

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

The ACTING PRESIDENT pro tempore. The Senator has 3 additional minutes.

Mr. TUNNEY. Mr. President, I do not have any other speakers on this side, and am prepared to yield back the remainder of my time. Is my understanding correct that the vote on this amendment will take place at 12 o'clock?

The ACTING PRESIDENT pro tempore. Yes; 12 o'clock noon; the Senator is correct.

Mr. ROBERT C. BYRD. May I ask the distinguished Senator a question before he yields back the remainder of his time? Is it the Senator's wish to have a rollcall vote on this amendment?

Mr. TUNNEY. Yes, it is.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. TUNNEY. I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I join with the Senator from California (Mr. TUNNEY) in offering this amendment to provide for a halt in all military aid to Brazil until we can be assured that political torture no longer is a part of the tools of governance in that nation.

As one of many nations of the Western Hemisphere, pledged to abstain from interference in the internal affairs of another nation, we can only comment on the actions of another sovereign government.

But, at the same time, we not only can but must determine whether military assistance to a government which engages in the torture of political prisoners can be in either the short-term or long-range interests of the United States.

In the case of Brazil, we have heard a continuing outcry from within that nation and from international forums charging the government with condoning and permitting the use of torture. A Library of Congress study cites reports that go back to 1969, reports:

That authorities were using brutal torture on anyone suspected of knowledge of guerrilla activities.

I ask unanimous consent that the portion of the Library of Congress report prepared by Rieck B. Hannifin be published at this point in the RECORD.

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

REPORTS OF TORTURES; CATHOLIC CHURCH CONDEMNATION

Following Ambassador Elbrick's kidnapping, the triumvirate mounted a vigorous campaign to stamp out terrorism, and General Médici continued the effort. As more and more people were detained for questioning, reports began to circulate by word of mouth that authorities were using brutal torture on anyone suspected of knowledge of guerrilla activities.

In September 1969, the Central Commission of the National Conference of Bishops of Brazil expressed concern over the "ideological conflict spreading through the entire Brazilian society," and condemned terrorism of the right and left as well as "jailing and prison tortures" by the regime.[1] The 25 bishops and 2 cardinals also declared: "We consider it indispensable that Brazil return to juridical normality."[2]

On November 4, 1969, the police announced that revolutionary leader Carlos Marighela had been killed in a gun battle with police in São Paulo. At the same time, authorities revealed that they had learned of the elusive Marighela's whereabouts from a Dominican friar who had been picked up for questioning. Subsequent arrests of other members of the Dominican order led to speculation that the regime was trying to discredit the Dominican order, which had been the most vociferous of the church groups opposing the policies of Brazil's military governments.

Marighela's capture was welcomed by all but the most radicalized Brazilians, who are a very small minority. Nevertheless, the event did not ease public disquiet. Instead, reports that the Dominican friar had been tortured to secure information about Marighela intensified antagonism between the Catholic Church and the Brazilian Government. On November 14, the Archbishop of Ribeirão, Msgr. Felicio Vasconcelos, excommunicated the local chief of police and his assistant on the grounds that they had used torture to obtain information from political prisoners, including the Mother Superior of a local convent and a dozen priests. On December 13, 1969, a military tribunal in São Paulo sentenced 21 persons, 11 of them priests, to preventive detention for allegedly aiding Carlos Marighela and his subversive group.

In December 1969 the Pontifical Commission on Justice and Peace at the Vatican was presented a lengthy dossier, endorsed by 61 prominent European Roman Catholics with the urgent request that it be transmitted to Pope Paul VI, containing broad charges of murder and torture by Brazilian authorities and some documented allegations. A similar document was sent to the Pontiff from the Papal Nuncio in Brazil. The reports alleged that suspected terrorists and political prisoners have been subjected to electric shocks, beaten, and hung by their knees and that women prisoners have been raped while their husbands or boyfriends were compelled to watch.

Pope Paul IV deplored reports of tortures in a public audience during Easter Week in March 1970. Although he did not single out Brazil, and mentioned other evils such as drug trafficking and racism, his statement on torture was widely assumed to refer to Brazil, the largest Catholic nation in the world.

The mounting outcries led the Brazilian government to issue a statement on May 8, 1970, categorically denying the charges of torture. The frequent reports, the Brazilian government contended, are "prompted by international agents of subversion and harbored by a morbid and sensationalist sector of the foreign press." According to the government: "There is no torture in our prisons, nor do we have people confined merely because of their political beliefs. In Brazil, no one is deprived of liberty simply for diverging from the democratic orientation defended by the Government." Those in prison, the statement continues, are "terrorists, detained while undergoing regular trial for crimes they committed assaulting de-

[1] National Catholic News Service Brazilian Bishops Support Torture Investigations, 3/12/70.

[2] Deadline Data, *op. cit.*, p. 77.

fenseless persons, holding up banks and individuals and kidnapping diplomats to negotiate their exchange for prisoners." [3] As proof that torture is not practiced, the statement points out that "following the exchange of the diplomats for the delinquents, none of the latter, who had been expressly indicated by the terrorists, were found to bear any signs of violence or torture whatsoever."

Despite the Brazilian government's denial, on May 27, 1970, the Brazilian Bishop's Conference issued the firmest official condemnation yet to emerge from the Catholic Church. While denouncing the "attacks, kidnappings, killings and other means of spreading terror," the Bishops' statement continued: [4]

"It would be an evasion of our duty . . . if we failed to voice our views regarding certain basic aspects of our present situation as they affect the human person.

"We mention first of all the administration of justice, which is indeed regulated and protected by our laws, but which we sincerely feel is frequently ignored. It is ignored in the case of trials conducted in an illegal and dangerous manner, of arrests based only on suspicion or baseless accusations, of investigations which drag on for months, of jailing men incommunicado, and of the total lack, in many instances, of the basic right of defense.

"Again it is a well known fact, in spite of all denials, that there exists among our own people, as well as among other peoples throughout the world, the firm conviction that there are repeated cases of torture in Brazil.

"It is beyond our competence to check legally the truth of the charges in such cases, which are publicized here and abroad, and which of course come to our attention. It is the duty of the government itself to make a serious investigation of this problem for the sake of Brazil's good name, so that it may do away with the shadow the charges cast on the nation in the eyes of the world, and so that it may bring peace to the Brazilian family. We are sure that should these accusations be found true, they would run counter to the official position of the government, which we feel is strong enough to put an end to torture and, in the name of the national conscience, firmly punish those guilty of it.

" It is certainly the obligation of the public authorities to promote and protect the common good and the social order. Outbursts of violence by persons seeking to subvert that order can never be approved or tolerated. It is necessary at the same time not to allow violence to be met by violence, for when this happens there is an escalation of domestic conflict, whose main victim is the people. The people are then caught in a web of insecurity, distrust and confusion."

The bishops' declaration goes on to credit the government for its "outstanding effort of development with tangible results, particularly in the financial and economic fields, in administration, transportation, electric power, communications and housing," then makes the following appeal to the regime to distinguish between democratic dissent and subversion:

"One of the basic tasks, which calls for a common effort by everyone in building this nation, is to contribute constructively to the social, civic and moral growth of our people, so that more and more Brazilians can participate maturely and practically in the country's political, economic and social life, thus giving to private initiative its proper role.

"Such an effort presupposes a constructive and truthful expression of opinion, including the opinion of whose who disagree with present official policies so that they can achieve the status of a serious opposition, as befits a nation which claims it has reached maturity.

"It is of capital importance for us to make a distinction between the kind of opposition that aims at undermining peace and social life through the systematic use of violence, and the kind of opposition that is based on differing viewpoints and principles. The latter is an indispensable factor of the criticism all human institutions need in order to strive for perfection.

"The first kind of opposition can be called supervision. But the second kind, precisely for reasons of the common good and the social order, must be given a free means of expression so that it can freely voice its positions and its reasons for them."

In this latter sense, the Church in Brazil acknowledges on the one hand the undeniable and worthwhile achievements of the government. But on the other hand it asserts with dignity and loyalty its right to dissent in regard to some policies of that same government.

We are fully aware that certain individuals and groups, whose intentions we are not bound to judge, have made choices that have thwarted the position of the Church. There are those who reject, implicitly or overtly, important and weighty documents issued with responsibility and serious intentions by the Church, such as the decrees of the Second Vatican Council or the directives of the second general assembly of the Latin American bishops at Bedellin.

In rejecting these documents dissenters seek to force the Church to retreat from positions of renewal and thus widen the gap between itself and the world in which it lives.

There are also those who radically seek to carry out the principles of these documents in an extreme way. They base their efforts on their own interpretation of the position of the Church and they too thwart its legitimate concern for human rights, for the social function of private property and for the need to revise labor-management relations. They try to make it appear that the church agrees with their own ideological positions, even with positions that are in obvious contrast to the basic inspiration and continuing orientation of the Church.

We utterly reject, firmly and clearly, the general accusation that the Church in Brazil is the bulwark of those who have an insensitive attitude toward the world's problems. We also reject the accusation that the Church is inciting people to subversion.

We want to give a word of encouragement to all those who by their sacrifices, in spite of misunderstanding inside or outside the Church, resist pressures from both of these extremes and sincerely try to serve God and country in accordance with the basic aspirations of the average Brazilian and the teachings of the Church.

Mr. KENNEDY. Mr. President, those denunciations came from the Roman Catholic hierarchy of Brazil, from other international religious associations, and from the International Commission of Jurists.

And on May 3, 1972, the Inter-American Commission on Human Rights of the Organization of American States decided:

The evidence collected in this case leads to the persuasive presumption that in Brazil serious cases of torture, abuse and maltreatment have occurred to persons of both sexes while they were deprived of their liberty.

The Commission made that finding on the basis of information presented to it and after the Government of Brazil had refused to permit the Commission to enter that country to make on-the-scene inquiries.

The Commission also requested the Government of Brazil, once it concluded an investigation into the matter, to—

Punish, to the full extent of the law, those persons that the evidence proves to have been responsible for violations of human rights.

The Commission recommendation was followed this month by a further statement in Brazil by Roman Catholic Bishops that torture continues within that nation.

Mr. President, it seems clear that despite its major economic advances, the current military regime in Brazil has permitted torture and official repression to constitute its answer to the political terrorism of those who oppose the regime.

And as the Washington Post stated in an article on this subject last year:

By invoking torture, a government reveals its doubts of its own competence . . . no outsider could render as scathing a judgment that, by resorting to torture, they have pronounced upon themselves.

It is within that context that the U.S. Senate must determine whether it should continue to militarily endorse the Government of Brazil and inevitably therefore, the repressive policies of that government.

Perhaps the clearest evidence of the link that inevitably occurs between U.S. military aid and the Brazilian Government's policies was disclosed during hearings held last year by the Subcommittee on Western Hemisphere Affairs.

The committee heard testimony that when Brazilian police entered the University of Brazilia to put down a disturbance, they carried gas masks with a U.S.A. insignia emblazoned on the side.

And since military personnel occupy the major posts of authority within the various Brazilian police forces, it is evident that little distinction can be made between police and military activities. If we support one, we are supporting the other.

And so I opposed continued police assistance to Brazil last year and I oppose the $16 million in military assistance within this bill.

As the amendment states, at such time as an international body such as the Inter-American Commission on Human Rights concludes that torture no longer is a part of political life in Brazil, then I believe this prohibition should be altered.

Therefore, Mr. President, I stand in strong support of the amendment now before the Senate.

DEPARTMENTS OF LABOR, HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS ACT, 1973

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the unfinished business will be laid aside and the Chair lays before the Senate H.R. 15417, the Labor-HEW Appropriation bill, which the clerk will state.

The assistant legislative clerk read as follows:

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[3] Brazilian Embassy, Washington. News From Brazil.

[4] U.S. Catholic Conference, Documentary Service. Brazil Bishops on Torture, June 12, 1970.

A bill (H.R. 15417) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

The ACTING PRESIDENT pro tempore. Debate on this measure is under a time limitation of 5 hours on the bill. Who yields time?

Mr. MAGNUSON. Mr. President, I make the usual unanimous-consent request that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be regarded as original text for the purpose of amendment, provided that no point of order shall be considered to have been waived by reason thereof.

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

The amendments agreed to en bloc are as follows:

On page 2, line 13, after the word "amended", insert a comma and "and sections 326 and 328 of the Trade Expansion Act of 1962 (19 U.S.C. 1951 and 1961)"; and, in line 16, after "1974", insert a colon and *"Provided,* That the amounts appropriated herein for title II, parts A and B of the Manpower Development and Training Act of 1962, as amended, for expenses of the Private Sector On-the-Job Training and the Special Targeting programs authorized under that title shall not be subject to the apportionment of benefits provisions of Section 301 of the Manpower Development and Training Act."

On page 6, line 6, after the word "rendered", strike out "$48,889,000" and insert "$49,889,000".

On page 7, line 18, after the word "Administration", strike out "$69,207,000" and insert "$80,000,000".

On page 7, after line 18, strike out:

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing 25 persons or less for compliance with the Occupational Safety and Health Act of 1970.

On page 8, at the beginning of line 6, strike out "$44,784,000" and insert "$45,240,000"; and, in the same line, after the word "which", strike out "$9,760,000" and insert "$10,216,000".

On page 8, line 14, after the word "and", strike out "$850,000" and insert "$890,000"; and, in line 15, after the word "Handicapped", strike out "$24,156,000" and insert "$24,196,000".

On page 8, line 23, after the word "law", strike out "$100,000" and insert "$309,000".

On page 9, line 23, after "1438", insert a comma and "and the Drug Abuse Office and Treatment Act of 1972 (Public Law 92–255)"; in line 24, after the amendment just above stated, strike out "$743,823,000" and insert "$851,525,000"; and, on page 10, line 1, after the word "which", strike out "$181,491,000" and insert "$75,000,000".

On page 10, line 18, after the word "Act", strike out "$462,073,000" and insert "$510,573,000".

On page 11, line 8, after the word "Act", strike out "$751,295,000" and insert "$843,297,000"; and, on page 12, line 3, after the word "appropriation", insert a colon and *"Provided further,* That funds contained herein for project grants under title V of the Social Security Act and $19,000,000 of funds under title X of the Public Health Service Act shall be available for obligation only upon enactment into law of authorizing legislation."

On page 12, line 14, after "1969", strike out "(except title IV)," and insert "as amended"; and, in line 20, after the word "aircraft", strike out "$159,872,000" and insert "$223,872,000: *Provided,* That funds contained herein in excess of current authorization for infectious diseases, for rodent control, and for lead-based paint poisoning projects shall be available only upon enactment into law of authorizing legislation".

On page 14, line 21, after "part B", insert "and title XI"; and, in line 22, after the word "Act", strike out "$300,000,000" and insert "$350,000,000".

On page 14, line 25, after the word "Act", strike out "$46,991,000" and insert "$54,000,000".

On page 15, line 5, after the word "diseases", strike out "$167,316,000" and insert "and digestive diseases, $182,000,000, of which not to exceed $320,000 shall be available for 20 additional positions".

On page 15, line 12, after the word "stroke", strike out "$130,672,000" and insert "$145,000,000".

On page 15, line 18, after the word "diseases", strike out "$113,414,000" and insert "$135,000,000".

On page 15, line 25, after the word "research", strike out "$183,171,000" and insert "$206,000,000".

On page 16, line 5, after the word "development", strike out "$130,429,000" and insert "$160,000,000".

On page 16, line 10, after the word "disorders", strike out "$38,562,000" and insert "$45,000,000".

On page 16, line 15, after the word "sciences", strike out "$30,956,000" and insert "$32,000,000".

On page 16, line 20, after the word "resources", strike out "$75,073,000" and insert "$83,000,000".

On page 16, line 24, after the word "Sciences", strike out "$4,666,000" and insert "$600,000,000"; and, in line 25, after the word "which", insert "not to exceed $80,000 shall be available for four additional positions and".

On page 17, line 9, after the word "Act", strike out "$738,628,000" and insert "$897,178,000"; in line 12, after "VIII", strike out "$100,000,000" and insert "$150,000,000"; in line 13, after the word "including", strike out "$20,000,000" and insert "$30,000,000"; at the beginning of line 15, insert "$2,000,000 shall be for grants for construction of facilities under part G of title VII"; in line 16, after the word "and", strike out "$20,000,000" and insert "$30,000,000"; and, in line 19, after "B", insert "and G".

On page 18, line 14, after the word "Act", strike out "$28,568,000" and insert "$29,068,000".

On page 18, line 20, after the word "provided", strike out "$8,500,000" and insert "$33,480,000".

On page 18, line 24, after the word "Health", strike out "$12,042,000" and insert "$13,042,000, of which $1,000,000 shall be advanced to the National Institutes of Health management fund for not to exceed 100 additional positions in the central-service activities financed through that fund".

On page 21, after line 9, strike out:

OFFICE OF EDUCATION

For carrying out, to the extent not otherwise provided, title I ($1,810,000,000), title III ($171,393,000), and title V, parts A and C ($53,000,000), of the Elementary and Secondary Education Act, $2,034,393,000. For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $671,405,000, of which $645,495,000, including $41,450,000 for amounts payable under section 6 and $10,000,000 for complying with section 303(1)(C) shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 30, 1950, as amended, and $25,910,000, which shall remain available until expended, shall be only for providing school facilities as authorized by section 5 and subsections 14(a) and 14(b) of said Act of September 23, 1950. For carrying out, to the extent not otherwise provided, the Education of the Handicapped Act, and section 5 of Public Law 85–905, $143,609,000. For carrying out, to the extent not otherwise provided, section 102(b) ($29,898,000), parts B and C ($444,682,000), D, F ($28,322,000), G ($19,500,000), H ($10,524,000), and I of the Vocational Education Act of 1963, as amended (20 U.S.C. 1241 1391), and the Adult Education Act of 1966 (20 U.S.C. ch. 30) ($75,000,000), $643,460,000, including $16,000,000 for exemplary programs under part D of said 1963 Act of which 50 per centum shall remain available until expended and 50 per centum shall remain available through June 30, 1974, and not to exceed $18,000,000 for research and training under part C of said 1963 Act. For carrying out, to the extent not otherwise provided, titles I ($62,000,000), II, and III ($7,530,000) of the Library Services and Construction Act (20 U.S.C. ch. 16); and title II ($100,000,000) of the Elementary and Secondary Education Act; $184,500,000, of which $15,000,000, to remain available through June 30, 1974, shall be for grants for public library construction under title II of the Library Services and Construction Act.

On page 22, after line 22, insert:

ELEMENTARY AND SECONDARY EDUCATION

For carrying out, to the extent not otherwise provided, title I ($1,634,000,000), title III ($171,393,000), and title V, parts A and C ($55,000,000), of the Elementary and Secondary Education Act, $1,860,393,000: *Provided,* That the aggregate amounts made available to each State under title I–A for grants to local education agencies within that State shall not be less than such amounts as were made available for that purpose for fiscal year 1972: *Provided further,* That the requirements of section 307(e) of Public Law 89–10 as amended shall be satisfied when the combined fiscal effort of the local education agency and the State for the preceding fiscal year was not less than such combined fiscal effort in the second preceding fiscal year.

On page 23, after line 11, insert:

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), and the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), $661,405,000, of which $615,495,000, including $41,450,000 for amounts payable under section 6 shall be for the maintenance and operation of schools as authorized by said title I of the Act of September 30, 1950, as amended, and $45,910,000, which shall remain available until expended, shall be only for providing school facilities as authorized by section 5 and subsections 14(a) and 14(b) of said Act of September 23, 1950: *Provided,* That none of the funds con-

tained herein shall be available to pay any local educational agency in excess of 73 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(b) of title I: *Provided further*, That none of the funds contained herein shall be available to pay any local educational agency in excess of 90 per centum of the amounts to which such agency would otherwise be entitled pursuant to section 3(a) of said title I if the number of children in average daily attendance in schools of that agency eligible under said section 3(a) is less than 25 per centum of the total number of children in such schools.

On page 24, after line 9, insert:

EDUCATION FOR THE HANDICAPPED

For carrying out, to the extent not otherwise provided, the Education of the Handicapped Act, and section 5 of Public Law 85–905, $181,859,000.

On page 24, after line 13, insert:

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided section 102(b) ($29,898,000), parts B and C ($454,682,000), D, F ($38,322,000), G ($29,500,000), H ($10,524,000), and I of the Vocational Education Act of 1963, as amended (20 U.S.C. 1241–1391), and the Adult Education Act of 1966 (20 U.S.C. ch. 30) ($75,000,000), $674,768,000, including $24,000,000 for exemplary programs under part D of said 1963 Act of which 50 per centum shall remain available until expended and 50 per centum shall remain available through June 30, 1974, and not to exceed $28,000,000 for research and training under part C of said 1963 Act: *Provided*, That grants to each State under the Adult Education Act shall not be less than grants made to such State agencies in fiscal year 1971: *Provided further*, That grants to each State under the Vocational Education Act shall not be less than grants made to such States in fiscal year 1972.

On page 25, after line 6, insert:

LIBRARY RESOURCES

For carrying out, to the extent not otherwise provided, titles I ($62,000,000), II, and III ($7,500,000) of the Library Services and Construction Act (20 U.S.C. ch. 16); title II ($100,000,000) of the Elementary and Secondary Education Act; title III–A ($75,000,000) of the National Defense Education Act of 1958; and title VI ($15,000,000) of the Higher Education Act; $274,500,000, of which $15,000,000, to remain available through June 30, 1974, shall be for grants for public library construction under title II of the Library Services and Construction Act: *Provided*, That the funds for the purposes of title III–A of the National Defense Education Act of 1958 and title VI of the Higher Education Act shall be available only upon the enactment into law of the Education Amendments of 1972.

On page 26, line 7, after the word "Act", strike out "$219,190,000" and insert "$259,240,000"; in line 8, after the word "which", strike out "$13,000,000" and insert "$25,000,000"; and, in line 10, after the word "expended", insert a colon and *"Provided*, That funds contained herein in excess of current authorization shall be available only upon enactment into law of authorizing legislation".

On page 26, line 18, after the word "law", strike out "$3,000,000" and insert "$5,000,000".

On page 27, line 2, after the word "expenses", strike out "$68,360,000" and insert "$69,360,000".

On page 28, line 22, after the word "year", insert a colon and *"Provided*, That none of the funds contained herein shall be used for making payments to States for services under titles I, IV (Part A), X, XIV, and XVI of the Social Security Act that in the aggregate exceed $2,500,000,000".

On page 29, after line 2, insert:

GRANTS FOR CONSTRUCTION AND STAFFING OF REHABILITATION FACILITIES

For carrying out, to the extent not otherwise provided, section 12 of the Vocational Rehabilitation Act, $20,000,000, to remain available until June 30, 1975: *Provided*, That these funds shall be available only upon enactment into law of authorizing legislation.

On page 29, after line 9, insert:

GRANTS FOR THE DEVELOPMENTALLY DISABLED

For carrying out, except as otherwise provided, section 301 and 303 of the Public Health Service Act, parts B, C, and D of the Developmental Disabilities Services and Facilities Construction Act and the Vocational Rehabilitation Act contingent upon enactment into law of authorizing legislation $67,825,000, of which $30,000,000 shall be for grants under part C of the Developmental Disabilities Services and Facilities Construction Act, to remain available until June 30, 1975: *Provided*, That grants made from these funds after June 30, 1973, will be for construction only as specified in section 132(a)(3) of such Act; $14,250,000 for grants under part B of the Developmental Disabilities Services and Facilities Construction Act, to remain available until expended: *Provided further*, That there may be transferred to this appropriation from the appropriation "Mental Health" an amount not to exceed the sum of the allotment adjustment, made by the Secretary pursuant to section 202(c) of the Community Mental Health Centers Act.

On page 34, line 16, after "(68 Stat. 265)", strike out "$14,446,000" and insert "$15,082,000".

On page 37, line 10, after the word "College", insert "shall be awarded to these institutions in the form of lumpsum grants and expenditures made therefrom".

At the top of page 40, insert a new section, as follows:

SEC. 210. The Secretary of Health, Education, and Welfare may transfer up to 5 per centum of the amount of any appropriation made to the Department of Health, Education, and Welfare in this Act to any other such appropriation, but no appropriation may thereby be increased by more than 10 per centum: *Provided*, That this section shall not apply to appropriations for salaries and expenses of the Social Security Administration, for payments to the Social Security trust funds, or for mandatory expenditures.

On page 40, line 18, after the word "Americans", strike out "$1,260,000" and insert "$1,000,000".

On page 42, line 1, after "(Public Law 92–13)", strike out "$1,440,000" and insert "$1,140,000".

On page 43, line 21, after the word "fund", strike out "$11,596,000" and insert "$12,591,000".

On page 44, line 6, after the word "fund", strike out "$244,000" and insert "$2,114,000".

On page 44, after line 7, insert:

PAYMENT TO THE CORPORATION FOR PUBLIC BROADCASTING

To enable the Department of Health, Education, and Welfare to make payment to the Corporation for Public Broadcasting, as authorized by section 396(k)(2) of the Communications Act of 1934, as amended, for expenses of the Corporation, $65,000,000, to remain available until expended: *Provided*, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

PRIVILEGE OF THE FLOOR

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senator from New Hampshire (Mr. COTTON) and I be permitted to have our staff members present during the consideration of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Who yields time?

Mr. MAGNUSON. Mr. President, the bill now before the Senate covers the majority of the programs for the Departments of Labor, and Health, Education, and Welfare and the related agencies.

The committee has not considered all Labor-HEW programs in this bill. Several large appropriations such as higher education, social and rehabilitation services, and the Office of Economic Opportunity were not considered by the House because of the lack of authorizing legislation.

The committee has followed the House in this regard because we think the proper course is to get the authorizing legislation enacted, allow the appropriate agencies an opportunity to submit budget requests based upon such legislation, examine an amended budget request in some detail, hold our hearings, and then consider these items in an early supplemental.

ADMINISTRATION'S BUDGET

For the last several years, the committee has expressed its concern about the downgrading of health and education as reflected by the administration's budget request. This trend became apparent as early as 1970. That year the administration sent to the Congress a budget which included less money than the previous year for the programs administered by the Health Service and Mental Health Administration, the National Institutes of Health, and the Office of Education.

In a time of inflation this request can only be interpreted as an administration recommendation that Congress cooperate in taking what I consider a step backward in programs relating to better health and education of our citizens, or that we balance the budget at the sacrifice of health and education programs.

It appears that Congress has not and will not continue to accept those recommendations. When the administration submitted the 1971 health and education budgets and recommended cuts, the Senate disagreed and provided an increase of $500 million for health and $80 million for education. Seventy percent of those increases were included in the final House-Senate compromise bill that was enacted into law—which we think will provide better health and expanded educational programs for the American people.

This year the adminstration not only continues to follow that same distressing trend but also has accelerated its

demands for decreases in vital health and education programs.

For fiscal year 1973 the administration has actually recommended to Congress that we provide $300 million less than last year for health and education programs.

Within that total decrease recommended by the administration our committee was distressed to see that even in those programs that are assigned the highest priority by the administration, the budget requested inadequate amounts. For example, the administration has been talking of late about a new initiative in cancer research—yet the administration's budget request was only 15 percent higher than last year's level of expenditures. By comparison, in 1971, before all the talk—and that included us, too—of a "cancer initiative," Congress provided a 20-percent increase for cancer research. Consequently, both the House and the Senate Appropriations Committees agreed this year that the National Cancer Institute could effectively use an additional $60 million in its war against this dread disease over and above the budget request and the additional amount has been included in the bill.

The inadequacy of the cancer research budget is no exception. The budget sent to the Congress included cuts of over $400 million in the area of construction for medical schools, hospitals, and other health service and training facilities.

Almost $200 million was cut in educational aid to local school districts. Cuts were also made in training of psychiatrists and other mental health workers; in neighborhood health centers that provide health and dental services to the poor; in the National Health Service Corps program which helps to bring physicians to areas where there are none; and in programs that provide educational equipment to the Nation's schools, colleges, and libraries.

In each case, the administration's rationale appears to the committee to be no more than an excuse for spending less funds on necessary domestic programs in this field.

CONGRESSIONAL LEADERSHIP

Health problems and the problems of ignorance still beset the American people, and this must be recognized as a serious threat to our society.

It is the committee's belief that Congress must once again assert its leadership in the fields of health and education.

The House, in its action on this budget, recognized this principle and added approximately $1.2 billion over the budget request to take care of some of the most glaring deficiencies.

The House bill, when compared with the budget request or last years' level of funding, may on the surface appear to contain a large increase in funds. But this is more apparent than real.

What the House has really done in its bill, in large measure, is merely to restore cuts made by the administration, to include the necessary mandatory Federal matching funds, and to provide a slight cost-of-living increase for some of the other programs—but not for all programs.

SENATE COMMITTEE ACTION

It is against this background that the Senate committee has recommended amounts to restore the budget to last year's operating levels and to recommend modest increases in the areas of highest priority to the Nation's health and education.

The committee recognizes that increased funding alone is not the sole answer to providing adequate levels of health care for all people. But the committee is equally persuaded that this budget, which, with a few exceptions, shows a year-to-year decline in real dollars and levels of effort, fails to deal effectively with the magnitude of the problem.

Before making its recommendations on this bill, the committee carefully considered more than 100 line items which make up this appropriation, and reviewed all of the individual programs and activities within these line items.

The committee heard testimony from hundreds of witnesses over a period of 3 months, including those from the executive departments and agencies, many interested Members of Congress, State and local officials, and concerned citizens.

The committee has recommended approximately $29.5 billion, which is approximately $860 million over the House-passed bill, $2 billion over the budget estimates, and $2.3 billion over last year's appropriations.

Although that is a very significant sum, it should not be termed "inflationary." It should be carefully noted that only about one-third of the Senate increase over the budget estimates would actually be expended in fiscal year 1973, with the remaining two-thirds being expended in subsequent years.

This is not extraordinary, but rather reflects the necessary time lag between appropriations and expenditures. The point to be made here is that the expenditure increases over the budget request—not the appropriation figures—are the amounts that affect the anticipated fiscal year 1973 budget deficit which has been brought on by continued problems and constant unemployment in the economy.

Furthermore, the administration has recently announced that it has revised downward the January budget estimate for expenditures for certain programs at the Departments of Labor, Health, Education, and Welfare by $230 million.

Thus, the bill before us will increase the January budget expenditures by about $500 million for these programs. When compared to a trillion dollar economy and a plus $250 billion Federal budget, $500 million hardly seems too high a price to pay or too large an investment to make, in the health and well-being of the American people.

Certainly a nation as wealthy as ours—with a trillion dollar gross national product—can afford the increase in this bill. In fact—and this is a pertinent example—our ranking as 13th in the key indicator of health—infant mortality rates—strongly suggests that we are not investing enough in health.

It is the belief of this committee that the citizens of the United States, with its great abundance, should have the best health care and the lowest infant death rate. Being 13th in the world is not something to be proud of.

This committee shares that expectation and has recommended a bill that will take us one step closer to that goal.

KEY ITEMS IN THE BILL

Mr. President, let me touch briefly on the key increases recommended in the Senate bill over the level recommended by the House—which also was over the level recommended by the budget.

Occupational safety and health is a comparatively new activity passed by the Senate and House in the last session of Congress. It is a program designed to assist—although some amendments were passed in this session already—employers to provide better health and safety conditions for their employees. The committee added $10 million over the budget and the House, in order to allow the Department of Labor to make a maximum effort to extend occupational health and safety standards to all our workers.

The committee expects the Department to give special help to small businesses and unorganized employees as they cope with new developments in this field.

Mental health—this program deals with the prevention and the treatment of those of our citizens suffering from mental illness and, particular emphasis is placed on the mental health of children.

The Senate bill, in addition to restoring the budget cuts, focuses increased efforts on the prevention and treatment of narcotic addiction, drug abuse, and alcoholism.

The extent of alcoholism and drug abuse in our society is growing—not shrinking—and the costs to our society too great for any to ignore—and the committee believes that the maximum amount of funds should be made available for research and treatment of these two disease problems—I underline the word "disease"—which already affect the lives—directly or indirectly—of over 35 million Americans.

The committee has also included funds to accelerate the establishment of more community mental health centers.

This community-based approach is a more effective, humane, and less costly method of treatment for many citizens with mental disorders—and stands in stark contrast to the infamous approach that was so prevalent in State mental institutions only a few decades ago.

The advent of the community-based approach to the treatment of mental illness has been accompanied by a steady decline in the total number of residents in State mental hospitals.

However, as I mentioned just briefly before, in recent years the number of children in these institutions has been rising.

In response to this, the committee has included additional funds for the mental

health of children—a program initiated only last year.

Regional medical programs—the committee believes that these programs are the most successful Federal effort to get the results of medical research and other innovations in medical care out to the people suffering from heart disease, cancer, stroke, and related diseases.

Nevertheless, the administration, for some unaccountable reason, continually holds up on funding of regional medical programs or freezes the funds once they are appropriated by the Congress.

This year, the committee has recommended additional funds to mount a new and major 5-year program for the prevention, public education, and ultimately the treatment of all treatable patients with end-stage kidney failure.

This is a program that has given serious concern to the committee. The distinguished Senator from New Hampshire has been a leader in this field. We feel that anyone who has a treatable kidney disease, and is in need of kidney machines, or transplants, should be able to avail themselves of this opportunity.

We have come a long way since only a few years ago, when we had to draw names out of a fishbowl to see who was going to live and who was going to die in relation to the use of a kidney machine. Thus, the committee has recommended this new and major 5-year program.

I might say that research into kidney transplants has come a long way. There is a great deal of hope for this phase of treatment for kidney diseases.

The committee has also provided a major increase for the construction of a regional children's health center and for the funding of several children's pulmonary or lung disease centers around the country.

It was amazing for the Senator from New Jersey, the Senator from New Hampshire, and the rest of us on the committee to find how many asthmatic children there are in the United States who can be treated. They run to double or almost triple the numbers we had believed to be involved. Thus, we hope that the Senate will approve this increase.

The majority of the increase is provided to set up heart disease, cancer, and stroke control programs to be operated in tandem with the research institutes at the National Institutes of Health.

Hill-Burton hospital construction—this program, which by law provides grants to construct hospitals and related facilities, was again cut by the budget request. In several categories the request was zero.

I am sure that the present occupant of the chair, the distinguished Senator from Alabama (Mr. ALLEN), and the former Senator from Alabama, Lister Hill, would deplore this, because it has been a long-time successful program; but, for some reason, we ran into a conflict with the administration. The budget request was zero and we put some funds in for this particular program.

If some people do not like the Hill-Burton program, then their approach is to repeal the law. We have not seen any suggested legislation yet to that effect.

At a time when hospital costs are skyrocketing, Federal assistance for the construction of these facilities is needed more than ever by the financially hard-pressed hospitals. These, of course, are nonprofit institutions. We must keep moving. Therefore, the committee has agreed with the House—which upped these amounts—and restored the cuts.

Health services delivery—I think that all of us have come to the conclusion—and I want to put this into my statement here as strongly as I can urge it—that medical research in this country is the finest in the world. If there is any problem in health in this country, it is in the delivery of health services to our people. That is the crisis we must solve.

The committee has included substantial increases in those health delivery programs with special emphasis on the elderly, and mothers, and newborn infants. So that we can look proudly to the fact that we want to be first in the world with the lowest infant mortality rate.

One of the reasons why this Nation's infant mortality rate is so high when compared with other highly developed nations is the lack of care for mothers and infants who are from medically underserved areas.

And, of course, the maladjustment geographically of health delivery personnel is one of the problems we attempted to take a look at in the Appropriations Committee.

The committee has included substantial increases to initiate 25 new centers which will provide intensive care for newborn infants, we hope, in the places where they are most needed.

The increases will also provide dental and health care to over 100,000 children and mothers and care for 75,000—and it should be more—crippled children, all who would not otherwise receive such care.

The committee has also included funds to support additional neighborhood health centers which will provide health care—according to the best figures we can get—to an additional 250,000 to 350,000 persons, especially the elderly, in medically underserved areas.

The National Health Service Corps is another program cut by the administration, a program which the Senator from Washington and the Senator from New Hampshire were particularly interested in because we coauthored the bill to establish this. However, this program was cut.

This program would send doctors into areas that do not presently have doctors and would give these people a chance to do some of the things in the Health Service Corps that they want to do in the way of public service. The committee has placed a great deal of emphasis, and has also done so in the report, on rural areas where there are no doctors, and has placed emphasis on care for the elderly and people in the ghettoes and urban areas.

The Senate increase will provide for an additional 550 doctors and nurses to be placed in about 140 small and isolated communities which are not now served by a physician.

Additional funds have also been included to cover hospitalization costs for migratory agricultural workers who are excluded from medicaid coverage in some States. I call to the attention of the Senate the fact that the Senator from New Jersey, along with all of us on the committee, has pressed this program because thousands of migratory workers do not come under medicaid. The Senator from New Jersey pointed that out to us very vividly.

Communicable diseases—the Senate has added $8 million for control of TB—which is of interest to the Senator from Alabama—which will extend and expand 18 TB grants which expire this month if we do not do anything and start up 21 additional TB control projects in areas of acute need.

An additional $6 million increase is included in the bill to immunize an additional one million children against rubella, measles, and polio. Rubela is a serious problem. Looking down the road, according to all of the experts, we want to have enough in the bill to immunize these additional one million children.

The committee has included another $6 million over the budget to step up the fight against venereal disease—which is rising in this country—including the testing of 500,000 additional women for gonorrhea.

Additional funds will be used to initiate a communicable disease health education program aimed at various populations of high risk—for example, mothers of infants in need of immunization.

An additional $4 million, for a total of $16 million, is included to fund projects for the prevention of lead-based paint poisoning in children in 55 cities. The problem of lead-paint poisoning is a preventable health problem. It is the intent of the committee to provide or help to provide the resources which—when added to State, local, and private efforts—will eliminate this health problem from our society.

I personally call upon these cities to initiate stricter enforcement of the building code laws which need not cost any money but would help to prevent this problem.

The committee has included an additional $35 million for the National Institute of Occupational Safety and Health.

Twenty million dollars will be used for the establishment and upgrading of 60 facilities for the examination and treatment of pulmonary impairments and for research in the detection and treatment of "black-lung" diseases.

The committee has included $15 million for early detection of asbestos related diseases and for the research and training involved in the establishment of additional occupational safety and health standards. There is other money in the bill to allow the Department of Labor to hire a number of additional inspectors in this field, and improve the levels of training for such personnel.

NIH RESEARCH INSTITUTES

The research institutes at NIH represent the best hope for the prevention of disease and better health for all the American people. Nevertheless, the training of the vitally needed manpower required to conduct biomedical research has been systematically reduced by the administration budget since 1969.

I want to say in all fairness that most budgets in recent years have done the same thing. And it has been up to Congress to increase these amounts.

Consequently the committee has called a halt to this erosion of vitally needed health manpower and included in the bill sufficient funds—not all we might like, but we are working within other factors in this field—to restore the NIH training programs to the level of effort this Nation enjoyed in 1969—before these systematic budget cuts began.

Diseases of the heart, lung, and blood account for more than one-half of all deaths in the United States each year. Consequently, the committee has included a $50 million increase over the House allowance—and the House was over the budget—for the budget of the Heart and Lung Institute.

The committee seriously questions the wisdom of the administration in presenting a budget that contains not even an increase sufficient to keep up with the increased cost of conducting research on such debilitating diseases as arthritis, cystic fibrosis, diabetes, kidney disease, and malnutrition.

In fact, the budget as presented included virtually no increase at all in the area of stroke, epilepsy, Parkinsonism, spinal cord injury, multiple sclerosis, cerebral palsy, sudden infant death, and certain other diseases—which in view of the inflation in the economy is really a step backward from what was done last year. And I think we have taken care of this to the best of our ability in the pending bill.

Faced with the inadequacies of the budget, the underfunding of crucial health research programs which pay enormous dividends and benefit all Americans, the committee has included $127 million to restore the level of effort of these programs to last year's level, and in some cases provided increases that in the long run should save the American people billions of dollars—and prevent untold human suffering and agony.

Two examples of the type of activities that will be funded with the increased funds relate to centers for epilepsy and research on blindness related to diabetes and vascular disorders of the eye.

The committee has been impressed by the recommendations of the House that part of the proposed increase in the budget for the National Institute of Neurological Diseases and Stroke would be devoted to centers for epilepsy. Considering the number of persons afflicted with this disease it would certainly be in their best interest for NIH to set up such centers with a view towards integrating the medical, social, and employment problems so as to allow these individuals to be useful members of society. It is the committee's understanding that $3 million would be required to carry this project forward in an orderly and efficient manner. The committee has included the funds in the budget of the National Institute of Neurological Diseases and Stroke so that the NINDS can give immediate attention to the funding of such centers.

Vascular diseases of the eye, of which diabetes-related blindness is one of the most prevalent, are the leading causes of new adult blindness in the United States.

In order to allow the National Eye Institute to develop a combined and integrated approach to the solution of these closely related diseases, the committee has included an additional $4 million for an accelerated research program.

The committee also provided increases in such areas as sickle cell anemia, sudden infant death, population research, child health, aging, tooth decay, arthritis, cystic fibrosis, malnutrition, stroke, Parkinsonism, spinal cord injury, multiple sclerosis, cerebral palsy, hepatitis, allergic disease, and mental retardation.

NIH EDUCATION OF MEDICAL PERSONNEL

The President signed into law the new health manpower legislation last November. At that time he said:

These new programs must now be adequately funded.

Apparently, the accountants at the Budget did not get the word because the 1973 budget request for the health manpower programs is $533 million—$140 million less than last year's level.

The committee has restored the budget cuts in this appropriation and recommended increases in "capitation" grants in medical, nursing, and related schools.

In addition, the committee has recommended increases in the scholarship programs in order to allow those bright students from poor families an opportunity to go to medical and nursing schools.

Both the House and Senate committees agreed upon a 200-percent increase for the training of doctors who will specialize in the family practice of medicine.

OFFICE OF EDUCATION

Elementary and secondary education, title I, is designed to provide compensatory education and help disadvantaged children learn at a rate that is at the national norm or better.

The committee has proposed appropriation language and an additional $36.5 million over the budget estimate to assure that no State receives any less in 1973 than it did in 1972.

Without this language, it would take almost $400 million in additional funds to assure that no State would receive less under the allocation formula for title I.

Now, we come to a controversial section of the bill, impacted area aid—a program the budget has consistently tried to cut.

Impacted area aid—This program provides financial assistance to local school districts in which enrollments are affected by Federal activities. The committee recommendation includes appropriation language which will provide the same percentage of entitlements as used in the 1972 appropriation bill. The committee also added $20 million for construction of schools in local districts eligible under these public laws.

Education of the handicapped—This State grant program is designed to assist in the initiation and expansion of programs for the education of handicapped children at the preschool through high school levels.

The committee added $30 million which will allow an additional 150,000 school aged handicapped children to receive special educational attention.

Vocational and adult education—Funds added by the committee would expand programs that combine formal education with on-the-job work experience, programs that develop model vocational educational programs, and grants to States for vocational educational research.

Public libraries—The committee restored the budget cuts and provided a modest increase for programs relating to the educational/instructional equipment for elementary and secondary schools and colleges.

Educational renewal—The committee provided increases in bilingual education programs which are designed to operate pilot projects in schools where children have only limited English-speaking abilities.

Other increases provided by the committee relate to the construction of educational television facilities and the "right to read" program which is designed to end illiteracy in Americans by 1980.

WELFARE PROGRAMS AND COSTS

Limitation on welfare administrative costs—In the past, this committee has been unsuccessful in its attempts to close the open end on welfare administrative costs—I underline welfare administrative costs, not the direct payments to people entitled to them—by setting a limitation on the year-to-year increase that any State might receive.

This year, the committee has proposed a new approach for the Senate to consider.

We tried a percentage approach two or three times and the Senate did not accept it. This year the committee included in the bill a dollar limitation of $2.5 billion for grants to States for welfare administrative costs. Again, I underline the words "administrative costs."

States currently estimate that they will need $2.1 billion for this purpose in fiscal year 1973.

This has gone up considerably. The States submit their estimates and under the way the law is now we have little chance to control them. These costs are skyrocketing and the committee wants some limitation on these administrative costs. I think this is a good thing because then the Congress will have a good chance of getting payments down to the people we are all trying to help.

The committee's proposed limitation for fiscal year 1973 of $2.5 billion is over $350 million higher than the amount requested by the States for fiscal year 1973. They should be able to live within this figure.

In other words, every State will receive at least the amount they have esti-

mated as required—and in most cases this requirement includes a significant increase in Federal funds for each State. Our reason for establishing a ceiling that is significantly higher than the amounts the States estimate they need, is to take into consideration the possibility that some States may have submitted—and this is true—faulty estimates or have underestimated their genuine requirements. But I must say in some cases they have overestimated. On the other hand, this committee believes that it is its responsibility to prevent the continuing uncontrolled and open-ended Federal liability for this program until the Congress has been convinced that these funds are being spent prudently and effectively.

Social and rehabilitation services—This is a large item in the bill. The principal item of increase proposed by the committee relates to grants for the developmentally disabled.

In this area, the committee included substantial increases for State grants and grants to university affiliated facilities, and restored the cut in service projects.

TRANSFER AUTHORITY

Section 210—The committee has also included a language item that was proposed by the administration which would allow the Secretary of Health, Education, and Welfare limited authority to move funds around to meet unanticipated budget requirements.

I think that is wise.

The authority to shift the funds would be contingent upon approval by the House and Senate appropriations committees. This seems like a reasonable request and the committee has included the proposal this year on a trial basis.

Mr. President, the committee believes wholeheartedly in these recommendations. They are sound recommendations, and they are reasonable. We can defend them in conference. We think we can legitimately request that the President sign the bill.

Therefore, the committee is hopeful that additional amendments will not be loaded upon this bill, making this bill seem unreasonable in size—difficult to get through conference and difficult to acquire a presidential signature.

Mr. President, all of these programs are important to our Nation, to every citizen, and to every family in America.

They are important to the well-being of our society.

They assist those who are often unable to assist themselves, especially the young and the aged.

They will help to build much needed medical facilities.

They will help reduce unemployment.

They will help to train countless men and women who are not available today to help deliver adequate health care to our people.

They will help to bring about much needed improvements in the health care delivery systems of our Nation.

They will help to solve some of the mysteries of diseases and sicknesses that plague all mankind.

In response to encouragement by the chairman of the full committee, and other members of the Appropriations Committee who are not on the subcommittee.

We have brought this bill to the floor at a much earlier date than has been the experience in the recent past. We are anxious to move forward to a conference and get the bill to the President for his signature at an early date.

This is particularly true of the education part of the bill, because many of the education officials in this country must start thinking about their next year's budget at this time and know what they are going to get in this bill.

The funds included in this bill, together with State and local matching contributions can enable this Nation to take a strong stride toward a better America.

This is a good bill, and I sincerely hope my colleagues will support its passage.

Mr. President, the hundreds of individual programs within this bill affect every household, every family in our Nation. It would be almost impossible for me to detail every one of these in the fields of health and education, but a number of these programs and the recommendations the Senate is about to approve should be explained more fully and compared with the House allowance and budget request.

All of the recommended increases before the Senate today are in the health and education fields. Of these increases over the budget submitted to the Congress in January, some $1,337,558,000 are in the health field. Almost all of that large amount is in the Department of Health, Education, and Welfare.

Under the Department of Labor, our committee is recommending an additional $10,793,000 for the Occupational Safety and Health Administration and related programs with a direct bearing upon the health of our Nation's workers. These are relatively new programs and the committee has directed the bulk of the increase for personnel. The committee has also directed the Department of Labor to improve the training of enforcement personnel and curb the overly zealous enforcement officers from dealing with employers in an unreasonable and unfair manner.

During our committee hearings, we received a number of complaints from small businesses concerning their inability to cope with new standards and other developments in the occupational safety and health field. The committee has directed the Department to assist in every way possible so as to minimize these valid complaints.

Within the Department of Health, Education, and Welfare, increases over the budget total over $1,326 million and directly involve health services, the training of personnel to deliver health services, the construction of health facilities, and programs of research into the diseases that afflict men, women, and children throughout our Nation and the world. With the indulgence of the Senate, I will highlight those increases.

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

The total of $2.5 billion for the Health Services and Mental Health Administration represents an increase of 94 percent over 1970 levels of funding. We have recommended program increases of $575,840,000 in specific areas of mental health, training of psychiatrists, staffing of community mental health centers and their construction or remodeling, narcotic addiction and drug abuse control, alcoholism prevention and control, venereal and other communicable disease control, occupational health and community environmental management, comprehensive health centers, hospital construction under Hill-Burton, the regional medical programs, migrant health program grants, the National Health Service Corps, maternal and child health, and the prevention of lead-based paint poisoning.

MENTAL HEALTH

The total of $851,520,000 is $237,702,000 over the budget request and $107,702,000 above the House allowance. This total for 1973 is an increase of 136 percent over funding levels in fiscal 1970. Major increases in mental health programs before the Senate include:

RESEARCH GRANTS

An increase of $6 million primarily for research programs into the nature of alcoholism and its causes, and other priority areas such as mental health of children, narcotic addiction and drug abuse, minority mental health problems, and crime and delinquency.

PSYCHIATRIC TRAINING

An increase over the budget of $27 million will restore a planned curtailment of special psychiatric residency training programs, undergraduate training in this field, and restore these training grant programs to the 1969 levels of support. Our committee will expect emphasis in these programs to be placed on new and emerging priorities, such as the mental health of children.

COMMUNITY MENTAL HEALTH CENTERS

The increase for these community based programs provides $50 million more for staffing and personnel, and $20 million for construction and remodeling of such facilities. This will allow for expansion of existing centers and establishment of new centers so that a total of 562 mental health centers will be operational by the end of 1973. This represents an increase of one-third over the number of these community resources that are meeting the needs of so many of our citizens near their homes and families.

NARCOTIC ADDICTION AND DRUG ABUSE

An increase of $28,702,000 allocates $20 million to initiate a program of State grants in this important field, with the balance added to special project grants which support the on-going narcotic addiction community assistance programs. There are at least 515,000 narcotic addicts and an additional 400,000 abusers of nonnarcotic drugs in our Nation today. The special project grant programs have been helping to meet the problems presented by these statistics, but the States must be assisted so that they can develop plans for the coordination and establishment of prevention and rehabilitation programs tailored to their special needs.

ALCOHOLISM PREVENTION AND CONTROL

Our committee's recommendations would more than double the current pro-

gram support in this field, and we provide increases of $45 million in grants to States and $35 million for special project grants. There are more than 9 million alcoholics in the United States today, and with their families, some 35 million of our fellow citizens are adversely affected by this problem. We were encouraged that in many States the responsibility for the treatment of alcoholism has been transferred from criminal justice to health-care systems and the total of $75 million for grants to States contrasts with only $30 million available in fiscal 1972. Because we feel the long-range success of the alcoholism program is dependent to a significant degree upon prevention programs, we added special funds for these purposes. Project grants are targeted for local communities that have established successful programs to treat and control alcoholism.

MENTAL HEALTH OF CHILDREN

The Senate provided the initial funding of $10 million for this special program last year and although the Budget for 1973 approved our action, no increase was requested. While there has been a steady decline in the total number of residents in the Nation's State mental hospitals, we find it disturbing to see that in recent years the child resident population has increased in these hospitals. With this trend in mind, we have recommended the Senate approve an increase of $20 million for special programs dealing with the mental health of children.

HEALTH SERVICES PLANNING AND DEVELOPMENT

The total of $510,573,000 consists of an increase over the Budget of $180,386,000 and only $42,717,000 more than provided in fiscal 1972. In essence, this provides a maintenance of effort in most areas with a modest increase provided for the regional medical programs.

HEALTH SERVICES RESEARCH AND DEVELOPMENT

Our recommended increase of $2 million will assist the National Center for Health Service Research and Development to focus on national priority problems in health services such as rising costs of medical care, unequal distribution and utilization of health services, inadequate methods for health services planning and decisionmaking at local and national levels, and shortages of professional personnel.

REGIONAL MEDICAL PROGRAMS

There are 56 separate and distinct RMP programs that cover the United States and that have brought together the public and private providers of health care to develop highly successful programs that address the specific needs of the regions involved. The addition of $54,186,000 recommended by our committee will allow a 50-percent increase in RMP activities. We have specifically directed that greater attention be given to control activities for heart, cancer, stroke, kidney, and chronic pulmonary diseases; the development of more emergency medical systems, like mobile acute coronary care units; and the establishment of pediatric pulmonary care centers.

MEDICAL FACILITIES CONSTRUCTION

Once again the budget requests would have greatly curtailed the highly successful Hill-Burton hospital construction program. The addition recommended by our committee of $112,200,000 will restore the grant programs to their 1972 level for the modernization and construction of long-term care facilities, hospitals, and public health centers. Our committee has recommended a special grant of $12 million to complete an experimental hospital now under construction at the Children's Hospital Medical Center in the District of Columbia.

HEALTH SERVICES DELIVERY

The total recommended of $843,297,000 will provide an increase over 1972 of $176,291,000 of which $92,002,000 are additional funds our committee has recommended over the budget request. These increases recommended to the Senate are in the following programs:

COMPREHENSIVE HEALTH SERVICES

The $54 million increase would be distributed with $30 million for additional support of Neighborhood Health Centers, $20 million in formula grants to States for health services, and $4 million for the special program of health services for migrant workers. Approximately 850,000 people who would not otherwise receive health care were served through the Neighborhood Health Centers and these highly successful operations must not only be adequately supported, but expanded to reach additional citizens with unmet health care needs. Increased grants to the States will allow public health programs at the State and local levels to expand.

MATERNAL AND CHILD HEALTH

The additional $27 million recommended above the budget is divided between project grants and grants to States. The new total in State formula grants assures that approximately 440,000 women will receive prenatal and postpartum care in maternity clinics and 1,600,000 children will attend well-baby clinics in 1973. With an increase of $10 million recommended for the crippled children's program, a total of over 575,000 children will receive early detection and treatment of crippling conditions, and over 90,000 children will obtain hospital care.

The $12 million increase in special project grants will make it possible for over 570,000 children of low-income families to receive comprehensive care that will meet their medical, dental, physical, and emotional health needs.

These neighborhood health centers have dramatically demonstrated that child health services which emphasize prevention are effective, as the number of children requiring hospitalization has decreased by 50 percent since this program began in 1964. These programs also serve elderly citizens and with the increase recommended by the committee, an additional 250,000 to 350,000 citizens in medically underserved areas will benefit from this program—a program that is truly an investment that will reduce more costly expenditures of public funds.

NATIONAL HEALTH SERVICE CORPS

Although just initiated last year this highly popular program helps to provide the delivery of health care to smaller, and often rural, communities with an average population around 8,500. A total of $20 million for this program includes an increase of $11,002,000 which will provide for an additional 550 health service personnel, physicians, and nurses, to help meet critical health manpower shortages in areas across the Nation.

PREVENTIVE HEALTH SERVICES

A total of $213,872,000 will allow program increases in this area of some $68,768,000 over 1972, of which $66,500,000 are increases over the budget requests. These increases are all in the areas of disease control, occupational health, and community environmental management.

DISEASE CONTROL

Infectious diseases, such as rubella, measles, polio, syphilis, and gonorrhea have been on the increase and our committee has recommended an additional $25 million for special projects at the community level which will help prevent these diseases. Of that increase, $5 million will initiate a comprehensive communicable disease health education program designed to make the general population active participants in the prevention of communicable diseases on both an individual and community basis.

COMMUNITY ENVIRONMENTAL MANAGEMENT

The additional $6.5 million above the budget requests will assist States and local communities in applying a systematic management approach for identifying environmental health hazards, setting priorities, developing and implementing plans for the solution of health problems, motivating and securing the support of community residents and coordinating community services, and the programs of other Federal agencies for effective local action.

OCCUPATIONAL HEALTH

Our committee has recommended a $35 million increase that will more than double the support for these activities in 1973. The bulk of this increase is slated for the construction, purchase, and operation of fixed-site and mobile clinical facilities for; the analysis, examination, and treatment of respiratory and pulmonary impairment in active and inactive coal miners and to accelerate the research on pneumoconiosis and other respiratory diseases authorized by the Coal Mine Health and Safety Act of 1969. The committee provided $11 million for the acceleration of the present rate of occupational standards setting and $3 million to restore a budget cut in training programs and to provide a very modest increase for these special health manpower programs.

NATIONAL INSTITUTES OF HEALTH

The total for all activities administered by the National Institutes of Health would be $2,902,120,000 under the recommendations of our committee that are now before the Senate. Contrasted with 1972, this would provide an increase of $683.7 million. The budget requests were a reduction from 1972 support levels, and we have recommended an increase of $709,565,000 above that budget request.

The NIH is the cutting edge of Federal support for biomedical research and approximately half of the increase recommended by the committee is for the support of the research institutes and their programs. A total of just under $1.9 billion would be available to the research

institutes of NIH during 1973 which represents an increase over 1969 of about 85 percent, or almost $800 million, which does not take into account the high costs of inflation in such activities.

Specific increases for the various NIH institutes include:

Cancer—$60 million for a new total of $492.2 million. This provides a 30 percent increase over 1972 and over twice the $230.5 million available in 1971. These additional funds will support expanded research efforts into immunology that will permit scientists to begin to map the features of cell surfaces and the significant differences between cells that are being discovered; the treatment of cancers by drugs; and the role of viruses in cancers. Our committee has recommended increasing the number of special cancer research centers and directed a $30 million increase in cancer control activities that is designed to insure more rapid and effective communication of research results to medical practitioners and, as appropriate, to the general public.

Heart and lung—$94,720,000 for a new total of $350 million. Diseases of the heart, lungs and blood are the major killers in our Nation today. The economic losses are staggering. Our committee recommendations include additional funds that would be targeted to support of pediatric pulmonary disease centers; increased research on hypertension, including a stepped-up antihypertensive therapy program; the establishment of up to 20 cardiovascular disease prevention clinics; expanded efforts in bioengineering that ultimately will result in an implantable artificial heart; an additional $10 million to make a total of $25 million available for a balanced program of research and community service on sickle cell disease; and for a more intensive program of public information and education, in cooperation with the current programs of voluntary agencies and professional groups.

Dental research—$9,585,000 for a new total of $54 million. The national dental care program is giving greater momentum to research on tooth decay. The search for more effective and restorative treatment and, ultimately, the prevention of tooth decay is both of humanitarian and economic importance. This Institute is also responsible for progress against cleft lip and palate, though chiefly by improving the rehabilitation of the victims of this second most common congenital malformation.

Arthritis, metabolism and digestive diseases—$28,675,000 for a new total of $182 million. The committee increases would expand research on numerous arthritic disorders; errors of metabolism, such as diabetes; a variety of digestive diseases, such as hepatitis, peptic ulcer, cirrhosis of the liver and gallstones; blood, bone, urological and kidney diseases; and in fields such as endocrinology, dematology, orthopedic surgery, nutrition, and others. Again the committee has provided funds for bioengineering efforts that will improve artificial kidneys, but basic research on kidney disease itself is the surest means toward preventing and controlling these serious disorders.

Neurological diseases and stroke—$28,278,000 for new total of $145 million. Stroke continues to be a principal cause of death and disability in America and many other nations. The committee recommendations would more adequately support the 17 clinical research centers, over 60 research projects, and further the Institute's plans for stroke acute-care research units. At least four acute spinal cord injury clinical research centers will be established in 1973. Expanded research on sclerosing disorders, Parkinsonism, epilepsy, chronic degenerative disorders, hearing and speech disabilities, and violent behavior related to brain disease will be possible under these recommendations. Three million dollars are earmarked for centers for epilepsy.

Allergy and infectious diseases—$22,351,000 for a new total of $135 million. Immunology is the allergist's basic scientific discipline and is known to be involved in many other disease areas, such as those in pediatrics and metabolic disease, and the committee recommendations include $6 million to expand research on immunology. A similar amount is designated for research on allergies. Special emphasis will be increased on influenza research to hopefully head off the toll of an expected major epidemic within the next 5 years and equal attention will be focused on the current epidemic of venereal diseases, and to develop new measures against both infectious and serum hepatitis.

General medical sciences—$30,040,000 for a new total of $206 million. With responsibilities to conduct research and research training in sciences basic to medicine and in the various clinical sciences, this Institute contributes to the solution of nationally important health problems not under the purview of the other categorical institutes. A major effort in the study of genetics and the genetics of disease will be more adequately supported; research and training in the fields of trauma, anesthesiology, diagnostic radiology, pharmacology, and toxicology will be expanded; and the work of biomedical engineering centers will also be expanded, along with the automated clinical laboratories. A special effort to attract and more adequately prepare minority students for a greater role in the Nation's health science programs will also receive additional funding.

Child health and human development—$32,756,000 for a new total of $160 million. Three areas of special concern in this Institute and to the committee share in the bulk of the increase recommended: Population, $13 million, child health, $8 million, and the aging, $5 million.

Of very special concern to the committee is the lack of research on the sudden infant death syndrome—SIDS—which is also known as crib death and a major contributor to the 68,000 infant deaths in 1971. The development of neonatal intensive care nurseries as a part of medical centers is considered essential to effectively reducing morbidity and mortality in this age period, and expanded training programs in this specialty field will be supported.

Elsewhere in the NIH appropriation, the committee added $20.9 million for the construction of the research facility for this Institute. Planning funds were appropriated in fiscal year 1966; lack of adequate space and facilities is now seriously hampering the orderly growth of the intramural research of this unit that was established in 1963; and the committee is convinced this long delayed construction project must proceed forthwith.

Eye Institute—$7,868,000 for a new total of $45 million. Established in 1968, the committee recommendation would result in an increase of 50 percent over the level appropriated to the Eye Institute for 1971. The increase provided this year will launch a research program on retinal and choroidal disorders; expand the search for a nonsurgical means of treating cataracts; target funds for corneal disorders so the Institute can effectively develop improved diagnostic and therapeutic methods to aid those affected by this group of disorders; and carry forward a comprehensive research program directed toward the prevention and control of a leading cause of blindness, glaucoma. Four million dollars altogether has beeen added by the committee for diabetic retinopathy and closely related vascular diseases of the eye.

Environmental health sciences—$2,987,000 for a new total of $32 million. Established 5 years ago and the only Institute not on the NIH campus at Bethesda, this unit is concerned with the way in which man's health is adversely affected by his environment. Much of their work is basic, but as each year brings an increasing number of new and different chemical compounds and substances into our environment a major responsibility of this Institute is the development of reliable testing equipment and procedures for such compounds that will reduce the time, complexity and costs associated with such evaluation programs.

Research resources—$7,991,000 for a new total of $83 million. This unit at NIH provides resource grants that help support institutional or regional centers concerned with human clinical investigation, biotechnology development and application, and animal care and research. A major portion of the increase recommended by the committee will help to support primate research centers and assist other facilities to bring their animal care programs into compliance with the Animal Welfare Act of 1970, and to cover the increased cost of medical care related to the general clinical research centers program.

Fogarty International Center, $1,455,000 for a new total of $6 million. The committee has recommended an additional $900,000 to initiate a comprehensive program that will assist the career development of faculty members of U.S. schools of medicine, osteopathy, dentistry, and public health, and the faculty and students in the health professions and allied health fields, including nursing, pharmacy, podiatry, optometry, and veterinary medicine by granting selected personnel fellowships that will allow

study or research in foreign medical centers or health related institutions. A highly successful program at the center has allowed over 1,200 foreign nationals such opportunities during the past 14 years, and the committee is convinced this program should become a two-way street that U.S. citizens will now be able to travel.

TRAINING GRANTS AND FELLOWSHIPS

All of the foregoing institutes help to meet the continuing needs for highly trained and dedicated individuals who will be engaged in all types of biomedical research in the future. Due to arbitrary budget and apportionment restrictions, the number of NIH post-doctoral fellowships—which not only support advanced research training, but also yield useful research results—declined from 5,250 in 1969 to only 3,099 in 1972. Training grants similarly declined from 2,400 in 1969 to 2,087 in 1972.

This committee has opposed such actions with limited success in the past, and this attrition can not be allowed to continue if the research manpower is to be available to sustain the expanded research efforts on cancer, heart, lung diseases, and all the other research frontiers that offer opportunities for renewed and more vigorous attacks. The time has come, if indeed it is not past due, to restore the research fellowship and training programs to the level at which they were before that subtle policy of attrition was put into effect.

The committee has, therefore, recommended the addition of $46,782,000 in this bill which, together with the House increases for these programs, will restore all of them in the several Institutes to their fiscal year 1969 level and provide a reasonable base for their future growth.

HEALTH MANPOWER

The committee recommendation would provide a total of $897,178,000 which represents an increase of $158,550,000 above the House allowances, $363,550,000 above the budget requests, and $223,616,000 over the fiscal year 1972 level of funding.

The Health Manpower Training Act of 1971 and the Nurse Training Act of 1971, signed into law in mid-November of last year, did not merely continue the then existing programs launched under earlier health manpower legislation, but were designed to increase significantly the future supply of health manpower, to develop new types of personnel and modes of practice to make competent health care more readily and more uniformly available, and to establish a coherent and explicit Federal role in the support of the educational system that prepares all types of health manpower.

The major health manpower training legislation must be funded at a level that will have a significant effect on the production of health professionals and other health personnel. The administration's request simply did not cope with the problems faced by the Nation's health training institutions. The budget was totally inadequate to meet obvious health manpower needs. A far greater effort is necessary than that envisioned in the administration's budget. All of the increases the committee recommend will help to stimulate the production and improve the training of needed health professionals as well as to strengthen the operation of training institutions for the long haul.

Congress intended, as the American people have requested, to take effective measures to change the pattern of shortage and maldistribution which has plagued the Nation's health care delivery picture for too many years. To do this, the committee has recommended significant increases in the appropriation for health manpower training programs.

The training programs, administered by the Bureau of Health Manpower Education, in the National Institutes of Health provide financial assistance to the schools of the health professions—medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine—and the schools of public health, nursing, and allied health, provide construction grants for new or renovated facilities, funds for special projects, financial distress grants, assistance to new schools or 2-year schools converting to degree granting institutions; scholarships and loans to students in schools of the health professions and nursing; training in family medicine, health manpower education initiative awards, and for a variety of programs to improve the number, quality, and distribution of manpower.

The Congress authorized a strong financial floor of support to the schools of the health professions and nursing when they enacted the mechanism of capitation payments. Although these capitation payments have not been funded at their full authorization levels, the eligible schools and colleges have all been required to meet stringent guidelines and requirements for enrollment increases. We have every indication that the incentives provided through this mechanism will result in increased numbers of first year places in all of the health professions and nursing. Quality in such training programs must not be sacrificed for quantity. It is equally clear that such schools and colleges must receive funds under this new program at least equal to the amount of support they received from institutional support and special project grants under previous legislation.

The committee recommendations include increases over the Budget requests of $246,900,000 more for the medical, dental, and related professions; $90,500,000 more for nursing; $17,290,000 more for allied health; $4,460,000 more for public health; and $2 million more for dental health.

Of the increases over the budget recommended by the committee $182 million is for construction grants that will help meet the enormous need for more facilities where such health manpower training programs can take place. The administration requests contained no such grant requests for fiscal year 1973 and the total now recommended by the committee is only $23,015,000 above the amounts provided in the 1972 budget. If the Congress agrees to these recommendations and the President approves this measure, the committee has also directed that these funds be obligated during fiscal year 1973.

The specific details of these health manpower recommendations can be found on pages 75–77 of the committee report and they are also contained within the comparative statement of new budget authority for 1972 and budget estimates and amounts recommended in the bill for 1973 that was made a part of the RECORD a few minutes ago.

BUILDING AND FACILITIES

The committee recommendation contains an increase of $24,980,000 above the House allowance and the budget requests. The bulk of this amount, $20.9 million is for the long-delayed facility for the Child Health and Human Development Institute discussed previously. The balance is for planning funds for a major addition to the Clinical Center at NIH, that will primarily expand their ambulatory care capabilities. Not only is ambulatory care equally satisfactory—and sometimes even better—from a research point of view, but is much less expensive, more acceptable to the patient, and more convenient for his family. The growing need for several of the institutes for better ambulatory care facilities in the Clinical Center has now been brought to a head by the urgent need for the Cancer Institute for such space.

These additional funds will be used to plan such an addition, and also two attendant parking facilities to meet the needs of patients and staff for such space and to replace parking lots that will be lost due to construction of the addition to the Clinical Center, and the modification and modernization of space in the existing Clinical Center required by the construction of the new wing.

OFFICE OF THE DIRECTOR

The committee has recommended an increase over the budget estimate and House allowance of $1 million to cover the cost of an additional 80 positions in the Clinical Center that are needed to open more nursing units for the Cancer Institute.

A TIME FOR ACCOUNTABILITY IN BIOMEDICAL RESEARCH

One of the most significant actions taken by the committee in relation to NIH and perhaps all Federal support of biomedical research was the direction given to all of the research institutes to initiate formal procedures that will more readily and graphically reveal the full thrust of efforts, ultimate goals, and immediate objectives across the broad spectrum of their responsibilities. The time for such an accounting in research expenditures is perhaps long overdue.

No one can say that this committee has been parsimonious about meeting the requests for support of biomedical research or the needs for the training of health manpower. This committee has been responsive to the demands of our citizens for greater attention to the scourge of dread diseases within the research clinics and laboratories of our Nation, and the National Institutes of Health have been the cutting edge of this magnificent effort. But this committee is equally concerned with results that might be achieved from the investment

of these tax dollars, and a time for greater accountability is somewhat overdue.

The direction of biomedical research programs is one of the most difficult subjects presented to the Congress. In the field of health, both in the delivery of services and in the quest for answers about diseases, too often decisions might be based upon intuition or emotion, rather than empirical evidence.

It would appear that in some areas an imbalance exists between programs where the goals are the acquisition of more basic knowledge and the application of know-how to very specific problems. Human health is too important to be left to chance or fleeting bursts of attention.

This committee is convinced that the time has come when the health research resources of our Nation must be better organized and address themselves to problems at hand in a more systematic manner. Within a $2.9 billion enterprise, the NIH must make a more determined effort to attain a proper balance between applied and basic research in biomedicine.

In appearances before the committee this year, NIH officials presented testimony about 60 priority areas of special concern, where the numbers of citizens afflicted with disease is significant where the life expectancy or years of life lost due to disease is appreciable, where the loss to the economy and the actual dollar burden upon public agencies is phenomenal, and where the best professional judgment dictated the investment of additional funds.

Greater accountability is possible in the field of health, and the committee will expect all of the NIH to formulate "blueprints" or health research strategies, that will take into account those aforementioned factors. The individual institutes should direct their resources to those disease problems that are most important and widespread, where effective means for dealing with the problems are available, where new opportunities have emerged, and where the likely benefits justify the expected costs.

The National Cancer Institute has already started to formulate such a blueprint and others should follow. The NIH should call upon their own professional competence in formulating such blueprints for better health, and they should not hesitate to call upon any resource outside of Government, or the primary health-biomedical community, which can help determine these needs and the directions that should be followed.

This committee will expect the NIH to present such blueprints for better health during hearings on the 1974 budget, and will call upon other divisions and agencies within the Department to formulate similar strategies in the delivery of health services and training programs for health manpower.

The use of modest amounts from within the funds available to the several institutes and divisions of NIH to arrive at such strategies and blueprints would not be questioned by this committee, nor do we believe the public would begrudge such expenditures. On the contrary, we believe the taxpayers deserve such professional judgments and information, and that continued support of these efforts by the Congress requires it.

OFFICE OF EDUCATION

The recommendations of this committee relative to the Office of Education budget must be seen as constituting only a part of the Federal Government's support of all educational institutions and programs. In total, the 1973 budget requested $16.7 billion in new budget authority for education, of which only $6.1 billion is associated with Office of Education programs, or only one-third of all Federal support.

Other parts of HEW account for about 20 percent—primarily for medical education and research programs that are conducted at colleges and universities—and the remainder is distributed among 28 Federal agencies, principally the Department of Defense, the Veterans' Administration, the Department of Agriculture, and the National Science Foundation.

The Office of Education estimate actually considered by the committee totals only $3.3 billion since over 45 percent of the dollars included in the budget lacked legislative authorization. The programs lacking authorization include a number of existing authorities in the area of higher education and education professions development as well as the Follow Through program under the Economic Opportunity Act. Several new programs for which requests have yet to be transmitted include aid for desegregating school districts, the establishment of a research-oriented National Institute of Education, and a program for supporting innovation and reform in higher education.

These programs—and numerous others—are included in the Education Amendments of 1972. The conference report on this bill was adopted by the Senate on May 24 and the House on June 8. In view of the lateness of this legislation, the committee was not able to consider most of the $2.6 billion in estimates associated with it.

That measure did not become law until just last Friday, June 23, when the President announced that he signed it reluctantly.

The committee anticipates that the administration will now revise the various estimates involved under the Education Amendments Act of 1972 and submit a supplemental request at an early date. The committee will review any such request with utmost care and act as expeditiously as possible so that both institutions and students anxiously awaiting the implementation of those new programs can make their plans accordingly.

The committee did, however, include funds in this bill for the purchase of educational equipment under title III of the National Defense Education Act and instructional equipment under title VI of the Higher Education Act—both of which were then unauthorized. Since these items are contained in the "library resources" appropriation, for which this bill otherwise contains funds, and since the Education Amendments of 1972 provide for a simple extension of the present authorities, the committee has included amounts that were contingent upon enactment of the basic legislation.

TITLE 1

With the increase over the budget estimate of $36,500,000 and the special language provided in the actual bill, the committee has assured the fact that no State will receive less under this appropriation from these funds which assist educationally deprived children than such States received under last year's bill. This title is the major source of Federal assistance to local educational agencies and due to the vagaries of the distribution formula such reductions could have occurred without these additional funds and the special provision.

Supplementary services: An additional $25 million is provided over the budget requests and the amounts available in 1972. This increase will expand support of guidance and counseling programs, with particular emphasis on programs aimed at reassuring that the right to read shall be a reality for all children.

Strengthening State departments of education: An additional $12 million over the budget requests was provided by the committee that will allow State and local educational agencies increased resources for the planning and evaluation of elementary and secondary education programs. The committee expects that at least $1,750,000 of the increase will be used by State departments of education to establish and strengthen programs serving gifted and talented children.

School assistance in federally affected areas: The committee recommendations include $230,495,000 more than requested in the budget and $49,525,000 more than was available in 1972 for the Public Law 874–815 programs, popularly known as the impacted aid funds. These amounts, together with special provisions in the bill will retain the same levels of support for eligible children in local school districts as provided in last year's appropriation. Without such provisions, many school districts with the greatest percentages of such children, would receive proportionately less.

The committee recommendations would also increase funds available under Public Law 815 by $20 million for construction projects. The committee has directed that such funds be used to meet the most pressing construction needs for school facilities for Indian children and for children living on military installations, particularly in cases where the schools themselves are located on Federal property, but operated by local educational authorities.

Education for the handicapped: Of the total increase of $50,750,000 in this appropriation item recommended by the committee over the budget request, the bulk or $42,500,000 is slated for State grant programs and would more than double the amount allocated for that account. This would provide direct services for about 400,000 handicapped children in 1973 contrasted to services for 180,000 eligible children in 1972. Such an increase is more than justified and warranted.

The committee has also recommended additional funds for research and demon-

stration of educational programs for the handicapped which will allow the funding of 105 such special projects next year as opposed to some 55 projects in 1972.

An additional $4 million has been provided by this committee over the budget request and the House allowance for special education and manpower development activities. This increase should help to further narrow the gap between the need for teachers of the handicapped and the number of such teachers currently available.

Another increase recommended by this committee over the budget and the House allowance is $1,750,000 for children with specific learning disabilities. This amount will support about 10 more new projects during 1973 and bring the total amount dedicated to these purposes to double the amount available during 1972.

The committee has also approved increased support levels over 1972 for the deaf-blind centers, early childhood projects, regional resource centers, physical education and recreation research, and the media services and captioned film programs that serve special needs in education for the handicapped.

Vocational and adult education: The total increase of $132,641,000 approved by the committee over the budget estimates and last year's level of support, again includes a substantial portion, $50 million, for an increase in the basic grants to States. These are matching grant funds on a dollar-for-dollar basis that is oversubscribed by the States and that includes setasides for special purposes: 15 percent for the disadvantaged, 15 percent for postsecondary programs, and 10 percent for the handicapped. The committee has included language in the bill which will insure that no State will receive less in 1973 than in 1972.

Additional increases in grants to States for vocational education over the budget estimates and last year's levels of support have been approved for programs for students with special needs, $9.9 million; consumer and homemaking education, $12.7 million; cooperative education, $10 million; work-study programs, $4.5 million; and the State advisory councils for vocational education, $1.7 million.

For research in vocational education an additional $20 million is recommended by the committee above the Budget estimates and the House allowances. Half of the increase would be in grants to the States for research, with an additional $8 million in special grants to develop, establish, and operate exemplary and innovative occupational education programs designed to serve as models for use in vocational education programs. The remaining increase of $2 million would double the total amount available in 1972 to develop curriculums for new and changing occupations.

For adult education the committee recommendation would allow $23.7 million more to be available through grants to States, and help to provide basic educational programs for over 1 million adults. Again, the committee has include language in the bill which will assure that no State will receive less in 1973 than in 1972.

All of these vocational and adult education programs are among the most beneficial to our Nation and truly represent "investments" that this committee strongly supports.

Library resources: The committee recommendations include $90 million for programs not considered by the House and would provide $151,770,000 more than the budget estimates. An increase of $75 million over the budget and House allowance is recommended for audiovisual equipment and materials under NDEA title III and a similar recommendation of $15 million to fund the purchase of like materials and equipment for colleges, especially community colleges, under HEW title VI. These funds are matched by eligible educational insituations, which include both public and private schools, and to the knowledge of this committee have consistently been oversubscribed in past years and contributed immeasurably to the improvement of instructional programs.

Additional increases over the budget requests were approved by this committee along with the House, for public library services, $36.8 million; public library construction, $15 million; and elementary and secondary school library resources, $10 million. These funds will support the purchase of at least 3,200,000 additional books in the public libraries of the Nation and better assist in meeting the needs of library resources in the public and private elementary-sceondary schools that serve over 48 million students.

Every year, the committee has been faced by budget requests that would curtail these assistance programs to public libraries. Few programs within OE serve a higher proportion of all the citizens in our Nation, and these rather limited funds have a great multiplier effect throughout almost every community in our land. In some cases, these funds are helping to support programs that would otherwise leave unmet needs among many of our people.

In my own State, the Seattle Public Library provides library service to the blind and the handicapped throughout the State of Washington. It has been title 1, LSCA funds that have helped to make this service possible and because the Seattle Public Library has coordinated this effort that service is made available to the blind and handicapped in the State at a much lower unit cost than would be the case where other communities duplicated the program.

These funds have helped bring about other improvements in library services in the State of Washington, and I know other States are also doing these things, such as: Increased sharing of resources among and between public and private libraries; the use of modern technology in an appropriate, economic manner to facilitate the sharing of resources; and expanded availabilty of special library materials located in specific libraries to every resident of the State.

Since these LSCA titles were enacted in 1956, over 92 library construction projects have been funded in the State of Washington. In just the last 3 years, 20-size public libraries have been built, expanded or moved into larger quarters, and at least a dozen similar building projects are now underway or in the planning stages. Again, I am sure other Senators can testify to similar programs in their States that are resulting in better library services to all their residents. And I would stress, these are matching money programs and almost without exception the local contributions have exceeded the Federal funds available.

Bilingual education: The committee recommendation of $18,870,000 more than the budget request and $15 million more than the House allowance will provide 150 new programs as well as the continuation of some 203 ongoing programs designed to meet the special needs of children—such as Mexican Americans and American Indians—who come from environments where the dominant language is other than English. The committee increase provides for a preschool and early elementary educational television program for Spanish-speaking children. The committee has also emphasized the need to adequately train special teachers of bilingual education programs so that they are able to speak fluently, as well as write, in the native language of the children severed.

Educational technology: An increase recommended by the committee of $12 million over the budget request and House allowance will support promising new projects in educational television that could not otherwise be funded within the budget estimate. This could include demonstrations of the "open university" concept, the use of new technology in the area of adult basic education, and the use of television to help the parents of preschool children.

Right to read: An increase recommended by the committee over the budget request and House allowance of $10 million will assist in achieving one of the major goals of the educational system to reduce illiteracy in our Nation.

Drug abuse education: An increase of $1,800,000 recommended by the committee over the budget request and House allowance is slated for community based drug education projects. Such projects do not require an expensive staff or physical plant, and have proven highly successful at reaching many young people at the community level. In the light of increasing evidence of the magnitude of the drug abuse problem in our Nation the committee was distressed to learn that the Office of Education planned to cut back Federal support by as much as 50 percent in many of these ongoing projects. The committee allowance directly to this program for 1973 would help continue support for these community based projects.

Environmental education: An increase of $820,000 would be allowed under the committee recommendations and House allowances and provide for expanding special projects with national significance. About half the increase will expand two or three successful existing local projects into national demonstrations to train educational personnel. Another $200,000 will provide field agents to disseminate curriculum and assist new projects. The remaining $200,000 will

fund a survey of the state of the Nation's understanding of the environment.

Other priority programs: The committee wishes to draw attention to the District of Columbia school project that is funded under this program. The imaginative expenditure of these funds by this local school system could facilitate District-wide opportunities for upgrading the qualifications and the quality of professional educational personnel and of programs for the community as a whole. The committee endorses this project and hopes that it will provide a model for the Nation, both in educational content and in the wise and economical use of Federal funds. The committee notes that requests for appropriations for these purposes will henceforth be made by the new National Institute of Education. Where appropriate, the Institute should draw on the expertise of the Office of Education to assure the necessary continuity of effort.

Salaries and expenses: The committee recommendations include an increase of $1 million over the budget requests and House allowance that will fund approximately 75 additional positions in the Office of Education. The committee is convinced such action is necessary to improve overall management of OE; that not enough resources have been allocated to controlling the default situation in the guaranteed student loan and the national defense student loan programs; and that delays in the announcement of awards under title I, ESEA and under the educational opportunity grant and college work-study programs frustrate the efforts of the Congress to make funds available on a timely basis through early appropriations.

The committee is persuaded that, while more efficient management in these areas is both desirable and necessary, there is also a genuine need for additional manpower. The report of the committee details the distribution of the additional personnel now authorized and provided for.

SOCIAL AND REHABILITATION SERVICES

Within the Social and Rehabilitation Services a number of important programs remained unauthorized for fiscal year 1973 when final committee action was taken. These included rehabilitation services and facilities, special programs for the aging, youth development and delinquency prevention, research, and training.

In the past, this committee has been most responsive to meeting the needs of these programs and anticipates an opportunity, at an early date, to offer recommendations to the Senate for these programs during fiscal year 1973 once the necessary authorizing legislation has passed the Congress and been approved by the President.

Two line items of special concern to the committee have been recommended in this bill, under SRS, with increases:

Vocational rehabilitation facilities: The $20 million recommended by the committee is above the budget and House allowance and $16,949,000 more than was available in 1972. The committee has been convinced of the need for additional regional vocational rehabilitation centers of excellence and this amount could establish four or five such centers that would serve 9,000 severely disabled persons. Such facilities are particularly critical in meeting the vocational rehabilitation needs of the severely disabled and especially in view of the larger numbers of disabled Vietnam veterans.

Developmental disabilities: The recommendation of $67,825,000 by this committee is $23,360,000 above that requested in the budget and this item was not considered by the House. Additional amounts are provided in the formula grants to States, service projects and for the support of University affiliated facilities where demonstration projects are conducted and highly skilled personnel are trained for service in public and private programs. The developmental disabilities program provides for treatment and care of the mentally retarded and persons with epilepsy, cerebral palsy, and other neurological conditions. The committee addition will help provide these services to 12,000 more persons under the State formula grant program and support approximately 175 new service projects serving an additional 5,200 individuals. The committee is convinced these funds will materially assist the Federal effort to improve the services and facilities for developmentally disabled individuals.

SPECIAL INSTITUTIONS

Gallaudet College: An increase of $5,596,000 over the budget and $636,000 over the House allowance is recommended by the committee. This amount will provide $4,960,000 for the Gallaudet and Kendall School share of the food and health facilities, utilities, and central receiving plant now being constructed jointly with the Model Secondary School for the Deaf on the campus of Gallaudet. The specific increase by this committee will allow for preventive maintenance at the college of exterior painting of some 20 buildings, exterior roof and masonry work on 24 buildings, and other urgent exterior and interior maintenance work.

RELATED AGENCIES

Corporation for Public Broadcasting: The committee recommendation of $65 million is $20 million above the budget request and $30 million more than was available in 1972. The House did not consider this item. The Corporation helps support quality broadcasting on both public television and public radio and such programs as "Sesame Street," "The Electric Company," and "Mister Rogers Neighborhood." The Corporation also makes grants to public radio and television stations throughout the country for the production of programs for national, regional, or local use and provides financial support for national interconnection systems serving such television and radio stations.

Mr. President, I yield the floor.

Mr. COTTON. Mr. President, as the senior minority member of the subcommittee handling this bill, I rise very briefly to commend the leadership of our chairman, the distinguished Senator from Washington, who, as always, has labored long and hard and has conscientiously examined, with the assistance of the very able staff, every aspect and every phase of this measure. He has listened with courtesy and patience to innumerable witnesses interested in innumerable phases of the vast number of subjects covered by this bill that encompasses health, education, and welfare.

He has been fair, he has been considerate, and he has been courageous in his conduct of the long, drawn-out labor of carrying this measure forward.

On the whole, I think that the subcommittee is practically unanimous in supporting the result of these labors. There are some items that have been touched on by the distinguished Senator from Washington, in his very fine and lucid summary of the bill, as to which I have reservations, I suppose there are some items to which other members of the subcommittee on both sides of the aisle may have reservations, but they are comparatively minor in their significance.

I join the distinguished chairman in expressing the hope to the Senate that we will expedite action on the bill. This, I hope the Senate will understand, is not said arrogantly or with any desire to choke off the sincere and valid amendments that deeply dedicated and interested Members of the Senate will offer to this measure. But almost every phase of this extensive bill vitally affects the health, welfare, and education of our people. It is an extremely sensitive subject. There is hardly an item in the bill that we could not all wholeheartedly wish to have increased. However, I think it should be borne in mind—and I am sure it will be borne in mind by all Members of the Senate, for all Members of the Senate, in my opinion, desire to be fair and reasonable—that, not counting the trust funds for social security, which although they are raised by a particular form of tax upon a particular group of people, are still taken from the pockets of our citizenry, not counting the funds raised to cover expended unemployment benefits, the bare bones of the bill amount to $29,464,035,500—almost $29½ billion.

It is $2 billion more than was appropriated in the last fiscal year. In addition to that, certain important items had not, at the time we had to report the bill to the Senate, been authorized. We have waiting for us in the wings, for the supplemental bill, budget requests not yet authorized amounting to almost $5 billion more.

Bearing these facts in mind, I also note that the bill came out of the House committee to the floor of the House $912 million in excess of the budget recommendation—which is almost $1 billion. Additions were made on the House floor mostly under the so-called Hathaway amendment, amounting to $363,833,000 more, which is more than a third of a billion dollars. So this bill came from the House to the Senate increased by $1.25 billion over the budget.

The Senate committee increased it by $860,856,000 more, which is more than three-quarters of a billion dollars. So the total additions already in this bill, excluding the items that cannot be in this bill because they have not yet been au-

thorized, amount to $2 billion-plus over the Bureau of the Budget recommendations.

I mention those figures, not because it inspires anyone to listen to statistics, but so that the Senate may fully realize that the House committee, the House of Representatives itself, the Senate subcommittee, and the Senate full committee have strained every nerve to cover these matters as adequately as is possible under the circumstances that we face today, with a terrific deficit facing us at the end of the fiscal year.

The committee has been, I think I can say without fear of intelligent contradiction, very generous.

During the years that some of us have served on the Appropriations Committee, we found that the military budget was by far the largest slice of the total appropriations. In 1971, for the first time, appropriations for humanitarian purposes, including this bill and some others, appropriations for the health, the education, and the welfare of our people, exceeded our appropriations for defense and for weapons. That differential increased in fiscal 1972, and while, of course, the final decision has not yet been made, either on this bill or on the military appropriation, the gap has widened, so that this bill, dedicated to the health and welfare of our people, the education of our youth and the care of our aged, has become the top priority, the largest of all the appropriation bills that will come before this Congress.

That is the situation we face and in view of that fact, I join my chairman in expressing the hope that Members of the Senate will be as restrained as possible, though again I know they have deep convictions on various items in this bill, against further blowing up this measure, because we might reach too far and too fast.

I am quite sure that that will be the case. Speaking as one member of the committee, though I think other members of the committee share my feeling, we are trying to ask Senators not to amend the bill. We are prepared to listen carefully, with sympathy and the understanding that has come from the long hours and days we have sat in hearings on this bill, to the contentions of any Member of this body as to either increases or decreases, though I do not anticipate many amendments seeking decreases. But at the same time, we will be reluctant to go to conference with this bill weighted much more heavily. I think that is a fair statement of our attitude, and I shall not take any more time, or refer further to any of the many individual items that were so well covered by our chairman.

FOREIGN ASSISTANCE ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the amendment offered by the Senator from California (Mr. TUNNEY) to the unfinished business.

The PRESIDING OFFICER. Is there objection?

Mr. CASE. Mr. President, reserving the right to object, will the Senator repeat his request and state its significance?

Mr. ROBERT C. BYRD. Yes. The amendment by Mr. TUNNEY, by previous order, is to be voted on at 12 noon today, and it is his request that we get the yeas and nays thereon.

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

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The yeas and nays were ordered.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 15417) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

Mr. COOK. Mr. President, I was delighted to learn yesterday that $5,000,000 is included in the Health, Education, and Welfare fiscal 1973 budget as start-up funds for a program introduced by myself and cosponsored by Senators PASTORE, BELLMON, ANDERSON, HOLLINGS, STEVENS, MCGOVERN, HUMPHREY, MCGEE, WILLIAMS, DOLE, MATHIAS, HARRIS, and BURDICK. This action will have a profound impact on a heinous disease—kidney disease.

The acceptance of this proposal to "control the ravages of kidney disease" was certainly accelerated by the personal interests and efforts of the distinguished chairman of the HEW Appropriations Subcommittee, Senator MAGNUSON, and the distinguished ranking minority member of the subcommittee, Senator COTTON.

This health initiative is a 5-year program totaling $80,000,000 of new investments that will provide a major thrust at prevention, public education, research and development for patients with kidney disease. The treatment phase would assure that an adequate number of tertiary renal treatment centers would be developed to provide the resources for treatment of all patients with end-stage renal disease who were medically suitable as candidates for therapy.

The rationale for Government initiative in the area of kidney treatment delivery has been so sufficiently documented that any further identification of statistics and figures is unnecessary at this time. However, it is commendable that the Senate Appropriations Committee recognized the seriousness of these figures and recommended this straightforward program as their resolution.

Let me add, that nowhere in the health care industry does the same gap exist between technology and delivery as in the area of treatment of patients with end-stage renal disease. Techniques or organ harvesting, preservation, and transplantation have made renal homotransplantation a service entity and no longer a research tool. However, the funding mechanism to develop the resources and provide patient care reimbursement have lagged far behind. A plan of this nature to prevent duplication, establish a nationwide network, assure a high quality, and assure access for all is absolutely necessary. After careful study, I hope the entire Senate will come to the same conclusion.

Again, I would like to thank all concerned for their support. I am convinced that this is an admirable program and I am confident that its support will render the desired results—the elimination of kidney disease as the fourth greatest cause of death in the United States.

Mr. KENNEDY. Mr. President, I am pleased, as chairman of the Subcommittee on Health, to speak on behalf of the appropriations bill for 1973 for the Departments of Labor, and Health, Education, and Welfare and related agencies. After reviewing the bill quite carefully, I must commend the Appropriations Subcommittee for its masterful synthesis of the many expert views presented during very extensive hearings. I wish to congratulate both the chairman (Mr. MAGNUSON) and his colleague, the senior Republican member of the committee (Mr. COTTON) for their joint efforts for the betterment of our Nation's health. The resolution of many of the hard choices that must be made in the compilation of such a bill can be attributed directly to the statesmanship of these two fine men.

Senate bill, H.R. 15417, reports an appropriation of $29,464,035,500. This represents $2,047,247,000 over the budget estimates submitted by the administration.

The Health Subcommittee agrees with the concerns of the Appropriations Committee regarding the downgrading of health by the administration as reflected in its budget requests for the past several years. Despite what the administration itself calls a health care crisis, the administration continues to submit to Congress a "business as usual" budget. In short, the administration has shown little leadership, and less sensitivity to the unmet health needs of our Nation during this very critical period.

More tragically, of the increases asked by the administration, 60 percent are attributable to "uncontrollables"—namely, rising costs in medicaid, medicare, and other Federal insurance programs. The truth of the matter is that these funds each year are able to buy less and less in a health care system which is a seller's market. To compound the problem, the President's budget tries to hold the line, and in many instances, threatens the very existence of programs geared to improve and develop the resources for a health care system.

This bill wisely chose to avert such false economies. Although the committee was well aware of the spiraling inflation taking place today, the committee nonetheless also clearly saw its responsibilities in making major adjustments in our health care delivery system through priorities reflected in this bill. In its exceptionally lucid committee report, it underlined its point by stating:

For example, the inflationary fires in the health care industry will continue to burn

until there is an adequate supply of health manpower—reduction in health services, health research and training, in order to control inflation, is tantamount to balancing the Federal budget by the sacrifice of human lives.

Mr. President, I submit, as I did last year, that the goal of better health care at a reasonable cost can only be attained through the systematic development of improved methods for the delivery of health care.

On May 23, the committee was kind enough to allow me to testify as chairman of the Health Subcommittee. At that time I stated that we saw three major priorities: First, health care organization and delivery; second, health manpower training and development, and third, health research. Under each of these priorities, I stated specific recommendations.

HEALTH CARE ORGANIZATION AND DELIVERY

No priority is more central to curbing the inflationary trend in health care than the matter of health care organization and delivery. Unless we are willing to invest in the building of better resources, the increasing of efficiency, the expanding of the capacity to deliver care, there can be no escape from the treadmill of higher and higher costs.

Therefore, I congratulate the committee on the decisions made on Hill-Burton, largely restoring the drastic cuts made to that program by the administration. We are delighted with the appropriations made to neighborhod health centers, which for many communities offer the only health services made available for the poor. We are happy that the regional medical program was shephered safely through this budget cycle despite the administration's watered down support of this program. We approve of and compliment the committee for its sustained support of the community mental health centers, communicable disease and the national health services corps.

I am particularly encouraged by the Appropriations Committee's decision to delay appropriations of Federal funds for health maintenance organizations until legislation is passed authorizing such expenditures. The Subcommittee on Health is truly appreciative of the cooperative effort on the part of this committee to postpone appropriations until there has been the opportunity to produce meaningful legislation necessary to insure the responsible use of public funds. This type of teamwork results in a clarification of congressional intent and dissolves the ambiguity of overly broad interpretations. I am happy to report that S. 3327, "The Health Maintenance Organization and Resources Development Act of 1972" has been reported out of the Committee on Labor and Public Welfare. When this bill is passed and funds appropriated, the Senate will be assured that every dollar spent for health maintenance organizations will be spent within delivery systems with a prescribed scope of services, an assurance of quality care, reasonable costs, and provisions for developing services in rural as well as urban areas.

MANPOWER DEVELOPMENT AND TRAINING

In manpower development and training, I would like to state my overall satisfaction with the general determinations made by the committee. These funds will indeed allow a more meaningful implementation in fiscal year 1973 of the landmark manpower and nursing legislation passed last year. I am sure that the restorations made, particularly to the allied health manpower budgets, will be of special welcome to the many young people, especially those from lower income families, who would like to embark on a health career. I am happy to see that the construction funds which were literally wiped out in these programs by the administration, were restored by this committee.

3. HEALTH RESEARCH

In the area of health research, the committee's stewardship of NIH research activities deserves highest compliments. Throughout the National Institutes of Health, the committee has wisely restored the research fellowship and training programs to the level they achieved in 1969.

Once more we applaud the committee for its tenacious commitment to heart disease and cancer research. It has been estimated that the average American's life expectancy could be increased by 11 years if cardiovascular diseases were eliminated as causes for disability and deaths. That is why my committee recently reported comprehensive legislation in respect to heart and lung disease. The bill passed the Senate overwhelmingly and is now pending in the House.

We would like to make special note of the committee's earmarking of funds for sudden infant deaths. This cruel phenomenon must be researched now so that parents will no longer be haunted by the fear of its tragedy.

One sad note I must make is the obvious absence in this entire bill of an adequate dental health program, particularly for our children. We, in the subcommittee, hope Senator MAGNUSON's dental health service bill will receive the attention and action necessary in the House to assure its funding at the earliest possible date.

In closing, I cannot compliment the committee enough for the superbly structured budget it has presented us. I believe this bill will help to turn around the inflationary trend in health care by investing in resources, manpower, and health care delivery systems that ultimately will give us more for our money than we are now getting. I believe that the Committee on Appropriations through courage, judgment, and leadership has provided us with a responsible bill for the health concerns of all Americans.

Mr. BOGGS. Mr. President, service on the Labor-HEW appropriations bill is among the most satisfying and important work which it is my privilege to do in the Senate. The health of the people of our Nation is of paramount interest to the Congress as well as to the administration.

President Nixon, indeed, gave top priority to health and medical research in his state of the Union message.

The Appropriations Committee has provided in this bill funds for medical care for those who need it, and for research to help solve the complex problems of disease.

The distinguished Senator from Washington (Mr. MAGNUSON) and the equally distinguished Senator from New Hampshire (Mr. COTTON) are to be commended for their leadership and hard work on this most important bill. Likewise, other members of the subcommittee and the staff deserve praise.

Of course, each of the health items in this bill is important. It would be an impossible task to try to separate these items into those most important and those least important. Of interest to me specifically, however, are the amounts we have appropriated for nursing training, Hill-Burton funds for medical facilities construction, and the National Institutes of Health.

During my service on the Committee on Appropriations, funding for the Nurses Training Act has been of particular importance to me because I am familiar with the wonderful work of the School of Nursing at the University of Delaware. I am happy that our committee and the House have recognized again the need for nurses' training.

Hill-Burton, Mr. President, has been one of the most valuable programs in medical and health care which has been devised by the Congress. Hospital and medical facilities construction is the basis for the fact that this Nation has the most complete and effective health care of any nation on earth. We need to continue this program, and I am very happy that we have done so in this bill.

Mr. President, there is a program which is funded under this HEW bill in which I have a very special interest. I refer to the standard reference materials for clinical analysis which is prepared under the auspices of the National Institute of General Medicine Sciences and the National Bureau of Standards.

Based upon this very productive effort, there are now 14 different standard reference materials being produced and distributed by the National Bureau of Standards. Four of them have been completed during the past year. Several additional ones will be completed during the next year.

The importance of this effort can be appreciated by the following example: NIGMS and NBS have developed two national standards that have greatly improved the accuracy and reliability of determinations of triglycerides and cholesterol in blood. These determinations are used to make diagnostic and therapeutic decisions in cases concerning heart and blood vessel diseases.

In the middle of 1970, NBS put together a network of experts from the professional societies—American Association of Clinical Chemists—eight cooperating clinical laboratories, and a team of NBS scientists and statisticians to start the development of a referee method for determining calcium in serum

with better accuracy than ever before. This effort was to be based on the NIGM–NBS developed Standard Reference Material for Calcium. Accurate—true—measurements of calcium are important in the diagnosis of parathyroid tumors because the medical decision to operate or not is determined to a large extent by the reported concentration of calcium. The surgeon must know this value to within 3 or 4 percent.

After 2 years of effort, NBS in cooperation with the clinical experts and the cooperating laboratories has developed a refere method of analysis that assures that the calcium value can now be determined to within 2 percent of the true value.

In addition, NBS has been working closely with the Center for Disease Control to keep them abreast of the results of the NIGMS–NBS effort. Based on this information, CDC plans to use the new calcium referee method, along with the calcium standard reference material, in its proficiency testing of approximately 700 labs involved in the medicare-medicaid program. Rapid improvements in the accuracy of this particular analysis in practicing clinical laboratories should follow. NBS has started a similar project for a referee method to determine lead in blood.

It should be pointed out that the standard reference materials and clinical referee methods of analysis produced and developed through this joint NIGMS–NBS program will have far-reaching effects in the field of clinical chemistry as it relates to diagnostic and preventive medicine. At a time when the trend in most hospital and commercial clinical laboratories is toward automation, computerization, and mechanization, many more analyses can be performed in a given time than in the past. It is estimated that last year approximately 1 billion clinical analyses were made in the United States. The ability to substantially increase productivity in the clinical laboratories of the Nation offers the opportunity to lower the unit cost of such services to the patient. With the soaring cost of medical care in general, it has been an identified national goal to lower, or at least to avoid, further increases in cost to the patient.

Another crucial aspect of the NIGMS–NBS effort is the strong emphasis on standardization and accurate measurement. Clinical laboratories throughout the country need to be able to calibrate their instruments and procedures using a national standard so that there is an accepted benchmark with which to compare their results. Furthermore, the fact that an automated clinical laboratory can double the number of analyses it performs in a working day is of no real benefit unless we are assured that the results of these analyses are accurate. The program I have described is designed to provide such assurance.

It is particularly gratifying to cite an example of two Federal agencies, each in a different department, that are able to work across organizational lines to provide our citizens with an important service in such a vital area as health.

Two other health programs, Mr. President, are of special importance to me, and I was pleased that the committee made increases in each of them.

The first of these is the support for Children's Hospital here in Washington, which was offered by the distinguished Senator from Massachusetts (Mr. BROOKE). I was very happy to support him in that effort.

The other program which comes immediately to mind is the physicians scholarship program, of which I am a cosponsor with the distinguished Senator from Maryland (Mr. BEALL). I do not think there is a single profession in this country that is in need of more support than the scholarships we can provide for promising young men who want to become doctors.

There is a related program which I also would like to mention. This is construction under health manpower. The committee has seen fit to fund this at the level of $150 million.

This is a most important program and I would urge the administration to use these funds in their entirety. I would also urge that the Department give special funding consideration to previously awarded grants and loan guarantees to projects whose costs have exceeded estimates for reasons beyond the control of the grantee.

Of particular interest and importance to me is the Children's Hospital of Philadelphia, which is an excellent institution serving all the children of the Delaware Valley. The Children's Hospital is building a new and modern facility despite limited Federal assistance and most serious complications in funding. The administrators of the hospital are to be congratulated for their fine efforts, but it would be my wish that the Federal Government were more fully involved in the project.

Mr. President, I ask unanimous consent that at the end of my remarks there be printed a chronology of the project's funding difficulties prepared by the administrators of the hospital.

I turn now, briefly, to the education portions of this appropriation bill. It was my privilege to offer an amendment in committee which would increase the appropriation for administrative work of the State Vocational Education Advisory Councils. The distinguished senior Senator from New Jersey (Mr. CASE), cosponsored this amendment with me and added additional funds to it for the operation of the National Advisory Council on Vocational Education in order that the very good work of the Vocational Education Council members might continue.

I have long been of the opinion that we do far too little in the area of vocational education. Especially is this so in view of the fact that a very great majority of our student population does not go on to the colleges and universities. Vocational education, it seems to me, is the answer for these young people. They have a very great claim to additional funds for vocational education.

Finally, Mr. President, I want to discuss for just a minute the appropriations for libraries. It has always been my concern to see that there are adequate appropriations for libraries and library services to our people. Libraries are the very basis of American education. Without our libraries our schools on any level simply cannot educate our young people. Thus, again this year, we made the effort to see that our library programs, both the public libraries under the Library Services Construction Act and the NDEA and ESEA programs for libraries in schools, are adequately funded. That has been done, and I commend every member of the committee for the fine work which has been done in the Committee on Appropriations in each of these areas.

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

NEW CHILDREN'S HOSPITAL AND CHILD GUIDANCE CENTER, PHILADELPHIA, PA.

I. GRANT APPLICATIONS AND AWARDS

1. (a) February 1966. Research Facilities application filed in amount of $2,738,000. This was aproved promptly with high priority, but notification was withheld, awaiting action on another grant application (for Education Facilities) that was soon to be filed.

(b) On 12/4/68 award of Research Facilities grant in amount of $2,387,000 was publicly announced (see below).

2. (a) Application for Educational Facilities, referred to above, initially filed November 1966. On recommendation of USPHS staff, it was withdrawn and, with that staff's guidance, was restructured and resubmitted July 1967 in amount of $7,481,000. In February 1968 we were notified by USPHS of Council's favorable action on this application, recommending award of grant "up to $4 million."

(b) On June 6, 1968, Dr. Frank W. McKee, Director, Division of Physician Manpower, Department of HEW, PHS, wrote: "As a consequence of the fiscal situation it is felt that your institution would be ill advised to proceed with the proposed construction schedule on the premise that Federal funds would be available within any given time. Inasmuch as our present policy, as noted above, does not permit participation in construction expenditures prior to Grant Award, it is suggested that you reconsider the proposed schedule if you anticipate full utilization of the Federal monies approved for your project." The monies to which he refers are the "up to $4,000,000" approved by Council for construction of teaching facilities.

(c) The above letter prompted RDW's 7/20/68 letter to Dr. Philip Lee, Assistant Secretary for Health and Scientific Affairs, Department of Health, Education and Welfare.

(d) On 12/4/68 award of Education Facilities grant in amount of $4 million was publicly announced.

II. CONSTRUCTION ESTIMATES, BIDS AND CONTRACTS

1. Phase I—demolition, excavation and foundation work.

(a) Bids invited 1/9/69; bids opened 2/4/69; contract let 2/5/69 in amount of $2,477,000 (34% under estimate).

2. Phase II—purchase, fabrication and erection of steel.

(a) Bids invited 8/11/69; bids opened 10/7/69; contract let 11/6/69 in amount of $3,986,000 (10% under estimate).

3. Phase III—to include all remaining general construction.

(a) Bids invited 8/30/70; bids opened 9/29/70. Bid opening date was deliberately delayed to allow Council to review our amended application for additional funds for Educational Facilities, at their November

18, 1970 meeting. On 10/26/70 we were informed that that meeting had been postponed to Nov. 30–Dec. 1. This required obtaining extensions from contractors from 11/27/70 to 12/7/70, when Phase III contracts must be signed.

(b) Phase III bids were 30% higher than a current cost estimate. Low bids for Phase III were:

General Construction (not including fixed Laboratory Equipment)	$29,882,000
Plumbing	5,680,000
Heating, air cond., vent	10,540,000
Electrical	5,976,000
Total	52,078,000

III. THE NATURE AND STATUS OF OUR AMENDED APPLICATION

1. Our amended application, dated 10/26/70, for $11.8 million in additional funds for educational facilities was pronounced as being clear, complete and proper in all respects by Dr. Harry W. Bruce, Director, Division of Educational and Research Facilities, Bureau of Health Professions Education and Manpower Training, National Institutes of Health, in a meeting in his office November 23, 1970. We interpreted Dr. Bruce's approbation to mean that he agrees that $11.8 million in additional funds is a proper projection of our eligibility for these educational facilities funds based on actual construction costs as reflected by the Phases I and II contracts and Phase III bids.

2. Notwithstanding the propriety of the substance and form of our application, Dr. Bruce, on 11/23/70, indicated it represented a low priority according to the guidelines he had been given and that, whether or not Council acts favorably on it on November 30, it was almost certain that no grant would be awarded.

3. Dr. Bruce reported that he held approved applications totaling several hundred million dollars with far less than that amount (variously reported as $20 million, $24 million, $50 million and $100 million) available for funding of those applications

4. In response to questions, Dr. Bruce reported that, of all above-mentioned projects with approved applications, only five had proceeded with construction to the point of structural steel erection—and only one (ours) had reached that stage and, because of conditions beyond the project's control, was unable to proceed with construction without receiving the additional funds for educational facilities for which it was applying and for which it was eligible—namely, $11.8 million.

5. On November 30, 1970 we were notified that Council had not recommended favorable action on our amended application, because our project was evaluated as being of insufficiently high priority. Letter dated 2/4/71 from USPHS Bureau of Health Manpower Education states in part: "The actual eligible costs exceed the estimated costs on which the grant was based. However, supplemental funding was not approved so the grant amounts will remain as awarded."

IV. THE FEDERAL GOVERNMENT'S SHARE

1. The Federal Government's share in the support of the construction of the project, as represented by the applications for grants for research and educational facilities, was 34% of the total. (Applications filed in 1966–67 were: Research $2.7 million; Education $7.5 million. Total project cost: $30 million.)

2. The Federal Government's share is now 8% of the total. (Actual awards: Research $2.4 million; Education $4 million. Total project cost: $75.9 million.)

3. If our amended application had been approved, the Federal Government's share would have been restored to 24% of the total.

V. BANK LOAN—FIVE PHILADELPHIA BANKS

"An additional grant of $13.2 million from the Commonwealth of Pennsylvania and a $20 million loan from five Philadelphia banks for the purpose of construction resulted today in the signing of contracts marking the final phase of construction of the new Children's Hospital and Child Guidance Center." (12–7–70 news release)

The $20 million construction loan was approved for a period of three years.

LABOR-HEW APPROPRIATIONS BILL HELPS WISCONSIN LIBRARIES

Mr. PROXMIRE. Mr. President, I support the Appropriations Committee's recommendations for the funding of library programs authorized under the Library Services and Construction Act and title II of the Elementary and Secondary Education Act. In the State of Wisconsin, we are developing innovative library programs to serve our American Indian population. Community outlets and small library stations have been established with the held of LSCA title I to serve Wisconsin's rural population, both children and adults. Much-needed library service to the homebound, continuing education to support Wisconsin's open school concept, and strengthening metropolitan public libraries serving as regional centers are three examples of pressing needs in my State which will be at least partially alleviated with fiscal year 1973 funding of LSCA at the level recommended by the committee.

Wisconsin has three library construction projects slated for fiscal year 1973: a remodeling project for the Milwaukee central library and new main library buildings in Algoma and Kewaunee. State and local matching funds are available, and the fiscal year 1973 LSCA title II appropriation recommended by the committee should enable these projects to get underway.

In recent years title III of LSCA has enabled the States to undertake preliminary planning and initial development of library networks. We have started a knowledge network of Wisconsin, and we have a cooperative library project. As access to information becomes increasingly important in today's complex economy, the development of more sophisticated library and information networks becomes imperative.

I support the committee's recommendation for LSCA title III and hope that we can increase funding for this title in future years. With proper funding of this title, I am confident that our Nation's library system, composed of all our State, public, school, college, research, and specialized libraries, will be able to demonstrate the effectiveness of library networks in bringing to all Americans the knowledge that they need when they need it.

I support also the committee's recommendation for school library resources authorized under title II of the Elementary and Secondary Education Act. In the State of Wisconsin, the Department of Public Instruction has published just this year a set of standards for school library/media programs for the years 1972 to 1975. This publication brings together for the first time in Wisconsin standards for instructional materials centers and audiovisual programs. Instructional Materials Center—IMC—is the modern concept of a school library. The term designates a centralized collection of materials with a staff of professional and clerical personnel providing media services to students, teachers, administrators, and the community. We believe in Wisconsin that every student should have access to the services of a good school library and to the services of a planned audiovisual program throughout the school. We are working toward that goal and we are making progress. ESEA II funded at the level recommended by the committee for fiscal year 1973 will help us substantially to achieve our goal.

Mr. FANNIN. Mr. President, I want to commend the decision of the Labor-HEW Subcommittee to increase the funding of the Public Law 815 school construction program. This recognition by the committee of the vital needs of those schools located in impacted areas marks an important step in rescuing Public Law 815 from insufficient funding. The funding levels for this essential program during the last 4 years have been inadequate with the result that many schools have had to make decisions to limit some of their educational endeavors. However, by approving a $45 million appropriation, the committee has given hope to many schools that their educational programs will not have to be sacrificed because of limited facilities. This decision is particularly important to my own State of Arizona where many schools, especially those serving reservation Indian children, have been in need of assistance for some time while experiencing continued increases in enrollment.

The resulting pressures have caused these schools great difficulties but the action of the committee to increase Public Law 815 funding could immeasurably improve the chances of these schools, as well as others, to acquire the financial resources to alleviate these pressures.

Mr. President, I want to make it abundantly clear that the minimal funding in the past has proven inconsequential and has shortchanged those schools affected by Federal activities. I consider, then, the decision by the committee to increase funding to be of considerable significance and I hope that this decision will be sustained by the conference.

There are a number of documents pertaining to Public Law 815 which I would like to share with my colleagues. First, my statement to the Appropriations Committee outlining the case for increased funding. Second, letters from various school superintendents in Arizona who are affected by Public Law 815. And, third, a copy of an economic impact study prepared by Arizona State University to demonstrate the contribution, economically, that increased funding of Public Law 815 could provide to Arizona.

Mr. President, I ask unanimous consent that these materials be printed in the RECORD following my remarks.

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

TESTIMONY BY SENATOR PAUL J. FANNIN

Mr. Chairman: I appreciate very much your providing me with this opportunity to testify before your Committee.

In appearing here, I am not unmindful of the difficulties you face in funding a multitude of Federal programs. The fiscal challenges we face as a nation are of major importance to me, a view which I know you share. In this respect, then, my testimony today, which is primarily directed toward Federal school construction programs, takes into account the continuing budget restraints and the need for fiscal responsibility. But I must add that budget pressures can be somewhat ameliorated by a strong economy; and the proposals which I am offering today constitute a plan to stimulate the economy within a context of sound fiscal policy.

My purpose is to make a case for the increased funding of the P.L. 815 school construction program.

P.L. 815 and its companion measure, P.L. 874, known more popularly as the "impacted aids" measures, constitute a Federal policy for assisting school districts financially burdened as a result of new or expanded Federal activities. Specifically, P.L. 815 authorizes Federal financial assistance for construction by local education agencies of urgently needed minimum school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. Assistance is also authorized for construction of minimum school facilities by local educational agencies for pupils residing on Indian lands and by the Federal government on Federal property (such as Army, Navy, and Air Force installations) when no state or local education agency can legally do so.

Since its enactment in 1951, Congress has appropriated well over a billion dollars for support of the P.L. 815 Program. The result has been the construction of 76,000 classrooms serving some 2,201,140 students throughout the fifty states, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and Wake Island. P.L. 815 has contributed much, and Congress can be justifiably proud of its significant accomplishments.

Yet, while P.L. 815 has realized some important educational needs in the past, funding levels for the last four years have been insufficient to meet the requirements of the program. As a result, there are pending at this time 555 applications totalling $261,633,676 against a budget request of $15 million. Obviously, it would be unrealistic and fiscally irresponsible to fund all present applications in one fiscal year; but the present budget request is inadequate and deserves reconsideration by this Committee.

In my opinion, a reasonable increase in appropriations for this vital program can be justified.

PUBLIC LAW 815: PROBLEMS OF FUNDING

The reduced funding levels which the P. L. 815 Program has experienced during recent years is due to a number of decisions which have effectively limited not only P. L. 815, but other Federal construction programs as well.

Beginning in 1967 the Congress passed, and the President approved, P. L. 90–218, which directed that Federal obligations and expenditures in controllable programs for fiscal year 1968 be substantially reduced. This was followed in 1968 by enactment of the Revenue and Expenditure Act, which had a similar effect on available funds and expenditures in fiscal year 1969.

Then in 1969 the President, through the President's Construction Reduction Plan, ordered a 75 percent reduction in direct construction obligations. This Presidential order had the effect of permitting only two construction contracts to be let in fiscal year 1970. The result of these actions was to significantly reduce actual appropriations for P. L. 815 for 1968, 1969, and 1970.

Public Law 815—Appropriations as percent of authorizations, 1968, 1969, 1970

[In thousands of dollars]

1968:	
Authorizations	$80,000
Appropriations	$22,937
Percent of authorization	28.7
1969:	
Authorization	$79,162
Appropriation	$15,153
Percent of authorization	19.1
1970:	
Authorization	$79,347
Appropriation	$15,167
Percent of authorization	19.1

Moreover, the effect of these actions continued into the 1971–72 fiscal year with appropriations remaining at the same level.

The rationale for limiting construction activities was based on the desire to reduce Federal expenditures and the fear that construction activities would significantly contribute to inflationary pressures. This rationale is understandable and given the historical context, justifiable. However, the circumstances which originally supported this view are changing; and it would seem appropriate, at this time, to review this policy. In addition, there are factors which not only support a review but provide attractive reasons for increased funding of school construction projects.

PUBLIC LAW 815: THE CASE FOR INCREASED FUNDING

There are a number of reasons which can be cited to support the view that P.L. 815 should be funded at substantially higher levels.

First, P.L. 815 is national in scope. As of March, 1972, the Office of Education had on file 555 approved applications from 45 states, Puerto Rico, and Guam.

Second, the 555 applications, now pending, represent estimated entitlements totalling $261 million. This constitutes a program of important dimensions.

Third, by providing Federal assistance through P.L. 815 for the construction of needed school facilities, the Federal government can contribute to the easing of the ever increasing financial pressures which schools affected by Federal impact activities are currently experiencing.

Without sufficient assistance from P.L. 815, these schools will have to resort to other financial approaches which may not be sound or operate needed educational programs at near or below minimal levels. These represent the basic issues in school financing, but P.L. 815, if adequately funded, could help to overcome the difficulties which many schools are facing in providing quality educational services.

Fourth, Congress, through P.L. 815, has declared it to be the policy of the United States to provide for the construction of needed school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. This is a commitment relied upon heavily by those affected school districts; and, in addition, it is a priority program for many schools and the communities which they serve. In this spirit, then, Congress should renew its commitment to P.L. 815 by funding it in a manner which substantially serves its objectives.

Fifth, the need of many schools for additional facilities, due to Federal activities, is increasing, while funding for P.L. 815 has declined.

With limited funds, only a few projects can be supported; and the result is that a large number of projects must be deferred. In some cases, projects must wait two or three years or longer to be funded while the needs which triggered the application continue, and even increase. In fact, no funds have appropriated for Section 5 for nearly five years. In my estimation, by insufficiently funding P.L. 815, existing problems remain unsolved and additional ones are created.

In my own State of Arizona, for example, the lack of funds to adequately support P. L. 815 is causing considerable difficulties, especially in those public schools educating Indian children who live on the reservations. These schools have experienced substantial increases in Indian student enrollment during the last few years, a trend which I expect will continue. Yet, the facilities which were designed originally to handle fewer students are now hopelessly inadequate. These schools sought assistance for constructing the critically needed facilities under Sections 14a and 14b but learned that the funds allocated to these sections were insufficient to meet their needs at that time.

This resulted in many of these schools having to acquire temporary facilities (some of which considered sub-standard), adjust their programs, initiate double sessions, and make other arrangements. Together, these decisions are defeating the superb efforts of these schools to provide a quality educational program for our Indian children.

This situation is made doubly critical by the fact that these schools, because of insufficient P. L. 815 funding, are having to make other financial arrangements to acquire the money for providing or constructing additional facilities. This has proved difficult because these schools have a limited tax base and their bonding capacity is statutorily restricted. Moreover, some schools, after exhausting these two approaches, have had to divert portions of their operating budgets to acquire or rent temporary facilities. The result, in some cases, has been the shrinking of funds budgeted for operating expenses.

More importantly, however, the diversion of operating expenses affects the quality of the educational program, and I am sure you will agree that this situation makes it all the more critical that funds for P. L. 815 be increased.

The outlook, however, is not promising. At the present time, there are 46 approved applications under sections 14a and 14b with estimated entitlements of $43 million. Yet, the 1972–73 budget proposes that only $5 million be appropriated. This troubles me because Arizona alone, having the largest concentration of reservation Indians, needs $23 million, nearly 50 percent of the total, to realize the physical plant objectives of its reservation public schools.

The continued minimal funding of this vital program will undoubtedly postpone the realization of a quality educational program for our reservation Indians.

This is not only my concern—the Senate Special Subcommittee on Indian Education, of which I was a member, recommended in November 1969 that "P. L. 815 be more fully funded." The final report of the Subcommittee, *Indian Education: A National Tragedy—A National Challenge*, argued that "it is imperative that more attention be given to funding this legislation particularly for those sections under which disadvantaged students, such as Indians, are suffering with inadequate facilities. It is difficult enough to teach children with special needs, without having to face the added difficulty of inadequate facilities." To achieve a quality Indian education program, P. L. 815 needs to be sufficiently funded.

Yet, the needs of 14a and 14b are only one part of the total picture. By highlighting these needs, however, we are making the case for the needs of *all* schools which have made application under P.L. 815.

Sixth, the P.L. 815 program offers a unique opportunity to serve the objectives of recently enacted Congressional policies for rural economic development.

Interestingly enough, 410, or 74 percent of the pending 815 applications with estimated entitlements totalling $129 million are located in rural areas. Senator Ellender has expressed the need for "a national program to stay and reverse the heavy flow of people who are migrating into our cities if we are ever to obliterate poverty, revitalize our countryside and provide opportunities for those tens of millions who will soon join us on this earth. I believe that the sprawling, haphazard and unmanageable urbanization of our country can only be halted by encouraging a reversal of migration trends through inducements to remain in rural areas. The Federal government can and should do more to provide jobs, better economic opportunities and a more attractive, decent and healthful living environment in the less populated areas of our Nation."

P.L. 815 can play a major role in realizing the worthwhile objectives that Senator Ellender has enunciated. Funding the P.L. 815 program can create jobs, develop economic opportunities and, through the provision of a quality educational program, provide an attractive living environment.

More importantly, however, by fostering rural economic development through P.L. 815, a significant resident benefit could accrue to the educational system of rural school districts.

In a recent study prepared by the Library of Congress, which sampled selected rural school districts applying for P.L. 815 support, it was determined that the adjusted gross income per pupil within those school districts was below the state average. For applications under Sections 5, 9, and 14c of the Act, 28 out of the 40 districts sampled were below the average. And for applications under Sections 14a and 14b, all the sampled districts were below the state average.

Obviously, then, by promoting construction activity in rural areas it may be possible, with the assistance of other Federal policies, to raise income levels and thus provide greater revenues for educational activities. In addition, increased funds for educational endeavors could help to ease the financial pressures which so many schools are currently facing.

Seventh, P.L. 815 could serve to reduce unemployment. A recent study prepared by my staff indicates that a definite correlation exists between the location of P.L. 815 applicant schools and the presence of areas of unemployment as designated by the Department of Labor.

It is my argument that in areas of high unemployment especially in skills related to the building trades, Federal expenditures, in this case the P.L. 815 program, would not tend to be inflationary, but in fact would actually promote the economic improvement of the areas.

While I have not as yet exhausted the data to permit a completely valid national generalization, I have sampled enough states to support the correlation.

For example, in five Western states—New Mexico, Arizona, California, Washington, and Montana—there are 174 applications with estimated entitlements totalling $84 million, of which 121 applications totalling $59 million are in areas described by the Department of Labor as being economically depressed. In addition, of those 121 applications, 75 are in rural areas. Thus, by funding P.L. 815 school construction projects in these areas, unemployment could be eased and rural economic development fostered.

In summary, P.L. 815 would not only serve to realize educational objectives, it could solve some important economic problems as well.

PUBLIC LAW 815: INFLATIONARY IMPACT

Mr. Chairman, whether one chooses economic or educational reasons for funding P.L. 815, the question of inflationary impact must be faced.

It has been argued that by funding Federal construction projects, including P.L. 815, serious economic consequences would surely follow in the form of strong inflationary pressures. It is my contention, however, that funding P.L. 815 would not result in unmanageable economic problems.

To support this contention, I would cite as reasons the rural orientation of present P.L. 815 applications and the relationship of some of these applications to areas of unemployment.

First, 410 or 74 percent, of the total applications now pending are located in rural school districts. Since Arizona's applications are predominantly rural, I asked Arizona State University and its College of Business Administration to detemine the extent of inflationary impact if its applications were funded. They reported that, "Since $24.2 million of the unfunded P.L. 815 applications in the state are in the non-SMSA counties (only $5.2 million in SMSA counties), it is certainly feasible that some local labor, possibly now unemployed, could be utilized with little inflationary impact. Of further interest in this regard is the fact that roughly 87 percent of all contract construction work within the state does occur in Maricopa and Pima Counties. This may indicate that additional construction expenditures directed towards the more rural areas (e.g., Indian reservations) could result in little or no increase in construction costs because of the absence of high demand for such activities in those areas."

The Arizona State study concludes by arguing that "problems of inflation, albeit construction prices, services costs, etc. have been more noticeable in metropolitan areas. If inflation is expected to be a continuing problem (clearly a separate question) then it will likely continue to be more noticeable in metropolitan areas."

I realize, of course, that these generalizations may not be entirely valid for all areas since local conditions will vary, but I am convinced that funded P.L. 815 applications in rural areas will not result in serious inflationary consequences.

Second, I am also convinced that school construction projects located in areas of unemployment will not create significant inflationary pressures.

In summary, Mr. Chairman, it would appear that inflationary consequences would be minimal if the P.L. 815 program were funded. More importantly, however, funding P.L. 815 at this time could result in some significant economic benefits which would more than outweigh any inflationary consequences. In this respect, P.L. 815 presents an opportunity for stimulating economic growth without serious inflationary impact.

P.L. 815: RECOMMENDATIONS

Mr. Chairman, in reviewing the evidence, there is no doubt that a case for funding P.L. 815 at substantially higher levels exists.

I, therefore, recommend the following for your consideration:

First, that the Committee approve the language in the Administration's budget for restricting funding to Sections 14a and 14b and Section 5.

Second, I urge the Committee to increase the budget amount from $15 million to $45 million to be divided as follows: one-third to Sections 14a and 14b and two-thirds to Section 5.

CONCLUSION

Mr. Chairman, I believe we have demonstrated a need and a rationale for funding P.L. 815, and I earnestly hope that Congress will now find it possible to increase its commitments to this vital program.

SACATON SCHOOL DISTRICT NO. 18,
Sacaton, Ariz., April 14, 1972.

Senator PAUL FANNIN,
U.S. Senate,
Committee on Finance,
Washington, D.C.

DEAR SENATOR FANNIN: Presently we have four applications on file. Since none have been funded, we are housing students in two substandard classrooms that the Board of Trustees passed a Resolution to discontinue the use of these substandard buildings, we are using six trailers for classrooms, five metal buildings that are classified as portable which I feel are substandard to permanent buildings. This gives us a total of thirteen buildings that are substandard or temporary which creates an extreme hardship on our maintenance budget in terms of repair, cooling, heating and all portable and trailers must be purchased from our operating budget which necessitates taking funds from our operating budget which should be utilized for additional programs and improvements of our present educational programs.

In the past three years, we have spent $218,567.00 for trailers and portable buildings. In my opinion the funding of Public Law 815 should have an extremely high priority. We feel with our continued growth it will be a necessity to have at least two additional classrooms which will be purchased from our operational budget, therefore, penalizing our educational program once again.

I wish to thank you for your interest and any assistance you may give in funding Public Law 815.

In the last five years, our enrollment has gone from 156 to 842 showing the dire need for permanent facilities.

Sincerely,

WALLACE L. BURGESS.
Superintendent.

SACATON SCHOOL DISTRICT NO. 18,
Sacaton, Ariz., April 12, 1972.

Senator PAUL FANNIN,
U.S. Senate,
Committee on Finance,
Washington, D.C.

DEAR SENATOR FANNIN: In the Regular Meeting held Wednesday, April 12, 1972 the Sacaton Public School Board of Trustees expressed their desire to endorse the Superintendent's statement to request assistance in having Public Law 815 funded as soon as possible because the District lacks permanent facilities to operate a well rounded educational program.

DANA NELSON,
President.

PEGGY JACKSON,
Clerk.

EDMUND L. THOMPSON.
Member.

WHITERIVER ELEMENTARY SCHOOL,
Whiteriver, Ariz., April 10, 1972.

Hon. PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: As you know I have written you and your Arizona colleagues many times in reference to P.L. 815 funding.

Alchesay High School District and the Whiteriver Elementary District are located within the confines of the Ft. Apache Indian Reservation. Eighty percent of our high school students and ninety percent of our Elementary students are White Mountain Apaches.

The districts assessed valuations are $772,285.00. Our ability to bond for new construction is negligible and there is a legal question pertaining to the purchase of bonds.

The districts have filed applications for 1968-70, 71, 72, 73 respectively equal to: Elementary—$2,480,400.00, High—$2,569,069.00. If a 1972 application were approved today it

probably would not be ready for occupancy until the 1974–75 school year.

Our estimated memberships for 1974–75 school year are: Elementary 1480, High 410. The present facilities are built for: Elementary—1010, High—250. I realize some districts on the reservations are considerably worse off than we are. This really isn't the question—Who is or who isn't in a bigger dilemma in terms of housing students and teachers? The real question is the education of the Indian children.

They are being short-changed due to lack of proper facilities when one compares these reservation districts with districts off the reservation, even in our rural area. Many of our local public schools off the reservations have proper physical education and athletic facilities. They have single purpose auditoriums and swimming pools.

We were fortunate to obtain a vocational shop funded by Economic Development Administration and the White Mountain Apache Tribe, although we pay rental to the tribe for their share. The U.S. Office of Education had no part in this facility.

Educationally our applications if funded would enable us to develop needed programs such as:

ELEMENTARY

1. Improve teacher-student ratios.
2. Improve learning and educational opportunities for grades 7–8 through development of materials center.
3. Improve language—arts, including reading, by having needed facilities.
4. Improve science courses grades 7–8 through proper science facilities.
5. Improve homemaking courses grades 7–8 through proper homemaking facilities.
6. Improve health and physical education programs through proper facilities.
7. Improve Arts and Crafts programs through proper facilities.

HIGH SCHOOL

1. The proper number of teaching stations would aid us in improving the number of courses offered and would reduce class sizes.
2. Our recent *North Central Evaluation* rated us low in terms of physical education, vocational, drama, arts, music, and regular classroom facilities.

We have no gymnasium facilities. We have no auditorium for dramatics and community programs. We have no facilities for swimming, wrestling, etc.

3. We are second rate if we compare our facilities with adjacent school districts in terms of what they have constructed in the past few years. The facilities we have are excellent but we have not kept up with our educational needs.

The majority of these children need the best educational opportunities available. They need experiences of all types to better equip them to succeed in the outside world.

4. Proper facilities will enable us to attain recommended educational goals in developing a complete well rounded curriculum for our students.

As you well know, Senator Fannin, I have been disturbed, and angry, and blunt, the past couple of years in terms of 815 funding. My letters to you and your colleagues have not always been complimentary. I sincerely hope your efforts will produce additional funding.

Sincerely yours,

FRED R. LEWIS,
Superintendent.

TUCSON PUBLIC SCHOOLS,
Tucson, Ariz., April 11, 1972.

Hon. PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: Formal application for P.L. 815 funds, Section 5, were submitted on December 22, 1971.

On January 11, 1972 Mr. Gerald Cherry, Director of Federally Affected Areas, notified us that our application had been approved by the State of Arizona and had been given application number Ariz–73–C–25, and that the official filing date was December 23, 1971.

Our application was for the amount of $378,000 to build a ten classroom addition and library at the Lowell Smith Elementary School located on Davis-Monthan Air Force Base. The construction is felt to be necessary because of the Wherry Housing Project of 300 living units plus trailer spaces for at least 50 trailers now underway on the Base.

At the time of the application, 100 families who would be living in the project were sampled. These 100 families had 97 elementary school age children. This apparently was a low figure because Smith School is registering more than one child per dwelling unit as they open.

Our educational objective at Smith School is the same as in all schools in the district, namely, to help each child achieve the best that lies within him. However, another prime objective is to house the elementary children who reside on Davis-Monthan Air Force Base in a non-crowded school offering facilities equal to those of other schools in our district.

The children moving into the new housing on the Base have not freed classrooms in any schools as they have been scattered throughout the whole community of 61 elementary schools and the other school districts in the Tucson area. Since our eastside schools are all crowded, it is not practical to bus to relieve the crowding at Smith School. If the growth at Smith proceeds as expected, the only solution will be overlapping or double sessions.

It is for these reasons that I am hopeful that full funding of the P.L. 815 program can be obtained. I appreciate very much your efforts in this connection.

Sincerely,

THOMAS L. LEE,
Superintendent.

TEMPE SCHOOL DISTRICT NO. 3,
Tempe, Ariz., May 25, 1972.

Hon. PAUL J. FANNIN,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR FANNIN: The members of the Board of Trustees, Tempe Elementary Schools, wish to request your assistance in adequately financing the FY 1973 appropriations for the support of educational programs administered by the Office of Education.

We are very interested in the "Impact Aid" legislation embodied in P.L. 874 and P.L. 815. We urge your support for an appropriation to fund all approved P.L. 815 applications with priority of 0.1 and above. Our district has an approved proposal on file since June 24, 1968, with a priority index of 13.7 assigned on February 20, 1970. Subsequent appropriations have never been large enough for this district to have received any benefit from this legislation.

We have a severe shortage of classroom space, and we have remained close to the 10% bonding limit capacity for the last few years. We are accommodating approximately 1,000 students in portable and temporary buildings. Tempe is one of the fastest growing cities in the country today, with the current estimated population at 83,000. We have been showing an annual enrollment gain of 5% for the past few years. We need one additional 600 capacity building immediately, and this doesn't consider the students in temporary buildings. As a consequence of the mechanics of the property valuation process, school districts can't realize benefits from gain in valuation for approximately a year after the increase. We are perpetually behind the demand for housing.

In the event our application is funded next year, it would provide for the immediate anticipated growth, and allow approximately a year to reduce bonded debt. It would in this way allow for the accumulation of additional bonding capacity for the continuing big building push.

In regard to P.L. 874 the Tempe Elementary Schools qualifies for a substantial annual payment since Federal activities located in the area do bring substantial numbers of people to Tempe. During the current year, this district has claimed 542 students under P.L. 874. A 100% full payment of entitlement would result in a $104,329.58 payment to the operating account of our district. However, the present appropriation allows only for an approximate 73% payment. This results in a payment of $76,160.59. The difference between the two amounts equals $28,168.99 which represents money not received to help in the financing of education. The $28,168.99 not received can be expressed as an amount equal to 3.5¢ on the tax rate. When dealing with local property taxes this is a significant tax rate to the local property owner. We can also say the full entitlement, if it was paid out in full represents over 10¢ on the tax rate, a not inconsiderable sum. Over a period of years this district has benefited from this law, it would be difficult to explain to the property owner any additional rate which may occur if this act isn't funded.

We sincerely hope you will see fit to give support to full funding for P.L. 815 and 874. It is the kind of aid this district welcomes since it resembles revenue sharing without strings. Our Board and residents will appreciate your help in this effort.

Sincerely,

KENNETH FULLER,
President, Board of Trustees.

TEMPE SCHOOL DISTRICT NO. 3,
Tempe, Ariz., April 10, 1972.

Hon. PAUL J. FANNIN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FANNIN: It is a pleasure to acknowledge receipt of your letter of April 4, in which you express interest in this district's application for construction assistance under P.L. 815. I wish to express my appreciation for your efforts on behalf of the supplemental appropriations bill in the last session of Congress.

The Tempe Elementary School District submitted a proposal, under P.L. 81–815 as amended, on June 24, 1968. Notice was received from the Office of Education on February 20, 1970 that the proposal was approved. A priority index of 13.7 was assigned. However, subsequent appropriations were never large enough to fund the vast majority of the approved proposals, and this district along with many others have never realized a benefit from this legislation.

The proposed administration budget for FY–73 provides no encouragement, since it asks for $3,390,000.00 less than the amount appropriated last year. The Tempe Elementary School District attaches greater importance to this particular Federal program than to any other current program. Tempe is one of the fastest growing cities in the United States. As a consequence of this, the elementary school district cannot raise enough tax receipts to meet the demand for adequate school housing. The bonding capacity of a school district in Arizona is limited to 10% of assessed valuation. For the past several years the Tempe district has been straining against this barrier. We are always behind the demand, and seem to be losing ground in meeting the increasing demand for classroom space. The need for space always precedes the increased valuation by at least a year. This fact is simply a consequence of the property valuation process. At least another year is required to build classroom space to accommodate the children in attendance two years earlier.

The following figures will indicate the gravity of school housing problems for the Tempe Elementary Schools.

Enrollment, March 9, 1972, equals 11,787 students.

Available building capacity, March 9, 1972, equals 11,796 students.

Enrollment records for the last several years indicate an approximate 5% gain for students each year.

Projecting 5% for 1972–1973 school year using March 9, 1972 enrollment.

Projected increased enrollment school year 1972–1973 equals 590 students.

Building needs to accommodate enrollment gain is projected as:

	Students
1 Kindgergarten	70
18 Classrooms	540
1 Library	
1 Multipurpose room	
Total	610

Important facts to note are the following:

There are presently being utilized 33 portable classrooms rated at 30 students per room.

There are presently being utilized 2 portable classrooms rated at 10 students per room.

33 times 30 equals 990 and 2 times 10 equals 20.

Total equals 1,010 students accommodated in temporary classroom buildings.

There are 1,010 to 1,050 students currently housed in temporary portable buildings. This number represents almost two complete elementary schools having a capacity of 600 each. A 600 student capacity elementary school is thought to be an ideal maximum capacity for such buildings.

In summary it can be said the immediate building needs required to eliminate temporary housing and to provide for enrollment growth would represent the equivalent of three elementary schools each having a student capacity of 600. In each case land acquisition costs must also be computed. Land costs are extremely high in this area. It would be a reasonable cost projection to indicate an appraised $10,000–$12,000 per acre cost. Using the figure 1.5 acre for each 100 students, the minimum size site would be 8 acres. This cost can be projected at $12,000 per acre, or $96,000 per school site. School construction costs can be estimated at approximately $1,000 per student. The total cost for construction and site acquisition would be approximately $2,088,000.00. Approximately $696,000 would be required to acquire a new site and building for the projected growth to June 30, 1973. The remainder of the money would be required to replace temporary portable buildings.

It can be readily seen from the above, we have an extremely grave situation which could be substantially relieved with the funding of our approved P.L. 815 application. It would provide for the immediate anticipated growth, and allow approximately a year to reduce bonded indebtedness and create additional bonding capacity for the next big building push. A side effect would be the employment of many persons in the building trades. Such employment would be a boon to the employment problem in the valley. Further, the bonding capacity of the district has been reached, and without capacity to bond, money cannot be raised to build additional classrooms. We are in a serious situation in this district.

We solicit your support as an influential member of the Senate to aid in achieving a level of appropriation for funding P.L. 815 sufficient to fund this district's application.

Your continuing interest in the Tempe Elementary Schools is greatly appreciated. I look forward to a continuation of our mutual efforts to provide quality education to the boys and girls of this school district.

Sincerely,

O. S. FEES,
Superintendent.

LITCHFIELD SCHOOL DISTRICT No. 79,
Litchfield Park, Ariz., April 7, 1972.

Hon. PAUL FANNIN,
U.S. Senator, U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: Since my earlier communication with you regarding support for PL–815 funding, and my application to HEW, I have spent numerous hours with other school administrators, citizen groups, and concerned people in attempts to fathom the predicament faced by those people responsible for the education of youth under present federal support programs.

In our particular situation, our financial limits have been reached. The Litchfield Elementary School District bonded itself to the statutory limit in order to provide new facilities to serve 354 new students from a new housing project at Luke Air Force Base. This does not include an additional 209 students from families living off base.

The Average Daily Membership of the school district is 1,192 and of this amount, approximately 563 students, or 47% are militarily connected.

Present facilities would have been adequate for the district to meet the anticipated growth of the community. Bonding capacity would have been available for growth purposes. As things now stand, we will be facing a facility shortage because of anticipated growth in the immediate future and no bonding capacity.

The district is further restricted by the fact that it does not presently own property to build its next facility.

Let me further state, that our district is a "bedroom community" without a broad tax base, thus providing less ability to meet the state average per pupil expenditure.

There are other concerns for which I feel the Congress must support full funding of P.L. 874 and P.L. 815. First, is the fact that we need to make it possible for military families to settle in communities knowing that their presence does not create liabilities. I am not saying that in fact this is true, but that citizens often refer to it as such. The morale of military families must be considered. Full funding will help to make them more fully a part of the school community. This will help all; students, educators and parents.

Secondly, there is a need to develop a military dependent voucher system. Hopefully, the money will follow the child. The present system forces school districts to provide services now and justify all claims later.

It is poor reasoning, considering the present cry for accountability, to think that educators can teach and children can benefit educationally in cases where the financial support and resources arrive after the need. Federal and State accountability in the use of financial resources is thus questionable.

Full funding of our current application for P.L. 815 monies would make it possible for the patrons of my school district to serve and be served with an educational program entirely within their means. A new facility will avoid double sessions for an extended period. Approval of our application will provide relief at a time when the inevitable seems almost certain.

I ask for your full support of all legislation, expecially P.L. 815, which will help all school districts faced with similar situations.

Thank you for this opportunity.

Sincerely,

CHARLES R. MEDEIROS,
Superintendent.

CONTINENTAL SCHOOL,
Amado, Ariz., May 15, 1972.

Hon. PAUL J. FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: This is in reply to your letter of April 4 regarding our application for funding under P.L. 815.

Continental School District #39 covers 147 square miles. More than half of this area is made up of federal and state land. Most of the federal land is in the Coronado National Forest.

The district also contains a large retirement community, Green Valley, which makes up the bulk of our population.

Continental School has an average daily attendance of 140. An additional 50 students from Continental attend high school in a neighboring district. Because of the small number of students our tax rate is not too high, but it could change rapidly with an influx of student population. Any increase in taxes will surely create problems for those retired persons who are on a fixed income.

Our present physical plant at Continental consists of a main building which contains 4 classrooms; two of these rooms were built in 1916. One room was added in 1950 and another was added in 1960. In addition we have 2 double wide trailers which contain 4 classrooms. The school office is a 10 x 50 trailer and the library is housed in a 12 x 55 trailer. These buildings are situated on approximately 1½ acres of land. Our need for a new school should be apparent from the foregoing description.

On April 25, the Citizens of Continental School District voted in favor of a $325,000.00 bond issue with which to build minimum facilities for the school. I should like to reiterate the burden of additional taxation to some of our senior citizens. With these facts in mind I hope that Congress will see fit to appropriate funds and that the Office of Education will be able to approve the P.L. 815 application which we have submitted.

Respectfully yours,

WRIGHT P. THOMAS,
Principal.

AGUA FRIA UNION HIGH SCHOOL,
Avondale, Ariz., April 17, 1972.

Hon. PAUL FANNIN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FANNIN: I was pleased to get your letter of April 4 regarding funding for Public Law 815. In the Agua Fria Union High School District, which is located 16 miles west of Phoenix, 150 military units were constructed in our district in the spring of 1971. Therefore, over the summer our small high school of approximately 1,050 students was increased by the addition of 90 students from this military housing. As you can readily see, this is a very large increase for a small school district to absorb in over a three-month's period of time.

In addition to the difficulty in housing that many additional students, the district was faced with a transportation problem. The new Luke area housing is located on the very extreme north end of the district approximately 15 miles from the high school site. This necessitated adding two additional buses to our present fleet of six.

However, it is not the increase in the operational expense caused by the addition of these students, or even the capital outlay expenditure for buses, that is of most concern to me. The greatest concern is to continue to provide adequate facilities when our school district is hit with impact such as the one which I have just described. At the present time, the Agua Fria Union High School District is bonded to over nine percent of the assessed valuation. As you know, in Arizona, school districts cannot legally bond themselves to over ten percent of their assessed valuation. Therefore, regardless of any increase in military housing, it would not be possible for the residents of the district to add additional facilities because they simply do not have adequate bonding capacity.

I sincerely appreciate your concern and others in Congress who have a concern for those school districts who are faced with

military impact. I hope that your efforts are successful in securing additional funding for this very important measure.

Sincerely,

HAROLD W. PORTER,
Superintendent.

SCHOOL DISTRICT
ADMINISTRATIVE OFFICES,
Sierra Vista, Ariz., April 18, 1972.

Hon. PAUL FANNIN,
U.S. Senator,
U.S. Senate, Washington, D.C.

DEAR SENATOR FANNIN: The Sierra Vista School System is adjacent to Fort Huachuca. The enrollment of our schools is 4000 elementary and high school students and of these, 366 are High School students whose parents live on the Post and are active military families. Since 1969, the total enrollment has increased 1158 of which 537 are High School students. We also have 599 High School students whose parents live in the community and work on the Post.

Due to this growth, the School District passed a two and a half million dollar bond issue. However, the assessed valuation will allow only small portions of this to be spent. Ft. Huachuca students are using local tax supported facilities but the local tax and the community cannot contribute any further. Presently, an elementary school is being constructed. We are building only a portion of the school due to lack of bond funds. The school will have no library, fine arts or special education rooms and will have one-half the classrooms needed.

Our Junior High School is in desperate straits. Built for 750 students, it now houses 1100. It doesn't have labs and no space for fine arts. It is crowded beyond belief.

The High School is completely inadequate. Lab space is our prime shortage. There are 1,200 students using one biology classroom with 20 students per period. Also, there is one physics-chemistry combination for the school. Classes in programing, key-punching and data processing which teach hundreds of youngsters are housed in a storeroom. The School District is committed to a program for the handicapped and there is no adequate facility for this education. Trainable children between the ages of 5 and 12 are housed in a twenty-year old frame house at Ft. Huachuca. These children can be helped far more than we are able to accomplish in this facility. Space for auto mechanics at the High School is being used from 7:00 to 4:30 p.m. Many youngsters are not receiving this and other courses we offer because of the crowded conditions. Support facilities in all schools are inadequate and there is not an auditorium in any school.

The intent of the PL 815 funds is to construct facilities for impact areas. With the coming of the Strategic Communications Command and the Army Intelligence School, the population of our High School and Junior High School has increased approximately 15% annually. The present population on the Post is 14,831. Of the 4000 civilians assigned to Ft. Huachuca, 2300 live in Sierra Vista. There are presently 1756 sets of quarters on Post and in mid-1972, there will be 1956. Seven hundred more sets of quarters are now needed. Every indicator suggests that there will be additional personnel assigned to Ft. Huachuca living on and off Post. Presently, there is no other industry in the city. Certainly, Sierra Vista is an impact area in the sense that the Congress initiated the PL 815 bill.

The voters in our community have supported our last two bond elections by a margin of three to one and five to one. However, with the dubious distinction of the highest tax rate in the County and nearly the highest tax rate in the State and with our bonding capacity as described in the foregoing, quality education no longer can be afforded.

Your interest in our problems is appreciated. Please call upon me if I can be of further assistance.

Sincerely,

LUTHER FLICK,
Superintendent.

INDIAN OASIS SCHOOL DISTRICT No. 40,
Sells, Ariz., April 20, 1972.

Senator PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: I am sorry it has taken me so long to answer your letter concerning our application for Public Law 815 funds. I think it deserves careful consideration and that is what I have attempted to do.

First of all, may I explain that we have two Public Law 815 applications in. One was submitted in May of 1969 in the amount of $2,296,800 to add to our combine junior-senior high school facilities. This application was finally given a priority of 51.8, which means we are almost half way down the line before we will be funded. Our second application was submitted in June of 1970 in the amount of $1,557,000 to increase our elementary facilities at Topawa. No priority has been given us on this request. Then in June of 1970 we made a revision of our application of May 26, 1969, requesting $3,071,890. Because of the change since we had submitted the other application we thought that this would give us a higher priority. We have received no indication as to a change of priority yet.

Last year we finished building a combined junior-senior high school facility which had been planned for 175 students. Last fall when we started school we had a total of about 500 students in our junior-senior high school classes. In other words, before we even started school in our new high school facilities we had to rent 10 additional classrooms to take care of the students that the new junior-senior high school had been planned for.

The outlay of money for the rental for these facilities amounts to $60,000 per year. This is about 7% of our maintenance and operating budget.

If we had the facilities we have requested, this $60,000 would allow us to add approximately seven more teachers to the staff, with which, of course, we could develop better educational programs.

We have some statistics that indicated with the building of this high school facilities on the Papago Reservation the dropout rate of high school students has dropped significantly. In 1969–70 we had a dropout rate of 10.4%. In 1970–71 this decreased to 7.5% dropout rate, and this year (the first year in the new high school plant)our dropout rate has plummeted to 3.7%. I am sure any educator will tell you that that is an outstanding record.

As I remember it, the dropout rate of the Papago students from the Bureau of Indian Affairs high schools off the reservation is between 11 and 13% of their enrollment.

Another significant bit of statistics is the number of students returning to our high school facilities from off reservation schools after Christmas vacation, most of these are from B.I.A., boarding schools. In 1969–70 we had an increase to our student body caused by these returning students of 3.4%. In 1970–71 it was 6.6% and in 1971–72 it was 10.5%. I might explain that 1969–70 was the first year that we had a 12th grade graduating class.

I think that you can see from this data that we have an educational program that is meeting the needs of people here on the reservation. We could definitely do a better job with the facilities that are needed and if we did not have to use so much of our maintenance and operating money for the rental of classrooms.

In spite of the limitations that we have because of buildings we have been able to develop many programs in the vocational and career education areas and sincerely invite you to come and inspect our facilities and our programs to obtain a full realization of our extreme need for the money to build the needed facilities.

I appreciate, the opportunity of submitting this letter to you and of course, stand ready to assist in any other way possible.

Sincerely yours,

DON L. PETERSON,
Superintendent of Schools.

SCHOOL DISTRICT No. ONE,
Yuma, Ariz., May 15, 1972.

Hon. PAUL J. FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: Following months of planning and compiling of needed data, this district submitted an application to the Director of Financial Assistance to Federally Affected Areas, P.L. 815, for federal funds to assist us in our efforts to build an urgently needed school.

The application showed the need for the new school was due to rapid expansion of programs at Marine Corps Air Station, Yuma, and the Army's less accelerated, but gradual growth at Yuma Proving Ground, Test and Evaluation Complex. It was shown that during the four year period of growth covered in the application, federally connected students in the 3(a) category increased from 210 in April, 1966 to 700 in April, 1970. The rise in 3(b) category students increased in number from 1,040 in April, 1966 to 1,250 in April, 1970, a gain of 210 students. The "actual count" gain for the two categories amounted to some 700 students new in the community, due to federal activity. This figure is more significant when compared to the growth of non-federally connected students during the same four years. The non-federal count in April of 1966 was 4,542; in April of 1970 the figure was 4,553, a total increase of 11 students.

The average elementary school in this district serves between 400 to 600 students. The "actual count" increase of 700 students new to this district, combined with contracts for additional on base family housing, with a completion date of June, 1971, forced this district to build one additional elementary school.

At our urging, the Regional H.E.W., P.L. 815 representative from San Francisco conducted an on site review of all aspects of our application, including meeting with the base commanders and housing officers. He agreed that existing school facilities were overcrowded, and that one additional school plant was needed due to realized and projected growth through June of 1972. His estimation of this district's entitlement was between three quarters and a million dollars.

To answer your question—"If funded what educational objectives could be realized?"—I think the answer would be: Had the funds this district is entitled to, been made available when they were so urgently needed, a school would have been built. This is exactly what the law provides for.

I ask you Senator Fannin, to please impress your colleagues with how terribly frustrating it becomes at the local district level to work within the guidelines of this law over many months and then to receive a brief notice from Mr. Gerald Cherry, Director of Federal Assistance in Federally Affected Areas, that:

"The application has been processed and found eligible under Section 5, Public Law 815, a priority index has been established of 11.9, the estimated number of unhoused pupils as of the end of second year following increase period is 1,041, there are no funds presently available for your project."

I suppose that under the circumstances, this district fared better than others around

the country; because a local bond issue passed, the property taxes increased, the school has been built and will open in September of 1972, and the children will be educated.

I feel that those eligible school districts, which have been forced to turn to local funds to construct needed schools, should be reimbursed.

Your continuing efforts to achieve a more realistic funding level for applications found eligible under P.L. 815 are greatly appreciated by those of us in this community and others across the country faced with the same problem.

I apologize for the delay in replying to your letter.

Hoping this proves satisfactory.

Sincerely,

PETE WOODARD,
Superintendent.

SCHOOL DISTRICT 27,
Kayenta, Ariz., April 13, 1972.

In re Kayenta Elementary School and Monument Valley High School.

Hon. PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: I am writing in regards to Public Law 815 and this District's need for construction funds.

When school starts next fall our elementary school will be using thirty-three temporary classrooms and two multi-purpose rooms, some of which are very substandard facilities. This has come about because of inadequate construction funds during the past several years, and the fact the U.S.O.E. does not allow a District to estimate ahead of the date funds become available.

The public schools of Arizona on Indian reservations have been drastically curtailed in building funds while the B.I.A. building program has been funded to the point that it has several schools with many vacancies or not even being operated.

We have presently an application file for the construction of a junior high school here in Kayenta; however, by the time it is funded and completed, it will be inadequate.

We need additional funding to replace all thirty-three temporary rooms and to provide space so we may offer other courses that are offered off the reservation. Though we need some $2,000,000 for elementary construction, the District has recently bonded itself to the 10% limit to construct a cafeteria because the present one was designed to take care of three hundred, and we are presently serving over a thousand lunches in addition to a breakfast program. The building is so small that it cannot function in any of the ways for which it was designed.

Monument Valley High School was designed to handle 175 students, and we expect approximately 500 next year. Last year we had 60 students to graduate from the eighth grade and 120 students enrolled as freshmen this year.

We will be using eight temporary classrooms next year and some of the rooms are very substandard. The U.S.O.E. has never seen fit to allow a band room, auditorium, specialized shop areas, trade areas, and many of the other facilities that are considered normal in a regular building in the Phoenix area.

Sometimes it seems that Congress is really interested in keeping the Indian from making any progress though there is a great deal of talk as to what is being done. Maybe in the press of business one loses sight that education is the key to the problem Indians have in this country.

We would certainly urge that you look into other ways of obtaining construction funds other than through P.L. 815. Several years ago, I believe Senator Montoya introduced a bill which would have provided states with building funds for Indian students through, I believe, the Johnson-O'Malley Act. This has merit in that a great deal of time could be saved if something along this line could be done, in the face of so many defeats to obtain adequate support for these funds under P.L. 815.

Because temporary classrooms are purchased from the budget, it has caused the per capita cost of the education to be high in Arizona; but, more important, the need to purchase temporary facilities has caused a drain from our regular programs, and, has, therefore, hurt the Indian student and the educational programs.

I believe that the present financial problems that we are now facing are caused because there has not been funds for construction. As a result of this lack of funding, our District needs approximately three million dollars to replace the temporary facilities.

Sincerely yours,

JACK WILSON,
Superintendent.

YUMA COUNTY SCHOOL DISTRICT NO. 27,
Parker, Ariz., April 11, 1972.

The Honorable PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: I am writing this letter in an effort to make you and other members of Congress aware of the need for full funding of P.L. 815 and continued funding of P.L. 874 at or above its present level.

Parker Elementary School District is comprised of an area of approximately six hundred sixty-two square miles. Of this area, fifty-two percent, or three hundred forty-four plus square miles, is Indian Reservation, and forty-three percent, or two hundred eighty-five square miles, is State or other Federal lands. The remaining area of approximately fourteen square miles represents the total amount of taxable area within the District.

The voters of the local school district have bonded themselves to the legal ten percent limit in order to provide housing for the students. However, approximately thirty-eight percent (four hundred fifty-two students) is presently attending school in buildings that are substandard and have been condemned by the U.S. Office of Education as being unfit for educational purposes. These buildings, located at the LePera School on the Colorado River Indian Reservation, were constructed by the Japanese who were interred there during World War II.

The children attending LePera School come, for the most part, from disadvantaged minority groups—forty-two percent Indian and thirty-nine percent Mexican-American. These children deserve at least an equal educational break with other children, and with the existing physical plant, this equality is not possible.

The Congress of the United States has recognized their obligation to these children by declaring them eligible to receive Federal funds under Public Laws 815 and 874, yet they have steadfastly refused to meet this obligation by denying the allocation of sufficient funds under P.L. 815 to provide monies for suitable housing for these deprived and poorly housed children. Any reduction in P.L. 874 funds would also seriously hamper the education of these same children and necessitate an additional and unjust burden on the already over-taxed people of this district.

Any support you are able to lend to P.L. 815 and P.L. 874 will be greatly appreciated by this and many other worthy school districts.

Sincerely yours,

FRANCIS E. BLAKE, *Superintendent.*

SUNNYSIDE SCHOOLS, DISTRICT NO. 12,
Tucson, Ariz., April 18, 1972.

The Honorable PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: This letter is in support of full funding for P.L. 815. Our school district population has increased at the rate of one classroom per month this current school year. We now have two elementary schools on double sessions. Our plans are to open two "satellite" modular school sites for the 1972–73 school year to alleviate over-crowding to some extent. We also will open a new school in September. Even with these extra classrooms, we are anticipating double sessions for primary grades and extended sessions for the junior high school level.

On our last Federal Survey under P.L. 874, we recorded 1286 federally connected pupils. Of this number 525 were uniformed services or approximately 41%.

I sincerely urge the appropriations committee to secure funding for all categories at least on a level as high as this year.

Our district is bonded to its fullest indebtedness. We have the highest school tax rate in Pima County. Our district patrons have a higher unemployment rate than the rate recorded for the greater Tucson area. We also have a higher percentage of ethnic minority groups than the county as a whole. We certainly qualify for as much federal funding as can be allocated to us.

Sincerely,

GLENN R. MAURER,
Coordinator of Federal Programs.

SNOWFLAKE UNION HIGH SCHOOL,
Snowflake, Ariz., April 26, 1972.

The Honorable PAUL FANNIN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR FANNIN: Your recent letter to Mr. L. Dee Johnson, Snowflake High School Principal, has been referred to me. We appreciate your interest in advancing our application for funds under P.L. 815.

Monies received as a result of this application will be used to inaugurate a career education program in the district. Programs providing instruction in technological skills are most expensive. Our district is committed to meet the needs of students; however, the capital costs of facilities for technical, vocational and career education have forced us to delay these programs for the time being. Virtually all the aid we would receive under P.L. 815 would go to provide buildings to house programs in these areas.

The specific objective is to provide each high school graduate with a salable skill that he or she may become a productive member of society.

Again our thanks to you for your support. Call upon us if we may provide any other information.

Sincerely,

RAYMOND S. KELLIS, *Superintendent.*

PAGE PUBLIC SCHOOLS,
Page, Ariz., April 13, 1972.

Hon. PAUL J. FANNIN,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR FANNIN: This is a respectful request urging your full support of "full funding" of Public Law 815 assisting with construction of school facilities in "Federal impact areas."

Of our present enrollment of 1645 pupils, 950 students are in permanent facilities, 590 are in those temporary facilities used during the construction of Glen Canyon Dam, and 105 are unhoused. The influx of workers on the Navajo Generating Plant will increase our enrollment to a peak of 2350 students within 12 months. Needless to say, we are presently on double sessions in our first 3

grades and if additional class space is not available or cannot be located the double session schedule will be expanded in the Fall.

Our statutory bonding capacity in the elementary and high school districts is $1,800,000.00 and our construction cost is $2,253,000.00. Our application under Public Law 815 is for the difference. The application we have filed is to help house the influx of 900 "temporary construction" students, and the 600 Navajo pupils from the surrounding Navajo Reservation.

Favorable action on our P.L. 815 application would eliminate our presently expanding "double session" school program and greatly enhance the prospects for a more adequate education program for our youngsters.

Sincerely,

RAY J. BRADSHAW,
Superintendent.

PALOMINAS ELEMENTARY SCHOOL,
Hereford, Ariz., May 12, 1972.

Senator PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: In answer to your letter concerning our P.L. 815 applications and needs, I am listing the following information:

1. We have applied for P.L. 815 money over the years with no results.

2. For the 1971-72 year 49% of our students were federally connected. We were told we qualified for funds, but could expect no help as P.L. 815 funds were limited.

3. With the continued growth of our school, largely federally connected students from Ft. Huachuca, we now have one bond on top of another.

4. We are completing in July our second building in 3½ years. This new building will only accommodate those students we now have in membership.

5. If Ft. Huachuca and Sierra Vista growth continues at its present rate, we are in serious trouble. Our last bond issue in November of 1971 was approved by only 16 votes.

Hope this information will help in some way.

Sincerely,

GENE BRUST, *Principal.*

ALPINE ELEMENTARY SCHOOLS,
DISTRICT 7,
Alpine, Ariz., May 12, 1972.

Re Your letter of May 8, 1972
Senator PAUL J. FANNIN,
U.S. Senator from Arizona, Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR FANNIN: If I haven't written to you in reply to your letter of April 4 regarding our application under P. L. 815, I'm sorry. I do not find your letter, and I can't remember what it was about.

Our anticipated enrollment will be in line with the projection we gave in our application, or nearly so. Last year we had 32 students, ADA. This year our ADA for the first 6 months was 42,785, and our projected enrollment for 1972–73 is 55–60 students. On our last count, 66⅔% of these students were federally-connected, and it would indicate that the 1972–73 school population would be proportionately distributed.

In April of this year a man from San Francisco, California, came in regard to our PL 815 application. He measured the building, took pictures, and asked to see our records for the last several years. We complied with his wishes. He made no comment pro or con, except to say, "You really need a new plant don't you?"

If I can be of any further assistance please feel free to call me at 339–4570 anytime during the day, 339–4305 after school is out (Area code 602, Alpine, Arizona), or send me another copy of your April 4th communique and let me know what I can do to help you.

We certainly do appreciate the work you are doing on our behalf.

Sincerely,

MARVIN R. O'BRYAN, *Head Teacher.*

RICE SCHOOL DISTRICT No. 20,
San Carlos, Ariz., May 18, 1972.

Hon. PAUL J. FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SIR: Rice School District No. 20 respectfully request your assistance in obtaining additional Funds for our P.L. 815 Project No. Ariz–68–C–1102 A18.

Unavoidable delays in funding and approval of this Project, for a period of approximately five years, we believe are the basic causes for the deficit of Two Hundred and Three Thousand Dollars that now exist between the allocated Funds and the minimum Bid received to construct the school facilities needed.

The location of our District, on the San Carlos Indian Reservation and our growing school population, compounds our difficulties in meeting the Educational needs of this area.

We would thank you in advance for any assistance you can give us in this matter.

Sincerely yours,

MAX E. OLIGER, *Fiscal Agent.*

STATEMENT ON PUBLIC LAW 815 (ARIZONA APPLICATIONS)

(Prepared by Arizona State University—College of Business Administration)

The proposed expenditures for the expansion of educational capital facilities provided for under P.L. 815 would have a significant positive impact on state-wide economic activity. Contract construction exerts a much greater impact on the Arizona economy than it does in the United States as a whole. For example, in 1971 the proportion of contract construction jobs to total non-farm jobs was about 60 percent higher in Arizona than the national average. Recent estimates for 1972 contract construction in Arizona indicate a projected decline from the 1971 peak of $1,410,000. As a result, additional expenditures for educational capital facilities would cushion this anticipated decline, and permit income and employment levels to be maintained. Furthermore, because a contract construction job is estimated to create 1–1½ additional jobs elsewhere in the economy, it is of great importance to maintain the jobs and incomes of the 45,700 contract construction workers within the State.

It is also important to emphasize the benefits to the State that result from the improved educational facilities that would be constructed. Conversations with representatives of the State Department of Revenue and the State Office of Education have revealed that several of the urban school districts are unable to provide needed capital facilities because of the statutory limits placed on their bonded indebtedness. For example, in communities such as Tempe, the population increases by more than 1,000 persons per month with even *higher* than proportionate increase in school enrollments. Because the assessed valuation of property within the school districts does not increase in proportion, the debt ceiling limit of 10 percent of the assessed value of property within the district does not permit the expansion of capital facilities that are urgently needed.

In the lower income areas of the urban centers, low assessed valuations of property within the school districts is also a problem. Furthermore, if these assessed values were increased there is some question as to whether the higher tax payments could be afforded by persons living in these areas.

In the rural areas, and specifically on the reservations, the great proportion of federal lands within the school districts seriously reduces the tax base because these lands are not subject to assessment and taxation by the school districts. Hence, the bond potential of several of the rural school districts is greatly restricted.

These limits that are placed on the ability of local school districts to raise the funds for needed educational capital facilities, combined with the fact that state aid for education is available to local school districts for operations oudgets only, strongly suggests that the additional facilities that could be made available through P.L. 815 are urgently needed within Arizona.

Although the potential benefits are substantial, purported negative economic impact seems to center on the possibility that such federal construction projects might create inflationary pressures. There are, however, several reasons why little inflationary potential may emanate from such projects.

First, with the current Administration policies and the resultant success that has been achieved in holding price level increases to publically acceptable levels, there is reason to expect that the same success will continue to be registered. If this assumption is correct, and the period of unacceptable inflation is over, it is time for economically-beneficial and high-priority governmental projects to be removed from the "back-burner" status.

Second, although inflation has been a national problem, it has not had a universal impact throughout the United States. Available data on cost-of-living increases in Arizona show that living costs for a family of four in the Phoenix Metropolitan area have increased at a lesser rate than for the U.S. Metropolitan average. Moreover, these same data indicate that medical costs and personal care services have been large contributors to the Arizona cost-of-living increases.

Although construction costs—wages and materials—have added to the past inflation problem, the effects have not been uniform throughout the country. As a result, it would be an inappropriate economic decision to curtail necessary construction projects on a uniform basis throughout the country as a means of addressing an inflation problem with a nonuniform impact.

Third, there is supportive evidence that part of construction costs (labor costs) have been lower in Arizona than in other major areas (see Attachment 1). Inasmuch as several of the recommended projects for Arizona are in the more rural areas of the state, it is quite possible that an even lower wage rate might prevail. If not, however, it is certain that a rate no higher than the Phoenix area rate would prevail.*

As mentioned above, if the forecast downturn in contract construction materializes in 1972, both the expected surplus capacity and the comparative hourly wage rates suggested that the potential for cost-generated inflationary pressures from P.L. 815 projects in Arizona would be small.

Fourth, Arizona has a good overall unemployment index. Yet when the SMSA areas are excluded, the unemployment index for the remainder of the state significantly increases if due consideration is given to those persons in the rural areas who withdraw from the labor force because of the lack of suitable work and those persons who are unemployed but do not file for unemployment benefits. Since $24.2 million of the unfunded P.L. 815 applications in the state are in the non-SMSA counties (only $5.2 million in SMSA countries), it is certainly feasible that some local labor, possibly new unemployed, could be utilized with little inflationary impact. Of further interest in this regard is the fact that roughly 87 percent of all contract construction work within the state does occur in Maricopa and Pima counties. This may indicate that additional construction expenditures directed towards the more rural areas (e.g., Indian Reservations) could result in little or no increase in construction costs because of the absence of high demand for such activities in those areas.

Finally, most studies show that problems of inflation, albeit construction prices, services costs, etc., have been more noticeable in

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* This is in accordance with the provisions of the Davis-Bacon Act.

metropolitan rather than non-metropolitan areas. If inflation is expected to be a continuing problem (clearly a separate question) then it will likely continue to be more noticeable in metropolitan areas.

Since the Arizona applications for P.L. 815 funding are on an approximate 5:1 ratio (metropolitan-non-metropolitan), it is unlikely that any appreciable inflationary pressures would result therefrom.

ATTACHMENT 1.—COMPARATIVE CONTRACT CONSTRUCTION HOURLY WAGE RATES

	Cities					
Year	Phoenix	Los Angeles	Chicago	San Francisco	Cleveland	Cincinnati
1965	$4.30	$4.87	$4.55	$5.11	$4.52	$3.87
1966	4.43	5.13	4.82	5.38	4.80	4.17
1967	4.59	5.41	5.06	5.77	5.17	4.51
1968	4.90	5.66	5.41	6.14	6.07	4.89
1969	5.29	6.00	5.92	6.64	5.99	5.68
1970	5.83	6.44	6.52	7.16	6.06	6.44

Source: Handbook of Labor Statistics, 1971, U.S. Department of Labor, Bureau of Labor Statistics.

Mr. FANNIN. In conclusion, Mr. President I want to assure the Senate that these funds will meet real needs and contribute much to the continued development and maintenance of a quality educational program in our Nation's schools.

FUNDING FOR AGING PROGRAMS

Mr. PERCY. Mr. President, I wish to commend the Senate Appropriations Committee, its distinguished chairman (Mr. MAGNUSON) and the ranking minority member, Mr. COTTON, for their work in the Labor-HEW appropriations bill. I also want to comment on three items which are of special interest to me. Those three items all affect the elderly.

The first item is the $100 million allocated for the nutrition programs for the elderly. This item interests me because I was a cosponsor of the legislation authorizing this program. I am referring, of course, to Public Law 92–258, whose chief author was Senator KENNEDY. It is noteworthy that the administration requested, and the committee approved, the full amount authorized under Public Law 92–258. This means that approximately 400,000 elderly persons will now be able to receive low cost, nutritionally balanced meals on a daily basis.

The second item is the $1 million earmarked in the section on Employment Standards Administration for increased enforcement actions provided in the Age Discrimination in Employment Act. This act is intended to protect workers between the ages of 40 and 65 against age discrimination, but the Department of Labor has lacked sufficient funds to enforce this law adequately.

According to last year's annual report by the Special Committee on Aging, on which I serve:

> More than 2,500 violations were found under the ADE Act for fiscal 1971, for a 14 percent jump (over the previous year). In practically every category, the number of reported violations increased. And these figures probably represent only a portion of the infractions under the law, since many illegal practices go unreported. Yet, only 80 suits have been filed under the Act, despite the prevalence of job bias because of age.

The report goes on to recommend that Congress increase funding for the act to provide additional personnel to enforce the act more forcefully.

It is commonly recognized that more and more companies discriminate against middle-aged and older workers. There is a definite trend toward hiring younger and younger people, and toward easing the older workers out of their jobs at an earlier age. I view this trend as most disconcerting, and I believe it is imperative that we protect the older worker.

Unemployment for any worker is serious, but for an older person it can be tragic. One of the most serious consequences of unemployment for the older worker is a reduced or lost income during his years of retirement. Because of serious deficiencies in many private pension plans, the end of one's job may also mean the end of one's pension coverage—even though an individual may have contributed hundreds or thousands of dollars over the years toward his pension account. The end of one's job may mean the total or near-total erosion of his lifetime savings. Even if the older worker manages to escape the total loss of private pension coverage or his lifetime savings, he may not escape suffering from reduced social security benefits caused by unemployment during his later working years. The reason for this is that social security benefits are based on a person's lifetime earning record.

It is of great importance, therefore, that the Age Discrimination Act be adequately enforced. I would like to commend the distinguished chairman of the Senate Aging Committee, Mr. CHURCH, for recommending to the Appropriations Committee that $1 million be allocated for enforcement of the ADE Act.

Finally, I wish to make special note of the $5 million earmarked for research on aging in the National Institute of Child Health and Human Development.

The implications of a rapidly aging population—and by that I mean a population in which the percentage of older persons is increasing far more rapidly than that of the general population—are quite serious yet little understood. The number of people over age 65 has been increasing at a rate of three times that of our general population. The fastest growing of all population groups is the over-75 group. By the year 2030, the elderly population is projected to rise from 20 to 48 million, out of which 16 million will have reached age 75.

Astounding medical advancements have been made in recent years to enable people to live longer, but relatively little progress has been made toward understanding the aging process itself and the full implications of a rapidly aging society. One may legitimately wonder whether we are doing ourselves a service or a disservice when we increase longevity without improving the quality of our longer lives.

This appropriations bill should help us to improve and expand programs affecting our older citizens, and once again I wish to commend the Senate Appropriations Committee, its chairman and members for their work on this important legislation.

Mr. HART. Mr. President, once again we are involved in what has become an annual effort to honor commitments Congress has made in the past to provide funds for educational, health, and rehabilitation programs.

In a very real sense the HEW appropriations bill is on the cutting edge of the debate over reordering national spending priorities.

It is on this bill that Congress makes an important part of its decision on how Federal dollars will be spent. While we should be mindful of the possibility of a Presidential veto if budget requests are greatly increased, Congress, as an equal branch of our Government, should not let that possibility overrule what it thinks are the proper levels of funding for the programs covered by this bill.

Because of the need to compromise in any bill as massive in scope of the HEW appropriations bill, efforts to increase recommendations made by the Senate Appropriations Committee should not be considered as criticism. To the contrary, Senator MAGNUSON and the HEW Subcommittee have demonstrated again their responsiveness to the needs of people who are served by the programs funded by this bill.

Also, I join others in complimenting Senator MAGNUSON and the entire Senate Appropriations Committee for the prompt manner in which this bill was handled. Too often in the past, local school officials have had to draw up their budgets without knowing the level of support their districts would receive from the Federal Government.

In keeping with the tone of those general remarks, I would like to state my positions on several items included in this bill.

TITLE I

The Senate committee recommends an appropriation of $1.6 million for educationally deprived children under title I of the Elementary and Secondary Education Act. That figure, while larger than requested by the administration, is $176 million less than approved by the House.

The Senate should restore the figure voted by the House.

The fact is that title I payments have not kept pace with increases in the cost of education nor with increases in the number of children eligible to receive assistance under this program.

From 1968 to 1971, per-pupil expenditures in Michigan increased from $715 to $1,148. From 1966 to 1971, the number of children receiving welfare aid in Michigan rose from 145,700 to 281,000—an increase of more than 90 percent.

Over the 3-year span ending in 1971, title I payments to Michigan went up by only 35 percent—from $30.6 to $41.3 million.

As a result, a growing tax burden has too often fallen on the communities which have high education costs but declining tax bases.

Under the House figure, Michigan would receive $64.2 million; under the Senate amount, $57.8 million, and slightly less under the administration's request.

To a State whose largest city—Detroit—faces a $40 million deficit in its school budget, an increase of $6.4 million becomes critically important.

IMPACT AID

The Senate Appropriations Committee and the House have adopted different formulas for the allocation of Public Law 874 funds which leave many of us with something of a bitter choice.

Under the House version of granting 84 percent of entitlements for both A and B students, cities such as Detroit, which have mainly B students, would be favored.

Under the Senate Appropriations Committee's entitlement proposal of 90 percent for A students and 73 percent for B students, a number of smaller districts in Michigan would fare better.

While there have been many complaints about the way impact aid flows to wealthy and poor school districts alike, it does provide needed Federal support for education and should not be phased out unless replaced by an adequate program.

For that reason I believe we should increase the Public Law 874 appropriation to permit payment of 84 percent of B student entitlements while retaining the 90 percent payments for A students.

AID FOR PUBLIC HOUSING CHILDREN

For several years efforts, which I have supported, have been made to provide impact aid for children living in public housing.

Happily, this year the House approved $10 million in impact aid for these children. The Senate should at least match that figure.

As a cosponsor of Senator CASE's amendment, I urge that the Senate go beyond $10 million and approve $60 million. Under that amendment, Michigan's entitlement for C students would be $1.4 million, compared to $221,000 under the House figure.

PUBLIC LAW 815 FUNDS

I am particularly pleased that the Senate committee recommends an increase of from $15 million, sought by the administration, to $45 million for the Public Law 815 program.

There are several school districts in Michigan in critical need of Public Law 815 funds to construct new facilities. I urge that the Senate strongly support the committee's recommendation, both on the floor and in conference so that at least some of the many pending Public Law 815 applications will be funded this year.

SOCIAL AND REHABILITATION SERVICE GRANTS

The Senate Appropriations Committee recommends the inclusion of language in the HEW appropriation bill which would limit expenditures for six titles of the Social Security Act to $2.5 billion.

Among the programs covered by this limitation would be old age assistance, aid to the blind, aid to families with dependent children, and aid to the totally and permanently disabled.

While I think there is general consensus on the need for if not on the shape of welfare reform, the proper way to reform these programs is through new legislation and not through spending limits in an appropriation bill.

One aim of reform is to insure that those qualified receive adequate assistance. A spending limit would insure neither.

For that reason, I have cosponsored Senator CHILES' amendment to strike the limitation language from the bill.

OCCUPATIONAL SAFETY FOR ALL

In approving this bill, the House added language prohibiting salary payments to any Federal inspector, working under the Occupational Safety and Health Act, who investigates shops employing 25 or less.

Even if this provision had been passed after serious consideration by the proper House committee, which it was not, I would strongly oppose it.

It makes no sense to say that employees of small firms do not have the same claim to safe working conditions as do the employees of large firms.

Any attempt to add such language in the Senate should be defeated, and I compliment the Senate Appropriations Committee for striking the provision from the bill.

Mr. WILLIAMS. Mr. President, I wish to commend the Appropriations Committee for the bill that they have reported to the Senate for fiscal 1973 appropriations for the Departments of Labor, and Health, Education, and Welfare and related agencies. As chairman of the Labor and Public Welfare Committee, I am impressed with the thorough and responsible work they have completed on funds for important labor, health, education, and welfare programs, and with the sensitive report that they have made to the Senate.

While I do not believe that the funding provided in several important programs such as title I, ESEA, Public Law 874, and the Developmental Disabilities Act is adequate to support these programs and the critical services they provide for fiscal 1973, I would hope that the Senate will recommend the appropriate increases in these categories.

I would like, however, to make particular note of the outstanding job that this committee has done in providing funds for programs which support services to the handicapped. In testimony I made to the committee in its consideration of fiscal 1973 appropriations, I urged that committee to insure that programs which support education, health, research, and training for the handicapped be increased over the President's budget request in order to enable the States, the Federal Government, and localities to provide the comprehensive services the handicapped have a right to. In reviewing the report and the recommendations that the Appropriations Committee has made, I have found that the committee provided important increases in all these areas.

The committee has increased funding under title VI(B) for State formula grants which will enable many States to increase the number of children to whom it provides educational programs, will support valuable research and demonstration in education for the handicapped, will increase the support for education of children with learning disabilities, and will enable our institutions of higher education to train personnel for educating handicapped children. I believe that it is appropriate that some of this increase in training funds be used to train paraprofessionals, and would hope that this will be done. Furthermore, it is particularly appropriate that the Senate committee increase funding for educational services for the handicapped in light of recent court decisions directing the States to educate all handicapped children. Senator MAGNUSON, Senator RANDOLPH, and I have introduced S. 3614 which would provide increased funding to the States to insure that handicapped children receive appropriate educational services, and I believe that an increase under title VI(B) is the important first step.

The committee has increased funding for research into disabling conditions and methods of amelioration by providing increased funding for the National Institute of Neurological Disorders and Stroke, the National Institute of Child Health and Human Development, and the National Eye Institute. There is no question that more emphasis needs to be placed on the causes, cures, prevention, and amelioration of handicapping conditions, and through the appropriations for these institutes the Senate committee has provided that commitment and emphasis. In addition, I note that funding has been increased under maternal and child health programs for early diagnosis and treatment of handicapping conditions, and under environmental management programs for the treatment and elimination of lead based paint poisoning.

Mr. President, I realize full well the pressures under which the Appropriations Committee operates, and I know how difficult it is to make decisions in many of these sensitive areas. I believe that it is a great tribute to the Appropriations Committee, to the Senate and to the Nation that we have made this commitment to the more than 40 million handicapped Americans. I would like to express my own personal appreciation to the distinguished chairman of the Labor-HEW subcommittee (Mr. MAGNUSON), to the ranking member of that subcommittee (Mr. ROBERT C. BYRD), to the ranking minority member of that subcommittee (Mr. COTTON), and to the distinguished chairman of the full committee (Mr. ELLENDER) for reviewing with such sensitivity recommendations for the handicapped, and for making very clear the commitment they and the Senate is making to the handicapped. I believe that this is a strong commitment of which we can be very proud and which I urge the committee to stress in the conference with the House of Representatives.

Mr. President, the work of Senator MAGNUSON'S subcommittee on health appropriations for fiscal 1973 is commendable throughout, but I would focus the Senate's attention for a moment on the excellent recommendations for health manpower programs. Obviously, the Nation cannot improve health care significantly unless it ensures a growing supply of trained health personnel.

The Appropriations Committee recommends a budget of $897.2 million for health manpower in the coming year. This amount is $363.6 million more than the administration's request and $158.6 million more than the recommendation of the other body. The increase is substantial, but it is fully justified.

Most of the appropriation would carry out necessary programs of the Comprehensive Health Manpower Training Act of 1971 and the Nurse Training Act of 1971, both signed by the President scarcely 7 months ago. Funding of $190 million for the health professions and $62.5 million for nursing would bring capitation levels for both manpower programs to 76 percent of the authorized amount. I would like to point out that capitation grants are available to all schools that increase their enrollments in accordance with the authorizing legislation.

Schools of the health professions—medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, and veterinary medicine—would receive $10.3 million over the House allowance for special project grants and an additional $25 million for direct scholarship grants, according to the committee's recommendations. The physician shortage area scholarship program would be increased by $2 million. To provide more nurses, the committee recommends total appropriations of $30 million for scholarships and $15 million for traineeships.

The administration, incredibly enough, requested that no money be appropriated in fiscal 1973 for construction of the teaching facilities called for in last year's legislation. The committee recommends $150 million for construction grants to schools of the health professions and $30 million to schools of nursing. I would like to point out that the authorized levels for these construction grants are $250 million and $40 million, respectively.

The committee properly restored substantial funds that had been denied manpower programs of the allied health professions, bringing that total to nearly $53 million. Schools of public health would receive a total of $14 million in institutional support and $11 million for traineeships.

Mr. President, I believe all these increases for health manpower programs are important. I urge Senators to support them, now, with their votes on the floor of the Senate and later in conference.

The PRESIDING OFFICER (Mr. BIBLE). Who yields time?

Mr. PASTORE. Is the bill open to amendment?

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 1288

Mr. PASTORE. Mr. President, I have two amendments that I think can be disposed of very quickly.

The PRESIDING OFFICER. How much time does the Senator yield himself?

Mr. PASTORE. Whatever I need.

The PRESIDING OFFICER. Will the Senator send his amendments to the desk?

Mr. PASTORE. The amendments are at the desk. I call up first my amendment No. 1288.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 22, line 25, strike out "$1,634,000,000" and insert in lieu thereof "$1,810,000,000".

On page 23, line 2, strike out "$1,860,393,000" and insert in lieu thereof "$2,036,393,000".

Mr. PASTORE. Mr. President, first of all I want to pay my deepest respects and commendations to both the Senator from Washington and the Senator from New Hampshire for their splendid achievement in this very involved and complex bill. I must say at this moment that their performance with respect to the health section of the bill was superb.

On the matter of title I, which is the educational section of the bill, certain things happened in the House of Representatives and in the Senate which I think compel us, at this juncture, to make specific increases to express the spirit and achieve the intent of both the House and the Senate with respect to the formula for aid to impacted areas. That is what this amendment is all about.

Mr. President, the proposed amendment would add $176 million to the committee recommendation of $1,634 million for title I of the Elementary and Secondary Education Act. This would provide a total of $1,810 million for title I, the same amount as included in the House bill as part of the Hathaway amendment. This increase of $212,500,000 over the 1972 appropriations will benefit over 8 million disadvantaged children and will permit raising the per pupil expenditure so that title I services will have greater educational impact.

Mr. President, the distinguished chairman of the Labor-HEW subcommittee of the Senate Appropriations Committee and his colleagues have brought to us, in the Senate version of H.R. 15417, a major improvement over both the budget estimates and, with all due respect, the House version of the bill. We can all applaud, I am sure, the increases the committee has made in the health areas, and, with but a few exceptions, in the funding provided for the Office of Education.

I feel that the subcommittee members on both sides of the aisle, their hardworking chairman and the diligent and able senior Senator from New Hampshire, the ranking minority member, are deserving of high commendation for the work they have done.

There are two areas in the bill however, wherein, it is my hope that their work can be perfected. The first is in the funding level provided for title I of the Elementary and Secondary Education Act, and the second is concerned with funding of the provisions of Public Law 874.

My reasons for following this course of action are based upon the parliamentary fact that the House, in its action on the bill, demonstrated by a bipartisan vote most conclusively, with a 49-vote margin, that the funding of $1.81 billion for title I ESEA was, in their eyes, amply justified. Thus every dollar more we put into the bill in the title I area, up to $176 million of my amendment, is certain to emerge approved from conference and to be applied to providing compensatory education to children attending schools with high concentrations of educationally deprived children.

Mr. President, I ask unanimous consent that a table setting forth on a State-by-State basis the effect of this part of my amendment be printed in the RECORD at this point. It demonstrates the effect of the $176 million addition of the amendment. I would re-emphasize that due to the parliamentary situation, these additions for title I ESEA are real dollar additions since—if my amendment is adopted—the $1,810 million total for title I is locked in and is not subject under conference rules to being cut.

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

[In thousands]

	Proposed amendment to H.R. 15417 for title I ESEA	Senate committee recommendations title I	Net loss from Senate committee recommendations
Alabama	$43,644	$42,103	$1,541
Alaska	2,569	2,392	177
Arizona	12,699	11,740	959
Arkansas	27,543	26,235	1,308
California	152,461	141,735	10,726
Colorado	14,563	13,460	1,103
Connecticut	16,153	14,610	1,543
Delaware	3,745	3,487	258
Florida	40,720	37,844	2,876
Georgia	43,039	41,681	1,358
Hawaii	4,279	3,814	465
Idaho	4,348	4,032	316
Illinois	75,299	68,663	6,636
Indiana	22,750	20,997	1,753
Iowa	18,588	16,581	2,007
Kansas	13,727	12,687	1,040
Kentucky	39,382	38,084	1,298
Louisiana	39,452	37,177	2,275
Maine	7,223	6,686	538
Maryland	24,196	22,262	1,934
Massachusetts	31,003	28,425	2,578
Michigan	64,234	57,849	6,385
Minnesota	25,585	22,935	2,650
Mississippi	45,310	43,902	1,408
Missouri	30,736	28,205	2,531
Montana	4,769	4,420	349
Nebraska	9,450	8,739	711
Nevada	1,426	1,335	91
New Hampshire	2,608	2,509	99
New Jersey	58,170	53,599	4,571
New Mexico	11,026	11,026	0
New York	239,537	216,991	22,546
North Carolina	64,813	60,833	3,980
North Dakota	6,131	5,677	454
Ohio	50,639	46,730	3,909
Oklahoma	21,521	19,820	1,701
Oregon	13,600	12,267	1,333
Pennsylvania	82,806	73,924	8,882
Rhode Island	6,614	5,845	769
South Carolina	38,172	36,356	1,816
South Dakota	7,269	6,682	587
Tennessee	39,882	38,262	1,620
Texas	102,301	94,425	7,876
Utah	4,953	4,591	362
Vermont	2,956	2,747	209
Virginia	39,281	36,127	3,154
Washington	17,603	15,952	1,651
West Virginia	21,957	21,493	464
Wisconsin	20,902	19,327	1,575
Wyoming	1,908	1,810	98
District of Columbia	11,230	9,731	1,499

Mr. PASTORE. Mr. President, in this discussion I have concentrated on the parliamentary and practical aspects of obtaining by our action, concrete gains for the title I programs. In addition to all of these arguments, and basic to my support of these additions, is my belief that the action is justified on substantive grounds. First, we know that educational costs have risen and are rising. To hold a program such as this one to last year's funding level is to agree to a 10 percent cut in the educational goods and services purchased with the funds or to give tacit approval to a reduction by a 10 percent factor in the number of children for whom these programs are designed.

I urge the committee to accept the amendment, and I solicit the support of all Senators for the amendment.

This amendment has been discussed with both the Senator from Washing-

ton, who is the manager of the bill, and the ranking Republican—not that I talked personally to the ranking Republican, but I understand that the matter was taken up with him. This step makes an adjustment with which I think, when they go to conference, they both can complement the point of view of the House and of the Senate.

I hope this amendment will be taken to conference.

Mr. MAGNUSON. Mr. President, as the Senator from Rhode Island has well stated, this amendment brings the title I funds up to what the House put in the bill. The committee discussed that matter at some length, and I think it was sympathetic to the proposal. I have talked with the Senator from New Hampshire and others, and I am perfectly willing to accept this amendment and take it to conference with the House.

Mr. PASTORE. What will happen here will be a justification of the formula as adjusted by the Senate and as adjusted by the House, where each will make sense.

What happened was that the House cut down in one category and raised in another, and the Senate took the opposite view and changed the formula. By putting the money in, I think the formula will be adjusted where it belongs.

Mr. MAGNUSON. I am talking about the Senator's first amendment—elementary and secondary education—which brings the amount up to the House figure, which I am glad to accept. The other amendment is a little more complicated.

Mr. PASTORE. That is correct.

Mr. MAGNUSON. That deals with impacted area funds.

Mr. PASTORE. That is correct.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PASTORE. I yield back the remainder of my time.

Mr. MAGNUSON. I yield back the remainder of my time.

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

The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

AMENDMENT NO. 1289

Mr. PASTORE. Mr. President, I call up my next amendment, No. 1289.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 23, lines 15 and 16, strike out "$661,405,000, of which $615,495,000" and insert in lieu thereof "$719,955,000, of which $674,045,000".

On page 23, line 17, after "section 6" add "and $10,000,000 for complying with section 303(1)(C)".

On page 25, line 18, strike out "73" and insert in lieu thereof "84".

The PRESIDING OFFICER. How much does the Senator yield?

Mr. PASTORE. Whatever time is necessary.

Mr. President, the proposed amendment would add $48,550,000 for "B" students under Public Law 874 to raise the percentage of entitlement which could be paid "B" students from 73 percent—last year's percentage—to 84 percent—the percentage included in the House bill as part of the Hathaway amendment.

The proposed amendment would also add $10 million for "C" students under the public housing provisions of Public Law 874. This would be sufficient to pay approximately 3 percent of the estimated entitlement, the same amount and percentage as included in the House bill as part of the Hathaway amendment.

As amended by this amendment, the Senate bill would provide for paying the following estimated entitlements:

"A" students in "heavily impacted" school districts—100 percent.

Other "A" students—90 percent.

"B" students—84 percent.

"C" students—3 percent.

Mr. President, as Senators recall, Public Law 874 payments of local educational agencies are computed on the basis of providing for the "A" pupil counted, an amount equal to the per pupil expenditure of the school district he attends or an amount equal to the national average per pupil expenditure. The "A" pupil is one whose parent both lives and works on the Federal property. In the computation of the entitlement of the school district, in a similar manner, provision is made for an amount for each "B" pupil at 50 percent of the "A" pupil rate. The "B" pupil is one whose parent either lives on or works on Federal property.

The payment is an entitlement based on the fact that since the Federal Government is a sovereign, it does not pay the types and kinds of local taxes that a private employer would be subject to in a community as his fair share of the costs of educating the children of that community. In order to help to meet the school costs of communities with Federal installations in 1950, this "in lieu of taxes" route was adopted by the 81st Congress. Public Law 874 payments, therefore, have been made since that time over the objection of every President since Franklin Delano Roosevelt; and he made similar payments under the Lanham Act, which was passed in World War II to deal with the impact of the influx of children brought about by the employment patterns consequent upon production for World War II requirements.

My amendment simply holds the "B" pupil reimbursement, as in the House version of H.R. 15417, at a level of 84 percent of what, frankly, is owed by the Federal Government, while holding the reimbursement of the "A" pupil count to 90 percent of what is owed, while funding at the 100 percent authorization level for "A's" only those school districts with a heavy concentration of "A's" amounting to 25 percent of their total enrollment

I do this knowing that the administration is opposed to the program; but I do it on the basis that the Appropriations Committee ought not be expected to pull the chestnuts out of the fire through the appropriations process for any administration that cannot get its will through the regular channels of amending or repealing the authorizing statute.

Public Law 874 is on the books. It has yet to be demonstrated to the Congress, by this or any predecessor administration, that the public interest would be served by its abolition and, therefore, I believe it ought to be funded at the highest level that can obtain congressional consent. Other programs in education may be more important in the eyes of the Office of Management and Budget and the White House, but I feel that the Senate has an obligation to carry out the will of the 81st Congress and of each and every Congress since that time.

Stripped to its essentials, that will of the Congress can be stated: "School districts which have acted in good faith and are using the money derived from this program for the operation and maintenance of their schools, for the activities decided upon by their local school boards and their superintendents as being most needed in that system—whether they be buildings and grounds maintenance, remedial reading programs, supplies or special education for handicapped children, or whatever—are entitled to receive funding until the basic law is repealed or modified."

The 84-percent limitation for the "B" payment is the percent of full entitlement that my dollar amount would fund. It is the same level for "B" children payment by the dollar amounts in the House bill provided for that category. Under the House version, the amounts provided for "A" children payment equal only 84 percent of entitlement. The additional funding provided by my amendment is designed to assure that no district will receive less in fiscal year 1973 for its "A" reimbursements than it received in fiscal year 1972, thus eliminating what I feel most of us would regard as an inequity, and forestalling actions in the heavily impacted schools which would be necessary if their funding dropped below the fiscal year 1972 floor.

We would not be helping the children in those schools, if through our action, we failed to provide the money to keep these schools open for the full academic year. "A" children payments under my amendment are the same as last year; namely, 90 percent of entitlement for all "A's" except those most heavily impacted school districts which receive 100 percent of their entitlement.

The remaining portion of my amendment deals with a section of the act that has never previously been funded. In 1970 a definitional change in the authorizing statute became effective. It provided for the purpose of determining the amount of money that a school district could receive for operation and maintenance purposes that a count of children be made which would generate additional funds. The children counted under this provision are those whose parents reside in public housing units.

Decisions as to where public housing is to be located have obvious impact upon school systems, because the schools have to be put in areas where there are children to be served. Many of these children need more attention in the way of sound educational programs which fit their needs than it is possible to provide, given the limited finances available to the schools. So it is a sound program to put

money where the human need is greatest. This aspect of my amendment is one which I know will be developed in greater detail by my colleagues on both sides of the aisle who have a special interest in the program, and a wealth of knowledge about it.

The Senate, in previous years, has overwhelmingly approved both the basic authorization and the financing levels which we have heretofore been unable to hold in conference. I am most pleased that the parliamentary situation that prevails with respect to this bill, is such that every dollar we put into it up to $10 million, will be locked in at conference and the program will be started, if my amendment is agreed to.

Mr. President, I hope that the committee can accept the amendment. It is one which is defensible in conference. It is my belief that the House version which provides 84 percent of entitlement for all categories can be most harmful to many school districts, it can adversely affect more than 300,000 "A" students through a curtailment of programs now financed from Public Law 874 sources. The amendment would correct that situation, and do it without detriment to the more than 2 million "B" students.

The 84-percent floor entitlement in the House version for both "A" and "B" is matched by my explicit 84-percent limitation of "B" payments, and I would expect that since both provisions reach the same end—insofar as the "B" category is concerned—that the acceptance of the conference committee of that premise would leave us merely with arguing the equitable relief for the "A" category situation. Here there are strong and compelling arguments, and for that reason I urge support for the amendment.

Mr. President, I think this amendment is absolutely essential. This is the figure that was voted by the House. Here, again, I have discussed the matter with the manager of the bill, and I understand that he has taken it up with the ranking Republican. I hope this amendment can be taken to conference.

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

Mr. PASTORE. I yield.

Mr. CASE. I have a suggestion for the Senator. I think there is a typographical error in line 6 of his amendment. The reference to page 25, I think, should be page 23. I think that the line reference should be 25 instead of 18.

Mr. PASTORE. I thought that had been changed by the staff, but I am perfectly willing to accept the modification.

Mr. CASE. I assume the Senator will want to do that.

Mr. PASTORE. Yes.

Mr. CASE. I have an amendment to the Senator's amendment, which I will offer when I am recognized.

Mr. PASTORE. Referring back to the Senator's suggested correction I understand that the Senator is working from a different paper, I am told by the staff. My amendment at the desk is in proper order.

Mr. CASE. So long as we understand what we are doing. The Senator is changing the percentage, and he wants to change it wherever it is located.

Mr. PASTORE. That is correct.

Mr. COTTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. I have an amendment to the amendment.

Mr. MAGNUSON. Mr. President, I yield the Senator from New Hampshire such time as he desires. We have discussed the Pastore amendment, which would bring the amount up to the House percentage.

Mr. PASTORE. The House figure.

Mr. MAGNUSON. It would also include the $10 million that the House put in as to C students.

I am willing to accept this amendment, but I certainly would oppose—and the Senator from New Hampshire would join me—any further money for C students in this bill. I accept the Senator from Rhode Island's amendment, but I understand that the Senator from New Jersey has an amendment to it.

Mr. CASE. That is correct.

Mr. MAGNUSON. The Senator should present it, then.

Mr. CASE. I will do it on my own time.

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

Mr. MAGNUSON. I yield.

Mr. COTTON. Before the Senator from New Jersey presents his amendment to the amendment of the Senator from Rhode Island, I just want to make my position clear.

I am perfectly willing to go along with my chairman, as we discussed, with respect to the understanding we had with the distinguished Senator from Rhode Island.

This amendment of the Senator from Rhode Island, if adopted, would leave the whole question of the percentages and the various classes open to conference. If the chairman is willing to take it to conference, I am willing to go along and take it to conference. But, in fairness, although I shall not oppose the amendment, I want to say that I do not agree to the increase of percentage in B class or to any appropriation for C students. Having expressed that on the floor, I will not be deceiving anybody when we take this bill to conference.

Mr. PASTORE. I realize that.

The irony of this is that last year the Senate put it in and the conference knocked it out. Now the House put it in, and we knocked it out. I think it ought to be resolved at this point.

If any attempt is made to raise the figure above the House figure, as an amendment to my amendment, I shall resist it, because I think it will jeopardize the bill. If we go above the House figure, I think we are in trouble. All I am asking is to go back to the House figure.

Mr. COTTON. I think that the purpose and the effect of the amendment by the Senator from Rhode Island is completely practical, and I am perfectly willing that it be adopted. I go along with the chairman in agreeing to its adoption. I merely wanted to make plain that I have two reservations, so that I would not be hypocritical about the thing when we get to conference.

Mr. PASTORE. Mr. President, I yield back the remainder of my time.

Mr. CASE. Mr. President, I offer an amendment to the amendment of the Senator from Rhode Island——

The PRESIDING OFFICER (Mr. Moss). Does the Senator from Washington yield back his time?

Mr. MAGNUSON. Yes, Mr. President, I yield back the remainder of my time.

Mr. CASE. Mr. President, I have an amendment to the amendment of the Senator from Rhode Island. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 23, lines 15 and 16, strike out "$661,405,000, of which $615,495,000" and insert in lieu thereof "$769,955,000, of which $724,045,000".

On page 23, line 17, after "section 6" add "and $60,000,000 for complying with section 303(1)(C)".

On page 23, line 25, strike out "73" and insert in lieu thereof "84".

The PRESIDING OFFICER. The hour of 12 noon having arrived——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by the Senator from California (Mr. TUNNEY) to the Foreign Assistance Act be delayed 5 minutes.

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

Mr. MAGNUSON. Mr. President, will the Senator from New Jersey yield?

Mr. CASE. I yield.

Mr. MAGNUSON. I would ask the Senator from New Jersey: There are three places in his amendment which would add $50 million; is that not correct?

Mr. CASE. The Senator is absolutely right.

Mr. MAGNUSON. I thank the Senator. That is what I wanted to clear up.

The PRESIDING OFFICER. The Senator from New Jersey has 5 minutes before——

Mr. CASE. Mr. President, a parliamentary inquiry—how much time do I have?

The PRESIDING OFFICER. Thirty minutes are allotted to the pending amendment, 15 minutes to a side. Fifteen minutes are under the control of the Senator from New Jersey.

Mr. CASE. I assume that the Senator from Rhode Island has 15 minutes, then, to speak in opposition.

The PRESIDING OFFICER. That is correct.

Mr. PASTORE. Mr. President, I should like to inform the distinguished Senator from New Jersey at this juncture that I am going to move to lay his amendment on the table, so as not to destroy my own amendment and the possibility of mine not passing.

Mr. CASE. I understand the argument. We can make that same argument on any amendment that we have here which the Senator happens not to want. But I appreciate his giving me notice that he will move to lay my amendment to his amendment on the table.

Mr. PASTORE. That is right.

Mr. CASE. Mr. President, I assume that I have the floor now; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. PASTORE. That is right.

Mr. CASE. That means, until the time for discussion of this amendment has ex-

pired, the Senator's motion will not be made.

Mr. PASTORE. That is right.

Mr. CASE. Mr. President, I think we all understand what we are doing. In 1969, Congress passed an amendment to the impacted aid program providing for, not $5 million, not $10 million, not $60 million, but $300 million a year, to be allocated under the impacted aid program on the basis of public housing in the several school districts of this country.

I call attention to the figure of $300 million.

I do not understand any argument that we are going to run into any trouble by attempting to add one-fifth of the amount of the authorized program to this bill.

It is ironic in the history of this program—it is ironic, indeed, that up until this year, the House Appropriations Committee, which has always violently opposed this program in its entirety, knocked out any provision for it in the appropriation bill. I think it is fair to say that the budget never requested any appropriation for it, either. So, the House Appropriations Committee and the administration both, it seems to me, have taken the same position.

A number of us on the committee in the Senate have been interested in trying to get some funding here. The Senator from New York (Mr. JAVITS) is a cosponsor of this amendment with me, as well as the Senator from Missouri (Mr. EAGLETON), the Senator from Illinois (Mr. PERCY), the Senator from Kentucky (Mr. COOK), and many other Senators who have endeavored to get this funding. We succeeded.

Now, I do not want to make any unnecessary unpleasantness about it, but it is an extraordinary thing that we had no trouble in the committee or in the Senate getting this appropriation into the bill as long as the members of the Appropriations Committee in the Senate and perhaps of the Senate itself knew that the House would knock it out, but since——

The PRESIDING OFFICER (Mr. Moss). If the Senator will suspend, the hour of——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment of the Senator from California (Mr. TUNNEY) be delayed for——

Mr. CASE. Mr. President, it might be in order, since we have a time limitation on this amendment, to—how much time is left on both sides of this amendment?

Mr. PASTORE. Why do we not set the hour at 12:30 today and we would be safe, I think.

Mr. CASE. That is what I am trying to find out, if we could finish discussion of this amendment before the Tunney vote. I think it would be convenient——

Mr. ALLOTT. Mr. President, reserving the right to object——

Mr. CASE. Mr. President, I ask unanimous consent that the time for this discussion now not come out of the time on the pending amendment.

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

Mr. ALLOTT. Mr. President, reserving the right to object, some of us who have definite feelings about this matter, who are under a time allotment or no time at all, we feel so strongly that we feel there should be a vote not only on the intended motion to lay on the table by the Senator from Rhode Island but also the subsequent amendment. It is my intention to ask for rollcall votes on these. So I guess I will have to object to the unanimous-consent request. Unless we can have a rollcall vote, I would suggest that we handle it some other way, have it taken up later in the day, because I certainly want rollcall votes and will request a rollcall vote on both these motions to lay on the table and the amendment of the Senator from Rhode Island.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by the Senator from California (Mr. TUNNEY) be delayed until 12:30 p.m. today.

The PRESIDING OFFICER. Is there objection?

Mr. CASE. Mr. President, might I suggest perhaps that we should have the vote now? We have been interrupted in this discussion once and I do not think we should be interrupted twice. The reason I object, and that we should have the vote now, is that we have been interrupted on the discussion of this amendment once and it would be unfortunate to interrupt it twice.

The PRESIDING OFFICER. Objection is heard. Therefore, the Senate will now proceed to vote on the amendment of the Senator from California (Mr. TUNNEY).

FOREIGN ASSISTANCE ACT OF 1972

The Senate resumed the consideration of the bill (S. 3390) to amend the Foreign Assistance Act of 1961, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California (Mr. TUNNEY). On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. JAVITS. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, when the order was entered providing for a vote on the amendment by the Senator from California (Mr. TUNNEY) at 12 noon today, I inadvertently asked unanimous consent that the vote occur on that amendment at 12 noon, thus ruling out a motion to table, which is the right of any Senator.

It was not my intention to rule that motion out. It was not the intention of the Senator from California (Mr. TUNNEY) that such a motion be ruled out.

I therefore ask unanimous consent that it may be in order for any Senator to move to table the amendment by the Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia (Mr. ROBERT C. BYRD)? The Chair hears none, and it is so ordered.

Mr. SPARKMAN. Mr. President, I move that the amendment offered by the Senator from California (Mr. TUNNEY) be laid on the table.

Mr. ALLOTT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment of the Senator from California (Mr. TUNNEY).

This question is not debatable. 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 Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) and the Senator from Rhode Island (Mr. PELL) would each vote "nay."

On this vote, the Senator from Georgia (Mr. GAMBRELL) is paired with the Senator from South Dakota (Mr. MCGOVERN). If present and voting, the Senator from Georgia would vote "yea" and the Senator from South Dakota would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is detained on official business.

The result was announced—yeas 60, nays 30, as follows:

[No. 248 Leg.]

YEAS—60

Aiken	Dominick	McIntyre
Allen	Eastland	Miller
Allott	Ellender	Montoya
Baker	Ervin	Moss
Beall	Fannin	Packwood
Bellmon	Fong	Pearson
Bennett	Goldwater	Percy
Bentsen	Griffin	Roth
Bible	Gurney	Schweiker
Boggs	Hansen	Scott
Brock	Hatfield	Smith
Brooke	Hollings	Sparkman
Buckley	Hruska	Stafford
Cannon	Jackson	Stennis
Chiles	Javits	Stevens
Cook	Jordan, N.C.	Taft
Cooper	Jordan, Idaho	Talmadge
Cotton	Long	Thurmond
Curtis	Mathias	Tower
Dole	McClellan	Young

NAYS—30

Anderson	Hart	Proxmire
Bayh	Hartke	Randolph
Burdick	Hughes	Ribicoff
Byrd, Harry F., Jr.	Humphrey	Spong
Byrd, Robert C.	Inouye	Stevenson
Case	Kennedy	Symington
Church	Magnuson	Tunney
Cranston	Metcalf	Weicker
Eagleton	Mondale	Williams
Fulbright	Nelson	
	Pastore	

NOT VOTING—10

Gambrell	McGee	Pell
Gravel	McGovern	Saxbe
Harris	Mundt	
Mansfield	Muskie	

So Mr. SPARKMAN's motion to lay Mr. TUNNEY's amendment on the table was agreed to.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

The Senate resumed the consideration of the bill (H.R. 15417) making appropriations for the Department of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

Mr. MAGNUSON. Mr. President, on my time I wish to state that the Senate should be informed that we set aside the HEW appropriation bill in order to take the last vote. Now, we are back on the Labor-HEW bill.

Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senator will please use his microphone.

The Senator may proceed.

Mr. MAGNUSON. Mr. President, the Senator from Rhode Island had offered two amendments which the Senator from New Hamphire and I agreed to take to conference. The Senator from New Jersey offered an amendment to one of the amendments offered by the Senator from Rhode Island which increased the amount of approximately $10 million for class C students, which is in the House bill that we have now accepted to $60 million for class C students. We are now beginning discussion of that amendment.

The PRESIDING OFFICER. The Senator from New Jersey has utilized 5 minutes and the Senator from New Jersey seeks recognition now. The Senator is recognized.

Mr. CASE. Mr. President, the distinguished Senator from Washington has correctly stated the situation. When we interrupted to vote on the tabling motion to the Tunney amendment on the other bill I had just made the point that as long as the House was adamant against including anything for this program, the Senate appeared to be going along in connection with this matter. My amendment would provide for $60 million. This year, faced with the House having overruled its own committee on the floor and adopting the $10 million figure, the only way Senate opponents of impacted aid assistance for public housing students could succeed was by knocking it out entirely. This reverses the position the committee had taken in previous years. They knocked out all provision for category C in the committee.

The Senator from Rhode Island, in increasing two parts of this, suggested we restore $10 million of the House figure. I now suggest that figure be $60 million or 20 percent of the authorized program.

The elementary and secondary education amendments approved by Congress in 1969 amended Public Law 874, the impacted areas aid program, to provide a new category of Federal assistance to school districts. For the first time, this amendment authorized payments to school districts based on the number of pupils in the district who were living in low rent public housing.

Twice since then, the Senate Appropriations Committee has approved motions that I made to provide funds to get this program started. In both cases, the Senate approved this appropriation but the Senate allotment was eliminated in conference committee with the House.

This year for the first time, the House approved funding for the program. The House bill contains provision for $10 million. Unfortunately, this would cover only 3 percent of the authorized level of funding.

The amendment I am offering would include in the bill $60 million for the public housing impact program, 20 percent of the authorized level of funding. There is nothing in the bill at this time since the Appropriations Committee, contrary to its actions in the past years, rejected even the $10 million in the House bill. Even the $60 million requested in my amendment is far short of the need in this area but it is enough to get the program off to a fair start.

By approving Federal assistance for school districts that educate children living in low income public housing, Congress recognized that these federally funded housing projects impose a special burden on the schools in much the same way that military bases and other Federal installations do. Like military bases and other Federal installations, public housing projects pay no local property taxes for the support of schools. At the same time, they attract to the districts large numbers of youngsters.

There are small payments made in lieu of taxes by housing authorities but these payments average less than $15 per child. The cost of providing an education for a child ranges from about $700 to upwards of $2,000 in my own State of New Jersey, for example.

As a result, the resources of the district are stretched extremely thin. The education of children from public housing suffers from the impact and so does that of those from nonpublic housing. The extra burden on the taxpayers is obvious.

This inequity is particularly difficult to bear since many of the districts that have heavy concentrations of public housing already are among the poorest districts in the Nation.

The aid provided to these districts under my amendment would be especially valuable since it is not earmarked for any special educational program but could be used in the area of greatest need in each school system. The districts will have the same control over the use of this money that they have over locally collected taxes.

In my view, this type of impacted areas aid, called category C, is one of the most meritorious and one related most directly to identifiable public economic need.

This is not only a big city program. Over 3,000 communities in all 50 States have public housing and statistics provided by the Department of Housing and Urban Development indicate the program will continue to grow.

More than 60 New Jersey communities have public housing and would benefit from the category C program. Under my amendment, New Jersey school districts would receive a total of almost $3.6 million to assist in the education of 56,080 children whose parents live in public housing.

For some States with smaller entitlements, the significance of the Federal assistance that would be provided under this program may not be readily apparent. But the impact becomes easier to see if you compare full funding of category C with full funding of category B of impacted areas aid—which provides aid to school districts that educate children whose parents work on Government installations.

Under my amendment, for example, Connecticut would receive about $1.5 million for category C aid. Under full funding of the program, Connecticut would receive twice as much as it would receive under full funding of category B.

Other States in which category C compares favorably with category B under full funding for both programs are Arkansas, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, West Virginia, and Wisconsin.

A similar comparison could be made with category A of impacted areas aid—which provides aid to school districts educating children whose parents live and work on Federal installations—and the names of additional States would appear.

But this is not to suggest that the program would be unimportant in even States which receive such large amounts of category A or B aid that category C could not match it. Nor does it suggest that category C should be considered as an alternative to any other part of the impacted areas aid program.

The public housing program under impacted areas aid is funded separately from the rest of the impacted areas aid programs. This is required by the authorizing legislation. This means category C will not diminish funding of the other programs, nor will it rely on those programs for its justification.

In my view, impacted areas aid for public housing is a program that should be considered separately on its own merits. As such, I believe it is one of the most worthwhile parts of the impacted areas aid program.

And yet, we are funding other parts of the impacted areas program at 84 percent, 90 percent, and even 100 percent of entitlement. Compared with this, the 3-percent funding for category C provided by the House bill is sorry indeed. Even the 20-percent funding provided by my amendment is dwarfed by the funding provided for categories A and B. But it provides enough to give the program a fair start.

Therefore, I urge adoption of this amendment.

Mr. JAVITS. Mr. President, I rise in support of amendment No. 1273 introduced by the gentleman from New Jersey (Mr. CASE) of which I am a cosponsor, which would provide $60 million for part C of Public Law 874, the impact aid law. Part C, as has been pointed

out, would pay school districts funds for the education of children living in low-rent public housing.

The Congress included part C of Public Law 874 in 1970 as part of Public Law 91-230. At that time the Congress was much impressed with the fact that the "in lieu of taxes" payments made under the Public Housing Act to local governments for low-rent housing bear little relationship to the cost of providing education for the children residing in them. While these local educational agencies were receiving only about $11 per child of such "in lieu of taxes" payments, the cost of educating each such child ranged from $700 to $1,200 a year. This amount is grossly inadequate to offset the revenue loss by exempting public housing from local and State taxation.

The more than 1.5 million schoolchildren living in eligible public housing are spread throughout 3,000 communities in every State in the Nation; a fourth of them are located in the Nation's 14 largest cities. The continued financial burden of bearing the total cost of educating the concentrations of public housing children, many of whom require special educational services, is a major factor in the financial crisis which is rapidly developing for the central city school systems.

It is vital that this amendment be adopted to fulfill this need and the obligation of the Federal Government to those school districts bearing the additional financial burden of educating children living in tax-free public housing.

We are indebted to the Senator from New Jersey for offering this proposal. I feel we are also indebted to the Senator from Rhode Island (Mr. PASTORE) for opening up the question, as he always does so courageously. But the $60 million is totally inadequate in terms of a fair share, honest division, equal justice—any standard you make. I hope the Senate will allow at least this elemental change.

Mr. CASE. I thank the Senator.

I yield to the Senator from Illinois (Mr. PERCY) 1 minute.

Mr. PERCY. I thank the Senator.

Mr. President, I do not have to remind members of the Appropriations Committee that this is a subject on which I have felt very deeply. We have fought a very hard battle. The Senate has supported this effort in the last year or two. We just have been rebuffed by the House. We have made tremendous progress now in that they have accepted $10 million. I think we ought to go back to the Senate-passed amount of $60 million.

For my colleagues on the other side, I may say that Mayor Daley considers this the No. 1 priority for Chicago schools and the 60,000 children there in public housing.

We closed our schools in Chicago early this year because we ran out of money. We have a fiscal crisis there. There are over 80,000 children who would benefit by this proposal in school systems over the entire State.

If we are going to go into revenue sharing, this is an area into which we would move most urgently and in which funds are most needed.

Mr. President, I am pleased to join with the distinguished Senator from New Jersey (Mr. CASE) in cosponsoring his amendment which will add $60,000,000 to the Labor-HEW appropriations bill for category C funding of the impacted aid program. While there are many very fine features of the bill—more than $661,405,000 was approved for categories A and B meet the needs of school districts which of the impacted aid program—it fails to have public housing students. This, in my view, is a very important and serious shortcoming of the bill.

My colleagues will recall that last year when we considered the fiscal year 1972 appropriations bill for the Office of Education, the Senate approved $60 million for category C. It was only the failure of the House to agree in conference that the funds for this program were lost. The Senate has made a firm and repeated commitment to funding category C, and I do not believe we should lessen or drop that support now. We must reiterate to the House the view that assistance to school districts with public housing students is necessary to remove much of the financial uncertainty these districts now face.

Illinois public schools are undergoing a tremendous financial crisis. This month, Chicago schools were forced to close early because of budgetary deficits. Because the Chicago school system relies solely on local property taxes for its local share of revenues for public education, it is fairly obvious that where there are significant numbers of federally assisted public housing units in the city local taxes are reduced, eroding essential support for public education. The denial of category C funding means that not only will the city and State be forced to help support the public education costs of the more than 62,000 public housing children in Chicago and 81,000 children statewide, but also this action will result in a decreased per pupil expenditure for all children in the school district.

Mr. President, I believe the logic behind the category C program is sound. Few individuals can deny that housing for the poor is a federally impacted area. No reasonable parent, educator, or elected official should advocate a denial of impacted aid funds at the expense of a marginal education for all public schoolchildren. Furthermore, there will be no substantial improvement in the lives of children in public housing unless they are given a better education.

Congress failure to appropriate funds for impacted aid is irresponsible and unacceptable. The precarious condition of our public schools is in large part the responsibility of the Federal Government as long as we continue to leave the category C portion of impacted aid to education unfunded. We are not asking for more money to build additional schools, increase teachers' salaries, or supply special equipment or libraries. We are merely seeking funds to keep the schools open—to compensate school districts for the loss they encounter in local tax revenues resulting from the presence of Federal public housing projects. It is clearly our responsibility and one that we must not ignore.

I urge the Senate to approve this amendment and press the House conferees for acceptance of fiscal year 1973 funding for category C.

Mr. CASE. Mr. President, I yield 1 minute to the Senator from Missouri (Mr. EAGLETON).

Mr. EAGLETON. Mr. President, I rise in support of the amendment to provide an additional $50 million in impact aid funds for category C children, those residing in low-income public housing. Public housing impact aid was initially authorized in 1970, the result of a bill I introduced in the Senate. In enacting my proposal, Congress recognized that the financial burden placed on the school districts to educate children living in tax-free public housing is as great as that arising from the education of children connected with military bases.

The cost of educating children in our cities—including children who live in public housing—continues to mount rapidly. Public housing is exempt from local property taxes, and while a small portion of the rents paid by the families who live there is paid in lieu of taxes by the Federal Government to the local government, the amount does not nearly cover the costs of services, including education, which are provided. The balance is made up, for the most part, from taxes on local property owners. Federally assisted public housing, as a result, has become an increasingly difficult burden for the communities where it is located.

The initial imbalance between local needs and available resources is not static. Rather, it has tended to escalate. Federal public housing policy—like many other Federal welfare policies—lures the rural poor to cities. At the same time, medium- and high-income taxpayers, along with more and more industry and businesses, are moving out of the central cities. The result is that more and more cities have fewer and fewer resources to deal with the human problem of poverty whichever more urgently demands solution.

An excellent education is the one opportunity most likely to save this generation of public housing children from becoming the parents of the next. They need it most, and they are not getting it in large part because school districts in which the Federal Government has chosen to locate its public housing projects cannot afford to provide it.

Testimony presented to the House of Representatives when the authorization for category C of impact aid was considered indicated that enrollment in certain surveyed areas doubled with the construction of federally financed housing. But no one offered to pick up the tab for doubling the number of classrooms.

Children from nonpublic housing in a school district containing public housing can suffer as well. They attend the same crowded and financially overburdened schools. Their parents are forced to bear a heavier tax burden for education, receive less for their money, and look for ways to escape to the suburbs.

The giant school districts of this country that have a large number of students residing in public housing have abundant need for the kind of help coming

from the $60 million appropriation recommended in this amendment. Funding at the $60 million level would result in payments of approximately $1 million to school districts in Missouri. Of this amount, nearly $540,000 would go to St. Louis and about $150,000 to the Kansas City School District, reflecting the relatively large numbers of public housing units in these cities.

Mr. President, I ask unanimous consent that a table containing the estimated amounts each State would receive were this amendment adopted be printed in the RECORD at this point.

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

	Housing units under management, Dec. 31, 1971	Estimated number of pupils	Full entitlement	Estimated entitlement at $60,000,000	Estimated entitlement at $10,000,000
Alabama	37,038	60,742	$15,489,210	$2,212,744	$387,230
Alaska	945	1,550	395,250	56,464	9,881
Arizona	4,845	7,946	2,026,230	289,461	50,655
Arkansas	10,944	17,944	4,575,720	653,674	114,393
California	57,704	94,635	23,931,925	3,418,846	598,298
Colorado	5,729	9,396	2,395,890	342,283	59,899
Connecticut	15,565	25,527	6,509,385	929,912	162,735
Delaware	2,232	3,660	933,300	133,328	23,333
Florida	31,367	51,442	13,117,710	1,873,958	327,943
Georgia	45,500	74,620	19,028,100	2,718,300	475,703
Hawaii	4,636	7,583	1,933,665	276,238	48,342
Idaho	765	1,255	320,025	45,717	8,001
District of Columbia	11,819	19,383	4,942,665	706,095	123,567
Illinois	67,853	106,289	27,103,695	3,871,956	677,592
Indiana	13,034	21,376	5,450,880	778,697	136,272
Iowa	2,268	3,720	948,600	135,514	23,715
Kansas	5,081	8,333	2,124,915	303,559	53,123
Kentucky	19,031	31,211	7,958,805	1,136,972	198,970
Louisiana	26,566	43,568	11,009,840	1,572,834	275,246
Maine	2,065	3,387	863,685	123,383	21,592
Maryland	17,002	27,883	7,110,165	1,015,738	177,754
Massachusetts	32,225	52,849	13,476,495	1,925,213	336,912
Michigan	22,328	36,618	9,337,590	1,333,941	233,440
Minnesota	17,637	28,925	7,375,875	1,053,696	184,397
Mississippi	8,668	14,216	3,625,080	517,868	90,627
Missouri	18,115	29,709	7,575,795	1,082,256	189,395
Montana	1,587	2,603	663,765	94,823	16,594
Nebraska	8,074	13,241	3,376,455	482,350	84,411
Nevada	2,787	4,571	$1,165,605	$166,515	$29,140
New Hampshire	3,276	5,363	1,370,115	195,730	34,253
New Jersey	44,109	72,339	18,336,445	2,619,492	458,411
New Mexico	3,767	6,178	1,575,390	225,055	39,385
New York	102,448	168,015	42,843,825	6,120,546	1,071,096
North Carolina	26,008	42,653	10,876,515	1,553,787	271,913
North Dakota	1,634	2,680	683,400	97,628	17,085
Ohio	43,259	70,945	18,090,975	2,584,425	452,274
Oklahoma	10,466	17,164	4,376,820	625,260	109,421
Oregon	7,543	12,371	3,154,605	450,657	78,865
Pennsylvania	63,728	104,514	26,651,070	3,807,295	666,277
Rhode Island	9,317	15,280	3,896,400	556,628	97,410
South Carolina	9,035	14,817	3,778,335	539,762	94,458
South Dakota	1,911	3,134	799,170	144,167	19,979
Tennessee	33,017	54,148	13,807,740	1,972,534	345,194
Texas	46,444	76,168	19,422,840	2,774,691	485,571
Utah	149	244	62,220	8,888	1,556
Vermont	1,481	2,429	619,395	88,485	15,485
Virginia	16,063	26,343	6,717,465	959,638	167,937
Washington	15,197	24,923	6,355,365	907,909	158,884
West Virginia	4,080	6,727	1,715,385	245,055	42,885
Wisconsin	9,542	15,649	3,990,495	570,070	99,762
Wyoming	293	481	122,655	17,522	3,066
Guam	250	410	104,550	14,936	2,614
Puerto Rico	43,416	71,202	18,156,510	2,593,787	453,913
Virgin Islands	2,896	4,749	1,210,995	172,999	30,275
Total	992,739		413,485,090	59,069,298	10,277,230

Mr. EAGLETON. Mr. President, it is particularly important that the Senate show its support for this program at this time—in the final year of its authorization. Since the enactment of the program, it has never been funded. In the education appropriations bill for fiscal year 1972, the Senate included $60 million for public housing impact aid. Regrettably, that amount was lost in conference. This year, for the first time, the House of Representatives has demonstrated its belief in the worth of the program by providing $10 million for public housing impact aid. It is imperative that we send a mandate to the House that $10 million is not sufficient to get the program off the ground. The $60 million which this amendment would provide would more nearly meet the needs of the school districts.

I strongly urge that this amendment be adopted. It is time for the Federal Government to meet its obligation—to step in and rescue these children and these school districts—unless we are prepared to pay a terrible cost in idleness, welfare, and waste for generations to come.

Mr. STEVENSON. Mr. President, the amendment the Senate is now considering would provide $60 million for distribution among those school districts with students living in public housing, including $4,500,000 for the financially desperate Chicago school system. I believe the rationale for this amendment is irrefutable, and I am an enthusiastic cosponsor.

Many of our large city school districts are facing a severe fiscal crisis. In Chicago, the board of education ran a $22 million deficit in its calendar year 1971 budget of $646 million. The projected deficit for calendar year 1972 was $100 million before 630 teachers were dismissed and programs canceled for health, adult education, and intensive reading for inner city students. Now the deficit is $68 million, and the Chicago Board of Education is considering canceling music, art, and physical education classes this fall because they see no prospects for making up the difference.

Chicago's financial straits are due to a large extent to an inadequate tax base. Local revenues for public education are generated almost completely from the property tax, and yet public housing is tax-exempt. Despite the fact that the cost of education is often higher for the high concentration of educationally disadvantaged children living in public housing, the school district is actually financially penalized by accepting public housing.

The Federal impact aid program was designed to provide assistance to school districts financially impacted because of Federal action. Categories A and B—which covers families living on or working on federally owned installations—have long received substantial funding. Category C—which covers families living in federally subsidized but not owned public housing—has never been funded even though the impact on school districts is precisely the same. They are unable to collect local property taxes from the buildings.

Most public housing units are located in our major urban areas. It makes no sense to continue to penalize these already fiscally bankrupt cities, particularly when their fiscal problems are partly a result of their acceptance of responsibility for housing low-income people.

Last year the Senate Labor-HEW Appropriations Committee reported out a bill recommending $60 million for category C impact aid. The Senate accepted the committee's recommendation in full, but the House refused to provide any money for the program. Unfortunately the House prevailed in conference. This year the House, for the first time has provided funds for category C—only $10 million, but it is still a first. In view of this it is unfortunate that the Senate committee now refuses to recommend any funding. Nothing has changed since last year to justify the committee's change of recommendation from a $60 million appropriation for category C to no appropriation. If anything the need for funding category C is clearer.

I urge the Senate to do what it did last year—to provide $60 million in funds for school districts impacted by public housing.

Mr. CRANSTON. Mr. President, I support the amendment offered by the distinguished Senator from New Jersey (Mr. CASE). I am a cosponsor of the amendment because I believe we have a distinct Federal obligation to help those school districts which serve the children of public housing complexes—complexes that are clearly in the public interest but which provide no direct revenues to the school districts that assume the responsibility of educating the children who reside there. The authorizing legislation for Federal payments to these school districts has been in effect for several years, but each time funds were provided by the Senate, they were lost in conference with the House.

This year, however, our House colleagues provided $10 million in their bill for this important Public Law 81–874, part C, authorization. Although this represents an advance, we simply must provide more.

I urge Senators to vote for this amend-

ment which would increase the appropriation for the impact aid/public housing program to $60 million.

Mr. PASTORE. Mr. President, I do not know who said it, but whoever said it was a very wise man—that politics is the art of the possible.

The reason I was going to move to lay this proposal on the table was not with the intent to shutoff debate—I shall not make my motion until all time is consumed. The fact that faces us is that history of this whole project has not been a very happy one. I voted for the amendment proposed by the Senator from Missouri. I think he was the father of the act to include the new philosophy of giving impacted aid to help a school where there is a public housing project. It makes a lot of sense, because often we want to get public housing projects out of the slums. Where do we send them? We send them to the suburbs. When we do that we not only cut down on delinquency but we promote good citizenship in those children when they grow up. I agree with that 100 percent.

But what is happening here this afternoon, my colleagues, is that what is proposed here is a gamble between $60 million and nothing. This is the first time we have been able to get the House to come along in this area. What did the Senate committee do? It cut the $10 million provided by the House. So at the moment we have nothing appropriated by the Senate. The House appropriated $10 million. The present motion on the floor is, "Let us make it $60 million." By that we are opening up a legislative wound that I hoped had been healed.

Let us face the facts. If we pursue it the way we are, by adopting the amendment of the Senator from New Jersey—though I doubt very much that the Senate will adopt it—we are jeopardizing the whole program. At least the $10 million means a foot in the door. This is the first time we can get this school aid off the ground. That is why I said let us put in the House figure. That is the reason for it.

The reason I am going to move to lay it on the table is not that I am opposed to greater generosity, but that it is legislatively ill timed. We would be taking a chance of destroying the whole thing, and I think that would be regrettable.

Mr. CASE. Mr. President, I yield 1 minute to the Senator from Kentucky (Mr. COOK).

Mr. COOK. Mr. President, all I can say to the Senator from Rhode Island is, if injustice is being done to communities in the United States, if in fact we have a record of schools closing in the entire Nation, at least we can prove to the House that the Senate understands the problem even if the House does not.

The Senator can say, "We have to make a deal with the House." We always make a deal with the House and people in the United States suffer and impacted areas throughout the United States suffer and school systems throughout the United States suffer. Because there is public housing and we did not do the whole job of making up the inequities that are going to be created in all the fields, do we have to say now, "Let us not do something about it"?

All I can say to the Senate is that $60 million is a drop in the bucket. The sum of $60 million will do very little for the problems of those children. Why does not the Senate take a position and stick to it in relation to the House? That is the only point I wish to make.

Mr. PASTORE. Mr. President, I do not have anything further to say. I repeat to the Senator from Kentucky, however, I know the merits of the proposal and the good intentions of the proponents. I would like to see the $60 million appropriated, if we could get away with it in conference. I do not think that is going to happen. It is not a question of being brave or tough. It is a question of being practical. It is a question of coming back with something, and, as far as the Senator from Rhode Island is concerned, I like results.

The PRESIDING OFFICER. Do Senators wish to use the rest of their time?

Mr. PASTORE. No; I yield it back.

Mr. CASE. Mr. Presiednt, I will use just a couple of the minutes remaining.

Let us look at the risk we are running here. The sum of $10 million spread over this country is not worth anything. It is truly much too little. Those who believe in this program do not have to yield. We cannot lose in conference. The House has provided $10 million. The big block in the past has been the House's obduracy—that is, not the House, but the Appropriations Committee of the House. They were overridden, and so we have an absolute rock-bottom figure, as far as the conference goes, of $10 million.

Why should we, on our own motion, go down to that figure? The only thing we are risking is that Members of the Senate will change their votes from the position they have taken in the past; and will they do that? I do not think so. We are taking no risk whatever in insisting upon a measly 20 percent instead of an incredible 3 percent of the authorized program.

I yield back the remainder of my time.

Mr. PERCY. Mr. President, will the Senator yield me 1 minute?

Mr. PASTORE. I yield 1 minute to the Senator.

Mr. PERCY. Mr. President, we spent months arguing the busing problem. I cannot blame a community, when the people see public housing coming in and know that it is going to lower the quality of education of all the other children. I can understand their insisting on public housing not coming in. We know that scattered public housing is going to be the wave of the future. Why not have the community open its arms to public housing as long as they know it is not going to hurt education for their children?

The sum of $60 million is a pittance, but it will help communities open their arms to public housing rather than close their eyes to the idea of integrating their communities at all and at the same time lowering the quality of education for all children.

Mr. PASTORE. Mr. President, it is regrettable that Senators thinking of a $60 million figure were not on the floor when a very strong appeal was made by the Senator from New Hampshire that this bill has been increased almost $1 billion by the House and $1 billion by the Senate, which means a $2 billion increase. Now we have a President who sometimes vetoes some of these bills. I remember one time when we had a measure providing $500 million for sewers. I managed that bill on the floor. It was a sound bill—a health bill. The President of the United States vetoed it. I see no measure more important than that to preserve the health of our people, because some of our ground is being infested with sewage. That is that.

The fact remains here that we have to look at this problem practically and realistically. We have been admonished not to raise the amount in the bill today. I had high hopes that I was going to get approved a proposal for $58 million this afternoon. Do my collegaues know what they are doing to me? They are killing that, too.

You are killing that, too, because I am telling you the $60 million is in jeopardy on the floor of the Senate. I would like to see it pass, but I do not think it is going to pass. I hope I am wrong in this. And once the $60 million is killed, maybe the $10 million will also die.

I yield back the remainder of my time, and I move to lay on the table the amendment of the Senator from New Jersey.

Mr. CASE. Does the Senator request the yeas and nays?

Mr. PASTORE. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Moss). All remaining time having been yielded back, the question is on the motion to lay on the table the amendment of the Senator from New Jersey (Mr. CASE). 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 Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Rhode Island (Mr. PELL), are necessarily absent.

Mr. SCOTT. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Michigan (Mr. GRIFFIN) is detained on official business.

The result was announced—yeas 51, nays 41, as follows:

[No. 249 Leg.]

YEAS—51

Allen	Dominick	Miller
Allott	Eastland	Montoya
Anderson	Ellender	Pastore
Bellmon	Ervin	Proxmire
Bennett	Fannin	Randolph
Bentsen	Fong	Roth
Bible	Fulbright	Scott
Boggs	Goldwater	Sparkman
Brock	Gurney	Spong
Buckley	Hansen	Stennis
Burdick	Hruska	Symington
Byrd, Harry F., Jr.	Jackson	Taft
	Jordan, N.C.	Talmadge
Byrd, Robert C.	Jordan, Idaho	Thurmond
Cannon	Long	Tower
Cotton	Magnuson	Young
Curtis	McClellan	
Dole	McIntyre	

NAYS—41

Aiken	Hartke	Packwood
Baker	Hatfield	Pearson
Bayh	Hollings	Percy
Beall	Hughes	Ribicoff
Brooke	Humphrey	Saxbe
Case	Inouye	Schweiker
Chiles	Javits	Smith
Church	Kennedy	Stafford
Cook	Mathias	Stevens
Cooper	Metcalf	Stevenson
Cranston	Mondale	Tunney
Eagleton	Moss	Weicker
Gravel	Muskie	Williams
Hart	Nelson	

NOT VOTING—8

Gambrell	Mansfield	Mundt
Griffin	McGee	Pell
Harris	McGovern	

So Mr. PASTORE's motion to lay Mr. CASE's amendment on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Rhode Island.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. This amendment is in two parts, and we did not ask that they be voted on en bloc. Could we separate them at this time and take a vote on the first part, as to A and B pupils, and then vote as to the C pupils?

The PRESIDING OFFICER. Does the Senator make that unanimous-consent request?

Mr. PASTORE. Mr. President, I ask unanimous consent that we be allowed to do that. We could have a division vote on it.

Mr. CASE. Mr. President, reserving the right to object—and I do not intend to object—if this suggestion is accepted and the first part is adopted, then the second part will be open to amendment, and each amendment that is offered will be allowed a half hour. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. PASTORE. I ask that that be done.

The PRESIDING OFFICER. Without objection, the parts will be separated and will be treated separately.

Mr. PASTORE. Mr. President, I ask for a division vote on the first part.

The PRESIDING OFFICER. A division is requested. Senators in favor of the first part of the amendment, which consists of the first three lines, will rise and stand until counted. (After a pause.) Those opposed will rise and stand until counted.

On a division, the first part of the amendment was agreed to.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the vote on the second part of the Pastore amendment, which is now pending, be postponed for a period of time and that we proceed with some other amendments, until we can see whether we can work out this matter. We are not ready to move at this time on the second half.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. ROBERT C. BYRD. Would the Senator state the time exactly to which he would like to have the vote postponed?

Mr. MAGNUSON. I would like to have at least an hour, because I have to discuss this matter with some other people.

Mr. CASE. Mr. President, will the Senator yield, so that I understand what the request is?

Mr. MAGNUSON. The request is that we postpone consideration of the second part of the Pastore amendment for at least an hour.

The PRESIDING OFFICER (Mr. HART). Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

Who yields time?

The bill is now open to further amendment.

Mr. KENNEDY. Mr. President, I will not take a great deal of time. First, in my official capacity as chairman of the Health Subcommittee, I want to commend the Appropriations Committee for what it has done in a wide variety of different health areas, particularly the health manpower legislation which passed last year.

This legislation involves incentives to encourage medical, dental, and other schools to expand their enrollments and at the same time provides a stick if they fail to do so.

Last year there were not adequate funds under the administration request, and as a result, 18 medical schools have actually received less funds under the new legislation than they did under the old law. Much of this will be remedied by this bill.

I want to say, as one who has been very much involved in developing authorizations in a number of health programs, that the Appropriations Committee has recognized that health is one of the most important and fundamental matters before the country today. I think the committee has responded in an admirable way to the needs of the American people in the health area.

So I want, at the outset, to commend the chairman, the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. COTTON), and the membership on both sides of the Appropriations Committee, for the efforts which they have made to insure that there are adequate funds for the various health programs.

There are just two areas I should like to address myself to now. One is a procedural matter and one is a question of funding.

Mr. President, at this time I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 40, line 1, insert the following: After "SEC. 210.", and before "The Secretary . . .", insert the following: "Where the Act authorizing such appropriations expressly allows a transfer of appropriated funds,"

Mr. KENNEDY. Mr. President, this section of the appropriations bill allows the Secretary of HEW to transfer up to 5 percent of the amount of any appropriation to any other appropriation under the act provided that the transfer does not increase the appropriation by more than 10 percent.

I do not believe that this provision as currently drafted is in the best interest of the Congress. Now certainly, it is understandable that the Secretary would desire flexibility to transfer funds among appropriations to cover unexpected and unplanned exigencies. It is also understandable that the Appropriations Committee would wish to grant this flexibility to the Secretary in the interest of good management facilities. Indeed, the prospective budgeting process that we go through in Congress implies long-range planning and estimating which invariably involve a margin of error. From a management standpoint, therefore, I can understand why the Appropriations Committee and the executive branch can agree as to the need for this provision.

However, I am concerned that the executive branch might use this provision as justification for circumventing the intent of Congress on key programs where the Congress and executive branch find themselves in sharp disagreement. You do not have to look far to find examples of such attempts, even without this new authority for transfer of funds.

First, the Health Subcommittee and full Labor and Public Welfare Committee have for over a year been involved in extensive consideration of a health maintenance organization bill. One of the bills under consideration is the administration's own bill. Yet during this time, the administration has set up programs under existing authorities to start health maintenance organizations using earmarks of existing appropriations, and requesting transfers from other authorities. I am pleased that the Senate and House Appropriations Committee have denied these transfers. I would point out that if the HEW had the authority granted in section 210, they could have transferred some funds without congressional approval, and they undoubtedly would have done so.

Second. For years Congress has pressed the Secretary of HEW to agressively implement regional medical programs across the country. Yet, the Department of Health, Education, and Welfare has for years refused to spend the dollars appropriated for this program, and has used every possible device to retard the program's growth. We have every reason to expect that the Secretary will use the authority given him under section 210 to cut 5 percent out of the RMP budget for use in other programs which he finds more agreeable.

Third. But perhaps the most glaring example of all is DHEW's use of section 314(e) of the Public Health Service Act to sidestep the intent of Congress. Past experience indicates that this is where the Secretary will pour the additional dollars which he can transfer under the authority of section 210. Under this broad 314(e) authority, aimed originally at comprehensive health services, the Secretary has funded a variety of categorical programs for lead-based paint poisoning, rat control, and communicable disease control. This year he has set up by regulation a restrictive program of health maintenance organizations, called family health centers, with provisions lifted from several bills currently pending before Congress. Obviously, this

section enables the Secretary to carry out programs as yet unapproved by Congress, and to fund other programs which Congress has authorized under separate legislation without meeting the specific requirements of that separate legislation.

Mr. President, this 314(e) authority expires in June of 1973, and my Health Subcommittee will be reviewing it very closely because of this history of abuse.

The lesson implicit in the 314(e) examples, as well as the HMO and RMP examples, however, is not that the authorities are wrong, but that the executive branch can and has abused these authorities pursuant to its own agenda. I do not believe, given this history of abuse, that we should equip them with yet another weapon to use in subverting the intent of Congress.

Mr. President, I call on the Members of this body to amend this section 210 to allow the Secretary to transfer funds only on those programs where the authorizing legislation specifically permits it. This amendment preserevs the notion of management flexibility, but limits the exercise of this flexibility to the programs Congress selects. I urge the Senate to accept this amendment.

Mr. President, under section 210 of the bill as currently formulated, the bill provides the Secretary the flexibility, if he deems it necessary, to move up to 5 percent of an appropriation from one program to another.

In the past we have seen the frustration of some of the programs which we in Congress have targeted and feel are important in order to expand programs which the administration feels are important.

What we are attempting to do with this amendment is to limit the 5-percent transfer authority to the programs whose authorizing legislation expressly authorize the transfer of funds.

We want to be responsible for the proper use of the funds we authorize and appropriate. That is our function as legislators. My amendment limits the opportunity for the Secretary to make 5-percent transfers, only to those programs whose legislation actually authorizes the transfer of the funds. I think this makes the whole legislative process tighter and assures responsibility for congressional action.

I would hope that the chairman would take this amendment. We are not eliminating completely the opportunity to transfer. We are only limiting it to the programs which permit such flexibility.

There is reason for flexibility under some circumstances. What we should do, if we want to provide that degree of flexibility, is to authorize it in the legislation. I know that this is something the chairman of the committee has thought about, and I would hope it would be something he could take.

Mr. JAVITS. Mr. President, I hope that the Senator from Massachusetts will allow me to join him, as I have joined him in the necessary letter to the chairman of the subcommittee supporting this position, as ranking minority member of the Committee on Labor and Public Welfare.

Mr. MAGNUSON. Mr. President, I see the point of the Senator from Massachusetts and the Senator from New York in regard to what we are trying to do. There is no one more distressed than the Senator from Washington when the administration freezes funds which the Congress has appropriated for programs that it considers to be mandatory.

Mr. KENNEDY. That is right.

Mr. MAGNUSON. Mr. President, I would suggest that the Senator is proposing—I talked to the Senator and looked at his amendment—that the authority to make judgments on transfer of the nonmandatory funds be subject to the approval of the legislative committee.

As a member of the Appropriations Committee, I do not think we can accept that. We appropriate the funds. We have the oversight on them. After that, it would not bother me particularly if a transfer that involved a legislative issue had the approval of both our committees, but this amendment is taking away from the Appropriations Committee the right to determine whether appropriated funds are being expended right or not. We have that responsibility. We have enough trouble with legislative committees now without taking their authority away. It seems to me what the Senator is trying to get at is, when we pass a bill, that we intend the money we appropriate to be spent for that purpose.

Mr. KENNEDY. The Senator has stated it with great clarity.

Mr. MAGNUSON. We expect it to be spent for that purpose, too. I would have to——

Mr. KENNEDY. That is correct. The Senator has explained it correctly. If there is any confusion, I will take the Senator's explanation. What we want to do is to make sure that the money appropriated by the committee is used for the purposes appropriated for. The Senator has stated it accurately. But what we do not want to do is to see funds shifted from one program to another, without concern for the authorizing legislation.

Mr. MAGNUSON. I understand that, but we can be better policemen of that than a legislative committee, because they have to come to us again later for something, or they are back and forth down there all the time. We do have some oversight, although the Senator's Health Committee and the Senate Committee on Labor and Public Welfare have done a marvelous job in hammering away at them, along with us, to expend the money that the legislation intended, up to the amounts we appropriated.

I could not agree to an amendment that would strip the Appropriations Committee of that function. We do it all the time in the transfer of funds. The Defense Department is allowed a certain amount of transfer. But they have to clear it with the chairmen of the two Appropriations Committees. They are the ones that appropriate the funds. And we do it also in public works appropriations, as I recall it. And we can do the same thing here and accomplish the Senator's purpose if we have the language the way the Senator suggested. The Senator's amendment does not provide that they come back, or does that language provide that they come back to the legislative committee?

Mr. KENNEDY. That is quite clearly not the intent. We want to be sure that when the Appropriations Committee appropriates funds, they are expended for the purposes appropriated. And if for some particular reason, and maybe a justifiable reason, the Secretary desires to have some flexibility for the transfer of funds, that should be indicated in the authorizing legislation. We do not want to find money that has been appropriated for hospitals used for communicable diseases, or money set up for regional medical programs used for comprehensive health projects or for the development of HMO's.

We have seen the establishment of health maintenance organizations under section 314(e) of the Public Health Service Act. But even while our committee has been holding a series of hearings on HMO authorizing legislation.

I do not think that we have any disagreement on this. We want to make sure that funds will be expended for the purposes they were appropriated for, and that the legislative intent not be circumvented.

Mr. MAGNUSON. Mr. President, the Senator would have to have that flexibility provided for in the legislative act. We do it all the time on appropriations, but only on those matters in which there is no mandatory provision.

This is a little different bill than the rest of them. I agree on that. However, I would say that almost 85 percent of the funds provided in the pending bill are mandatory.

The Senator from New Hampshire and I do not wish to have the Appropriations Committee cut out of that. Within appropriations, if they want to transfer funds in the programs that are flexible, they now have the authority to transfer them subject to our approval. We do not want to cut the Appropriations Committee out of that, because that has been our historic mission—to review such proposals.

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

Mr. MAGNUSON. Mr. President, I yield to the distinguished Senator from New Hampshire.

Mr. COTTON. Mr. President, I am thoroughly in sympathy with the objective that the distinguished Senator from Massachusetts seeks to attain. I understand that his amendment only affects the health part of the HEW bill. I think the Senator is completely right. And I think that the feeling of the Appropriations Committee is that we would be very, very careful not to sanction the transfer of funds, even up to 5 percent, at the will and pleasure of the department downtown, from one purpose to another, that is not consistent with the authorizing legislation as well as the appropriations.

What happens—and we have discussed this with the other members of the Appropriations Committee, and they have had the same experience—is that in the

first place very happily—and I am sure that the Senator from Massachusetts shares that feeling with us—these appropriations are growing and growing fast. Earlier in the day I called to the attention of the Senate that, thank God, we are now outstripping our military expenditures by our humanitarian expenditures. And they have grown very fast in the health department.

Usually the only difficulty we have is that when there are so many programs that are growing so fast, they have been unable to properly begin the activity. They have to get sufficient seasoned and experienced people. So, appropriations lapse and sometimes are unused when a certain amount of them could be very badly needed and would be very helpful in some other very worthwhile program. This is due to the fact that we are stuffing money in so fast that, in between the time they get the money and the end of the fiscal year, they have been unable to secure proper personnel, and for other reasons could not spend it wisely and intelligently.

Under those circumstances if they care to, and show that fact to the Appropriations Committee, I would think that we would be justified in saying that it is all right to use 5 percent for another purpose, because it cannot be used intelligently in view of the time factor. It is not the purpose, as I understand it, of this provision to start juggling money back and forth between the programs that have been carefully thought out and legislated and authorized by the committees and then carefully studied and appropriated for. It is just in those cases where money would be wasted when it could be used so advantageously in another program.

I agree with the chairman that the Appropriations Committee has never—and we cannot—fully funded all of the authorizations. If we were to do that, we would probably bankrupt the Treasury in a year. However, I think that we have consistently performed and have never failed to follow in our appropriations process the purposes and the limitations and the directions laid down in the authorization.

Mr. KENNEDY. Mr. President, I appreciate the remarks of the Senator from New Hampshire.

I would like to ask both the Senator from Washington and the Senator from New Hampshire, given the transfer authority as proposed, would it not be possible for either an administration that is not sympathetic with, say, the regional medical programs to take 5 percent of those funds and put them into any other health programs and violate thereby the expressed wishes of both the Appropriations Committee and the legislative committee.

Mr. MAGNUSON. Well, it is possible, and it has been done, but we can always include in an appropriation bill, and we sometimes do, that none of the money shall be transferred without consent of the House and Senate Committees on Appropriations, which usually takes the form of a letter to the chairman. They say, "We are about to recommend transfer of something to something else," and they give the reasons. We can put that in any bill now, so that even though your committee authorizes a transfer we could stop that by putting a limitation on the funds.

Mr. KENNEDY. If the Senator would consider a program such as the regional medical program which has been in effect for a number of years. It seems to me there might have been some justification, when that program was first developed, for keeping some flexibility for the Secretary to move funds from that program to, say, health planning programs. But after a program such as RMP has been in effect for a period of time, and we understand the need for those funds, to continue to allow the Secretary to transfer funds authorized and appropriated by Congress seems to me to run contrary to the express wishes of both appropriating committees and the legislative committees.

Does the Senator from Washington agree?

Mr. MAGNUSON. Yes and no. If we appropriate x number of dollars, even though the legislative committee said this money is under an authorization of the legislative committee, we appropriate so many dollars for that general purpose. But suppose we find out the transfer is something that should be made. We have the right to say, "All right, you can use this money the way you want." I think we run counter to one another because we would say, "None of these funds shall be used for this purpose." That has been done many times. I do not recommend that, but that can be done.

I do not understand what the legislative committee wants to do here.

Mr. KENNEDY. We want to make sure when we authorize, when we set some priorities, that they will be expended for that purpose; and if the administration, as it has been doing, does not support a regional medical program, as does Congress, that the moneys will not be used for some other program which has not been authorized.

Now, if the administration wants flexibility let them come to the legislative committee and indicate that. If they want, they should request that portions of section 314 of the Public Health Service Ac might be used for some related purpose. They might well have found new and closely related needs. But I do not understand the willingness of the Committee on Appropriations to allow that moneys authorized to build the hospitals be spent on communicable diseases.

Mr. MAGNUSON. I have been one who felt that the Health Institutes should have a flexible fund because sometimes in the middle of January of a fiscal year we might find something exciting that is going on in one biomedical field and want to take some money to get at it instead of waiting.

I am pointing out I do not want to give away any authority of the Committee on Appropriations to either approve a transfer or, second, to say they should not be transferred.

Mr. KENNEDY. Would the Senator be willing to strike the section permitting the transfer?

Mr. MAGNUSON. We would be glad to do that.

Mr. KENNEDY. That is fine.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. I would appreciate the reaction of the Senator from New York who has been very interested in this process.

Mr. JAVITS. I agree.

Mr. KENNEDY. Does the Senator think it would be appropriate to delete lines 1 through 9 on page 40 of the bill?

Mr. JAVITS. That is right. It can be stricken and then it comes back to legislative authorization.

Mr. KENNEDY. That would achieve the purpose.

Mr. MAGNUSON. All right.

Mr. KENNEDY. I move——

The PRESIDING OFFICER. Does the Senator withdraw his amendment?

Mr. KENNEDY. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The Senator may now make his motion to strike.

Mr. KENNEDY. I move to strike lines 1 through 9 on page 40 of the bill.

The PRESIDING OFFICER. On the motion to strike, those in favor——

Mr. MAGNUSON. Mr. President, before we get to that, this whole problem has to be resolved one of these days and it might be in a legislative way. I do not know but my problem has been that original biomedical research organizations which I helped to institute will appropriate x dollars and they do not spend it. They freeze it. They have the biggest icebox in town down there. They released a little this year because it is 1972; but otherwise they freeze the money and manipulate the programs. They transfer it or just do not spend it.

Mr. KENNEDY. If the Senator would put in language similar to the Hill-Burton language that requires the expenditure, I would support that.

Mr. MAGNUSON. This is something they just do not do. If someone does not like the program they just do not spend the money.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Does time have to be yielded further?

The PRESIDING OFFICER. The time must be used or yielded back.

If there is no further discussion, is all time yielded back?

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to strike (putting the question).

The motion was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, will the Senator yield to me briefly on the bill?

Mr. MAGNUSON. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, as the ranking Republican member of the Committee on Labor and Public Welfare which had responsibility for the development of the authorizing legislation for vital health programs—the education of health manpower; the conduct and support of medical research; mental health programs with its full range of professional training programs and services, including alcoholism, narcotics addiction and drug abuse; comprehensive health planning and services; regional medical programs; and medical facilities construction—I am grateful to Senator MAGNUSON and Senator COTTON for seeing Senate action through to a reasonable conclusion.

HEALTH MANPOWER

The authorizing legislation, Public Law 92–157 and Public Law 92–158, was a bold new approach to dramatically increase our desperately needed physicians, dentists, nurses, and health professionals. At the same time, the legislation was designed to permit our schools to develop new programs responsive to national need in every area, from developing more physicians and dental assistants and nurse practitioners; to emphasis on family medicine; to increased professional training in the diagnosis, treatment, and rehabilitation of alcoholism and drug abuse; to greater development of computer technology, which I believe portends the greatest potential for overcoming many of our health care problems.

The appropriations levels provided for in this bill by the Senate will go a long way toward implementing the comprehensive authorizing legislation for health manpower.

Without the level of support provided by the Senate we will face severe difficulties in seeking to overcome the severe shortage and maldistribution of health manpower and to bring more physicians and other health professionals into our rural and inner-city areas.

Mr. President, if our goals are to be realized, we must put our appropriations where our authorization promises are; rhetoric must become reality; and this, the Senate Appropriations Committee has sought to accomplish.

The $24,100,000 increase for capitation payments to schools of the health professions will bring the total appropriation to $190,000,000, or 76 percent of the amount authorized. This should allow the institutions to operate on a firmer financial footing in the future, a footing made even more secure if mandated increased enrollment provided in the authorizing legislation were interpreted—as I have urged the Secretary—to be keyed at the same percentage relationship as appropriations bear to authorizations. I believe mandated increased enrollment was always contemplated by the Labor and Public Welfare Committee in terms of full funding of authorizations.

I applaud the $150,000,000 increase over the administration's request for no funds. Although the approved but unfunded construction grant applications of $840,000,000 were voided with enactment of Public Law 92–157 and Public Law 92–158, the urgent need is more real than ever if we are to have required increased training places for qualified, well-trained health manpower. The need for new medical school places is so urgent that I have joined Senator TUNNEY in an amendment to increase construction appropriations to $180,000,000.

NURSING

As they have done for our medical, dental and other health profession schools, the Senate Appropriations Committee, under the leadership of Senators MAGNUSON and COTTON, have recognized the severe financial problems of our nursing schools and increased capitation support by $29,000,000 over the administration's request to $62,500,000 or 76 percent of the authorization. In addition, I am grateful that the financial distress grants to schools of nursing are funded at their full authorization, $10,000,000.

ALLIED HEALTH

There is great potential to be realized through the development of allied health manpower and I believe the Senate Appropriations Committee has shown great wisdom in that $17,290,000 total increase over the administration's request for institutional support, traineeships, special projects, construction, and student assistance programs.

HEALTH MANPOWER/NURSING STUDENT ASSISTANCE

No young person should be denied an opportunity to pursue a career in the rewarding health professions field because of financial need. I highly commend the Senate Appropriations Committee for its $45,430,000 increase over the administration's request for student assistance programs including scholarships, loans and traineeships to a total of $149,000,000 for health manpower and nursing student assistance.

BIOMEDICAL RESEARCH

There is no quick and easy cure for cancer. There is a long and costly road ahead for the conquest of cancer and every promising lead to the solution of the complex cancer problem and should be followed.

The Senate Appropriations Committee has again seen Senate action—the National Cancer Act of 1971—Public Law 92–218—in which I was much involved—through to a reasonable conclusion by a $60,000,000 increase over the administration's request to $492,205,000 almost at the $500,000,000 authorization.

Diseases of the heart, lungs, and blood are the main killers in the United States—half of all deaths are due to cardiovascular diseases—and I commend the Senate Appropriations Committee for its $350,000,000 appropriation recommendation and an increased $94,720,000 over the budget estimate.

I am gratified that under the leadership of Senator MAGNUSON and Senator COTTON an additional $10,000,000 has been provided to implement the recently enacted sickle cell legislation—Public Law 92–294—above the $15,000,000 budget estimate.

There has been recognition of the vital role of the NIH in research across the entire disease spectrum; as well as the critical NIH role through fellowships and training grants in each Institute for all NIH activities exclusive of health manpower, the Senate bill provides an additional total $319,535,000 over 1973 budget estimates or a total budget of $1,899,733,000.

I have been concerned by the lack of funding for the Laboratory for Experimental Medicine and Surgery in Primates—LEMSIP—which has been operating productively since 1965 as a truly interinstitutional regional resource—an arm of the Associated Medical Schools of New York and New Jersey under the administration of New York University Medical Center—and the first medical laboratory in the United States to function successfully as an interuniversity facility and an indispensable resource for medical research. It is a primate laboratory which was created by the medical community without significant Federal funding.

Increased operational costs, termination of U.S. Air Force support because of congressional action, and so forth, have placed the laboratory's continuance in jeopardy and I have urged its financial support through NIH but, unfortunately, there was no funding available.

The NIH research resources $83,000,000 appropriation, an increase of $8,019,000 over the amount presently available will, I believe, in the animal resources program, make it possible for LEMSIP to be assisted by NIH and provide the resources to LEMSIP which it requires for medical research.

Although LEMSIP is not one of the seven private primate centers previously supported, I am confident its eligibility for funding support will be enhanced by this increased appropriation.

MENTAL HEALTH

I have long been deeply concerned about the need for adequate funding of mental health programs and last year fought for the release and expenditure of appropriations for community mental health center staffing grants, psychiatric training grants, and children's mental health program grants.

I commend the House and the Senate Appropriations Committees, efforts to again restore psychiatric residency training grants to $7,000,000, with additional undergraduate program funding support. We have a considerable demand for more mental health personnel, and we are far from having the number of training psychiatrists required to meet national needs.

Its work to provide the required appropriations on behalf of community mental staffing through a $50,000,000 increased appropriation is most meritorious. The $20,000,000 increased appropriation for mental health of children will be vital to overcome the trend of increased child resident population in State mental hospitals.

The urgent need for adequate funding of the Developmental Disabilities Act—which I will respond to on behalf of the mentally retarded by the introduction tomorrow of a "bill of rights for the mentally retarded"—has caused me to join with Senator KENNEDY in an amendment to increase the recommended appropriation by $35,000,000.

ALCOHOLISM

I have taken a strong position with Senator HUGHES, of Iowa, in the effort to establish a national commitment to combat one of the world's most serious health problems, alcoholism, and was proud of my effort with Senator HUGHES to achieve the enactment into law of Public Law 91-616, the Comprehensive Alcoholism Prevention, Treatment, and Rehabilitation Act which we authored and sponsored in the Senate.

We must have a massive attack of the alcoholism problem and I strongly support the $85,193,000 appropriation for project grants—a $35,000,000 increase over the budget request—and the $75,000,000 for State formula grants—$45,000,000 increase over the budget request, which would have continued at the 1972 level.

NARCOTIC ADDICTION AND DRUG ABUSE

Although I am convinced that the $120,000,000 appropriation for these vital activities—and which I am pleased the Senate Appropriations Committee made possible through a $28,702,000 increase over the budget request—is not sufficient, I will at this time yield to the expertise of Dr. Jerome Jaffee, the recently appointed Director of the Special Action Office for Drug Abuse Prevention, in whom I place great confidence, for determining accurate funding levels and pulling together of resources for combating the narcotic addiction and drug abuse epidemic, of which unfortunately my own New York endures half the burden. I will be reviewing these items between now and the first supplemental.

The Senate's $20,000,000 increase is to fund a program of formula grants to States—which provision in Public Law 92-255 I authored—and I am grateful once more to Senators MAGNUSON and COTTON for their leadership in implementing this program, designed to enable States to begin to develop plans for the coordination and establishment of prevention and rehabilitation programs. I applaud the committee for stating in reference to Public Law 92-255:

> The Committee believes this is only a start in the implementation of the new legislation and will look favorably on a supplemental budget request to fully implement this program.

In closing on the narcotic addiction and drug abuse problem, let me make the final ironic point that, despite recommendations for stepped-up efforts in the addiction field itself, we cannot end drug abuse without a thorough regard for the context in which it takes root. Drug abuse symbolizes hopelessness and frustration. Drugs are a survival issue. The soaring budget is a perverse indicator of national health. Young people are saying we do not care about living in the world we see in front of us. The Nation, therefore, cannot end drug abuse without rebuilding our cities and without developing a set of worthy goals for our society. While concerned with the need for additional Federal help to cope with New York's tremendous addiction problem, I am also calling for national leadership on these much broader issues as well.

The increases the Senate Appropriations Committee has recommended in the budget not only reflect their deep concern with America's health care, but their understanding of how the authorizing legislation seeks to meet the basic needs.

CONCLUSION

I strongly support H.R. 15417 and I urge my colleagues in the Senate to give their fullest support to Senators MAGNUSON and COTTON and arm them with our strong endorsement of their appropriations recommendations when they go to conference. I am confident Senators MAGNUSON and COTTON and the other Senate conferees will do everything in their power to represent the Senate's interest in conference with the House, They should be assured of our complete support to assure that the appropriations conference report funding levels are sufficient to carry out the purposes of the authorizing legislation.

And now, Mr. President, I should like to direct my remarks to several significant parts of H.R. 15417 dealing with education.

BILINGUAL EDUCATION

I am particularly pleased that the committee provided $60 million for bilingual education. This is an increase of $18.87 million over the budget request, $15 million over the amount approved by the House and $25 million over the 1972 appropriation. It will provide for 150 new programs as well as 203 continuing programs in fiscal year 1973. While this amount still falls short of the authorization of $135 million, it is nevertheless a marked improvement over last year's appropriation and the budget figure and goes far toward meeting the need of educating the some 5 million school-age children who need the program.

The Congress in 1968 added the Bilingual Education Act as a new title to the Elementary and Secondary Education Act—ESEA—authorizing grants to local educational agencies to develop, establish and operate programs of bilingual education as well as provide preservice training and inservice training for professional personnel participating in such programs. I was privileged to have been a cosponsor of this effort and thus find it especially pleasing now to support the committee's suggested figure.

It is also interesting to note that title VII of ESEA—the bilingual education title—has stimulated interest and support where it heretofore has not existed and has prompted state and local action in an area of education heretofore sadly ignored in many quarters. This is perhaps the best test of the success of a Federal education program—that it has stimulated constructive education innovation. In this connection, I ask unanimous consent to include as a part of my remarks the article appearing in the May 1972 issue of Inside Education, published by the New York State Department of Education, and entitled "Bilingual Story—Concern Mounts, Funds Step Up."

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

(See exhibit 1.)

ADULT EDUCATION

Mr. JAVITS. Mr. President, the last Congress, through title III of Public Law 91-230, of which I was the author, expanded the Adult Education Act to include secondary level education for adults who have not completed high school and increased authorizations to reflect the expanded scope of this new high school equivalency program. Some 56 million adult Americans are short of the goal of a minimum high school education and less than a dozen States provide funds for high school education of adults—the need for Federal stimulation is pressing.

I am, therefore, particularly pleased to note that the committee has provided $75 million for adult education, an increase of $23.7 million over the budget estimate; this is identical with the House allowance. While this figure still falls short of the authorization of $225 million and the amount necessary for all needed high school equivalency programs, it nevertheless is a welcome improvement over the funding included in the budget and I should like to commend the committee for its inclusion.

HANDICAPPED

Commissioner of Education Sidney Marland has called for development of a national goal of education for all handicapped children by 1980. Today only an estimated 40 percent of the Nation's 6 million school-age and 1 million preschool handicapped children are benefiting from the programs they require.

The funds included in the committee bill will go far toward meeting this goal. The committee has recommended $181,859,000, an increase of $38,250,000 over the House allowance, $50,750,000 over the budget estimate, and $71,769,000 over last year's appropriation.

In addition, the committee has directed the Department of Health, Education, and Welfare to undertake a national survey of how many handicapped children need additional services. This should prove most helpful in preparing future authorization legislation and future benefits in this vital area.

MISCELLANEOUS

I would also like to commend the committee for the increases given to other important programs, particularly vocational education, including vocational research, library resources, right-to-read, educational broadcasting facilities and drug abuse education.

Finally, Mr. President, I feel certain that the committee will give careful attention to the appropriation request for the higher education items which were not included in this bill because of a delay in authorization which have now been authorized by the Education Amendments of 1972, Public Law 92-318, which was signed into law by the President on Friday. Now that this landmark legislation has been signed into law, I hope that expeditious consideration will be given to funding both the new programs it authorizes and existing programs which it continues.

EXHIBIT 1

BILINGUAL STORY—CONCERN MOUNTS, FUNDS STEP UP

Concern is growing about the adequacy of school programs for children of little or no English-speaking ability.

In the past few years there have been dramatic increases in the number of foreign-language-speaking children in schools in New York City, Nassau and Westchester Counties and in upstate places like Beacon, Newburgh, Amsterdam, Rochester and Buffalo. Changes in immigration laws and the greater mobility of Puerto Ricans, the largest group of newcomers, are key factors in the increase.

In New York City, 290,000 public school pupils are Spanish-surnamed and 135,000 of these are severely limited in ability to speak English, cites the state's Fleischmann Commission report in its Volume 1. Another 18,000 children of Chinese, Italian, French and other backgrounds also cannot speak English, said this report. However, bilingual education programs in New York City reach only 4,000 children.

"It is no wonder that Puerto Rican children are scoring poorly on standardized tests, dropping out of school at an extraordinary rate (52 percent between tenth and twelfth grades), failing to take advantage of post-secondary school opportunities, and finding it very difficult to compete in the job market," reported the commission.

A large influx of Haitian, Italian and Israeli children into the Brooklyn schools has also been noted by school officials there.

Outside of New York City, New Rochelle has an expanding Italian community, and Spring Valley a colony of Hasidic Jews. Brentwood, Patchogue, Center Moriches and Bellport on Long Island have large settlements of Puerto Ricans, and Lackawanna has a share of Arab families. Mineola now has a Puerto Rican club and Port Washington schools note that 22 different languages have been represented in its English as a Second Language classes.

Amsterdam's East Main Street School has about one-third of its 300 students coming from Spanish-speaking families, most with little or no familiarity with English. Fifty of these pupils receive classes in Spanish two hours a week in a cooperative program with the State University at Albany. Under a federal grant, Puerto Rican teachers take graduate courses at the university, intern in Amsterdam schools, and receive other educational assistance.

New York City schools, meanwhile, have a program for Greek-speaking children. There is a proliferation of schools teaching Chinese language and culture after school and on weekends there. Adult Chinese also receive basic English instruction and consumer training in classes at the Chinatown English Language Center in Manhattan.

While these are individual cases, the signs are that more federal funding is being directed to bilingual and English as a Second Language programs and more school districts are showing interest in receiving grants for these purposes, said Carlos V. Perez, supervisor in the Bilingual Education Unit of the State Education Department.

Local school districts sent in 43 proposals for some of the $3 million in Title VII—Bilingual Education Act—funds this year, far above last year's levels. The State Education Department has screened and forwarded proposals it recommends to the federal government.

Grants awarded under the Bilingual Education Act now go to 29 projects in 23 districts in the state, Perez noted. The latest to receive them are three high schools and seven community districts in New York City (5, 8, 12, 16, 17, 20 and 24), and Beacon city schools. These programs concentrate on simultaneous development of both Spanish and English in the classroom so that pupils who are dominant in one tongue may fortify these learnings while advancing in the other tongue.

Also, schools are making wider use of federal ESEA Title I funds to help non-English-speaking students, and they have had the opportunity to obtain ESEA Title III innovation and demonstration grants for similar purposes for the first time this year, Perez pointed out. There are about 70 projects in the state where these Title I funds are being used as compared to nine only three years ago.

Several other projects aimed at the non-English-speaking children are funded under state Urban Education Act funds, local funds or a combination of sources.

But only a small percentage of the Urban Education and Title I funds spent in New York State go for bilingual programs, despite the need, Perez asserted. The decision to spend these funds in each community is made by local advisory committees. He hoped more districts would become interested.

Mr. PERCY. I wish to commend the Senate Appropriations Committee for increasing title VII bilingual education appropriations from $35 million in fiscal year 1972 to $60 million for this fiscal year. For the first time in its history, title VII appropriations have risen above a third of its authorization.

This increase in appropriations is urgently needed. Although approximately 5 million children in this country are in need of bilingual-bicultural educational services, title VII reaches only about 100,000 of these children. Last year the Office of Education was able to approve only about 26 percent of the total applications it received for new programs. Illinois submitted a total of 17 proposals, and only three were funded. With a $60 million appropriation, the Office of Education estimates that 110 new projects can be initiated and approximately 90,000 more children served.

With this increased funding and ability to provide services, I hope that the Office of Education will, finally, begin to take the necessary steps to correct the current uneven distribution of bilingual-bicultural funds that are available. For example, in fiscal year 1970, California received $7.2 million from title VII; Texas $4.7 million; New York State $1.5 million; and Illinois $220,000.

The inequity in these allocations can be seen by examining the Spanish-surnamed public school enrollments in these States: California enrolled about 646,000 Spanish-surnamed children; Texas 505,000; New York State 264,000; and Illinois 69,000. On a per capita basis, California received almost four times as much, Texas three times as much, and New York State almost twice as much as Illinois. This deplorable situation had not improved much in fiscal year 1972 when California received almost $8.5 million, Texas $6.1 million, New York State $2.9 million, and Illinois $545,000.

I have protested long enough against what I consider to be outright discrimination against the Spanish-speaking people of Illinois. I sincerely hope that this is the last time.

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself and Senators WILLIAMS, JAVITS, CRANSTON, HUGHES, MONDALE, PELL, TAFT, and TOWER.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 29, line 16, strike: "$67,825,000, of which $30,000,000," and insert in lieu thereof, "$102,825,000, of which $65,000,000".

Mr. President, the appropriation bill contains $30 million for grants under part C of the Developmental Disabilities Services and Facilities Construction Act. This compares to a 1972 appropriation of $21,715,000. This may sound like an impressive increase to the Senate, but in fact, an appropriation level of $30 million will not even scratch the need in our Nation for these funds. Moreover, it is only a fraction of the $130 million authorized for these purposes by the legislation.

For the last 3 years, this program has competed unfavorably for Federal funds. Each year the appropriation level has fallen further and further behind the level of authorizations. As a result, treatment facilities for the mentally retarded have been starved throughout the Nation and hundreds of worthy projects have gone unfunded. In my own State of Massachusetts, the fiscal year 1971 appropriation allowed only $246,000 for these purposes. In that same year, the State received $6 million in requests for Federal assistance. In New York, the Federal Government in fiscal year 1972 provided $1.4 million, but the State received requests for no less than $17 million. In Oregon, the Federal Government provided $100,000 against $1.5 million in requests in fiscal year 1971. The story is the same in every State.

In some cases, one out of four applications can be funded from Federal support. In others, merely one out of every 25. Surveys of need in most every State indicate that, in fact, the applications received in the State represent only a portion of what needs to be done.

Mr. President, there are over 7 million school-age and preschool-age children in this country who have developmental disabilities. Grants under the developmental disabilities services facilities and construction act are the prime source of Federal support for these children. For 3 years, this program has been funded at a fraction of its authorization level and has almost withered while other important health programs have moved ahead. This act expires with this fiscal year. I believe it is important for the Congress to affirm its strong support for these programs in order to establish a solid foundation for the extension of the programs in the coming years. More importantly, it is time for the Congress and the American people to face up to the terrible needs of Americans with developmental disabilities, and to offer an effective level of Federal support. My amendment will raise the appropriation for these purposes to $65 million. The best advice that we can obtain indicates this level of funding will allow a meaningful advance in this program. The funds would be used to provide services to persons with developmental disabilities, as well as to plan future services, train specialized personnel to supply services, improved techniques for providing serv- and to develop and demonstrate new and

ices to the developmentally disabled. All of these funds are awarded to the States based on their population, the need for services, and their financial need.

I urge the Congress to approve this amendment.

Mr. KENNEDY. Mr. President, this amendment is directed toward increasing the amounts that have been appropriated for part C of the developmental disability provisions of the bill. This, in effect, is the area which provides for Federal assistance for mental retardation, cerebral palsy, and other disabilities.

This program started in the early part of the 1960's, and in spite of the very significant authorization, is probably one of the most oversubscribed programs, in terms of the Federal funds which are available, of any of the health programs.

What we are trying to do here is add on to the very significant advance that was made by the Appropriations Committee over last year. In fiscal 1972 some $21 million was appropriated, and the Senate bill for 1973 recommends $30 million. There is no money in the House bill. The amendment I have offered would increase the $30 million to $65 million.

I may at the outset just mention what some of the State requests have been and what some of the appropriations have been in the area of caring for 7 million mentally retarded or otherwise disabled children in this country.

For example, New Jersey received $304,000, even though its request was $1,600,000.

Illinois received $447,000, with a $2 million State request.

The State of Oregon received $100,000, when the State requested $1.5 million.

That does not include States like New York, which had a Federal allotment of $1,400,000 and $17 million in requests.

My own State received $225,000 against $6 million in requests.

I would hope the committee would take this amendment to conference. The committee in the past has shown sensitivity in this particular field, and is well aware of the needs. As I mentioned before, it has performed nobly in allocating the resources of this Nation to the areas of health. It seems to me this is one area of particular concern and interest, and I would hope the committee could take this amendment to conference. It has the support of the Association of State Officers who administer the provisions of the bill, and of voluntary associations that have studied the need. Even the Department of Health, Education, and Welfare has statistics which show the States have greater need than the $65 million would actually cover.

I know there are other needs before us, but certainly the retarded and disabled children of this country are entitled to the benefits of this proposal.

The legislation has been on the books for several years. The difficulties have been worked out of it. Most States have developed the kind of infrastructure which would permit the dollars appropriated to actually be used to help the children, unlike many other programs for which there must be the expenditure of many thousands of dollars in order to develop an administrative setup.

I would hope the committee would take the amendment to conference and that the committee would do everything it could to retain adequate funds for this purpose.

Mr. MAGNUSON. Mr. President, on my own time on the bill, and before we get to the matter the Senator is now proposing, I would like to know if the Senator would agree to having the other amendment reconsidered, because the Senator from New Hampshire was not present.

The point he would like to make—and I would agree with him—is that what the Senator is trying to do is make this matter apply to health, and when we knock out section 210 we are knocking out the whole thing. There are many other items where there must be transfers that the Senator and I would not worry about, and the Senator wanted it to apply only to the health items.

Mr. KENNEDY. That is correct. I would like to see it apply to the others, but I would agree to apply it to health only.

Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The appropriate procedure would be, the Chair is advised, to ask unanimous consent that the action on that motion be reconsidered.

Mr. KENNEDY. Mr. President, I make such a request. It was the desire of the Senator from New Hampshire to be heard. I think he is entitled to be heard.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request to reconsider the vote on the adoption of the motion of the Senator from Massachusetts (Mr. KENNEDY) to strike lines 1 through 9 on page 40. The Chair hears none, and it is so ordered.

Mr. COTTON. Mr. President, I yield myself some time on the bill.

First, I appreciate the courtesy of the distinguished Senator from Massachusetts in reopening the matter and allowing me to be heard, because I was called into the policy committee on another matter and I had to leave for a few moments.

As far as the health portion of this bill is concerned, I would cheerfully and gladly agree to cutting out the entire section and have section 210 not apply to the health portion, but when it comes to the educational provisions, that is something different. As the Senator from Massachusetts said earlier, these health programs are now going programs.

Mr. KENNEDY. Yes.

Mr. COTTON. As to the education section of the HEW bill, as the Senator knows, we have just passed an authorization bill authorizing some $21 billion over the next 3 years. We are having some innovations, and I am glad that we are. The Office of Education will come in with some entirely new projects. So we are not dealing with going concerns; we are dealing with concerns that have not started. Sometimes in the past appropriations were not fully obligated because they could not get the properly experienced and seasoned people, and during that time they could be transferred, so that the funds could be useful and helpful.

If the Senator would consider having section 210 not apply to the health provisions of the bill, I would gladly agree to that.

Mr. KENNEDY. That would be fine, then, Mr. President.

I send to the desk an amendment that would provide, after section 210, the words "except for appropriations made under authorities of the Public Health Service Act, and the Mental Retardation Facilities, and Community Mental Health Centers Act," which would limit it and make it in accordance with what the Senator from New Hampshire stated.

I send to the desk that amendment.

Mr. MAGNUSON. I thank the Senator. That will take care of it.

The PRESIDING OFFICER. Will the Senator ask unanimous consent to temporarily lay aside the pending amendment?

Mr. KENNEDY. Mr. President, I ask unanimous consent to lay aside temporarily the other amendment that would increase funds for developmental disabilities, and I ask unanimous consent for the immediate consideration of this amendment, which I will ask the Chair to have the clerk read for the benefit of the Senate, so we will know the matter before us.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 40, line 1, insert the following: After "SEC. 210.", and before "The Secretary . . . ", insert the following:

Except for appropriations made under authorities of the Public Health Service Act, Mental Retardation Facilities and Community Mental Health Centers Act.

The PRESIDING OFFICER. Without objection, the earlier Kennedy amendment will be temporarily laid aside and the Senate will proceed to the consideration of the amendment just stated.

Mr. KENNEDY. I thank the Senator from New Hampshire for his comments. I know of his concern in this matter, and I appreciate it.

Mr. President, is it appropriate for the Senate to consider at this time the other amendment? Can I call up the other amendment?

Mr. MAGNUSON. We should have a vote on this one.

The PRESIDING OFFICER (Mr. HART). The first action must be on the amendment just stated. Do Senators yield back their time?

Mr. JAVITS. Mr. President, I ask unanimous consent that I may be shown as a cosponsor of the amendment.

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

Mr. TOWER. Mr. President, I support the Kennedy-Javits amendment, for it would insure the expedient and adequate funding of the Developmental Disabilities Service Act.

The purpose of this legislation is to provide comprehensive community services for individuals who have been neurologically handicapped since childhood, including those individuals suffering from mental retardation, cerebral palsy,

and epilepsy. This act is a model for future legislative endeavors which would seek to consolidate fragmented programs in an effort to provide integrated care, training and services for the handicapped, and to reduce the number of handicapped individuals who are institutionalized.

I was pleased when the Senate Appropriations Committee judiciously acted to correct an omission in the appropriations bill of the House by providing $30,000,000 for the State formula grant program, $23,575,000 for service projects with emphasis upon rehabilitation of the developmentally disabled, and $14,250,000 for administering and operating demonstration and training programs at university affiliated facilities. The Senate action has prevented a delay in funding which is unnecessary and would jeopardize the past accomplishments and the future growth of these programs.

However, I do feel that the funding level of title I, of the Developmental Disabilities Services Act, should be increased $35 million for the State formula grants. Only an adequate funding level will allow this program to grow—to provide better services to more individuals sooner.

Mr. DOLE. Mr. President, I wish to express my concern that Congress provide appropriations to continue funding programs authorized under the 1970 Developmental Disabilities Act. These developmental disabilities programs have been extremely effective in assisting States in establishing comprehensive care programs for the disabled. Their initial accomplishments have only revealed the potential benefits which can accrue to the disabled if these programs were to be expanded. Their success illustrates a need for expanded funding, and I feel it calls for a general commitment by the Congress to improve the lives of the handicapped.

In the State of Kansas, title I developmental disability funds are being used to expand services in three crucial areas: day care programs for school age and preschool disabled children, adult rehabilitation service, and institutional services. But to expand these programs and services to more effectively meet the existing need, additional funds are required. It has been estimated that Kansas would require 10 times the funds now available to the State if it were to extend its priority programs to all the disabled of the State. Though an immediate increase of this size is not feasible, we should keep these needs in mind as we consider funding for the coming fiscal year.

Title II of the Developmental Disabilities Act authorizes grants to university affiliated facilities. The gradual assumption of regional responsibility by the 28 existing university affiliated facilities has built a network of interdisciplinary centers which provide research and diagnostic services and manpower training to supplement State rehabilitation programs. These centers are affiliated with universities and call upon the expertise from the various disciplines of the university community to provide comprehensive training and diagnostic services for the disabled.

The University of Kansas affiliated mental retardation center recently was dedicated and became operational. The center was created to train individuals who work with the disabled, provide advisory and technical service to statewide programs, and provide diagnostic services through new patterns of delivery. The university affiliated center depends on multiple funding sources to carry on its program. Title II is a vital element of this funding program for the operation of this center which means so much to the disabled of Kansas.

Mr. President, I have outlined the need for substantial increases in developmental disability funds in Kansas. I am sure that other Senators can testify to a comparable need in their States, so I respectfully urge that these needs be kept foremost in mind during our deliberation on fiscal year 1973 appropriations for the developmental disabilities program.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. I yield back my time.

Mr. MAGNUSON. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts last stated.

The amendment was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed.

Mr. COTTON. Mr. President, I thank the Senator from Massachusetts. He is always most fair, and he is always intelligently and ably pursuing the purposes of these bills. I have never had him appear before our committee when he did not appear for very worthy causes. He has my support, to the best of my ability, and I appreciate his courtesy on this matter.

Mr. KENNEDY. I thank the Senator from New Hampshire. The respect is mutual.

The PRESIDING OFFICER. The question now recurs on the pending Kennedy amendment.

Mr. MAGNUSON. Now, reverting back to the Senator's amendment on——

Mr. KENNEDY. Developmental disabilities, part (C).

Mr. MAGNUSON. On (C). I am willing to accept that.

Mr. COTTON. Mr. President, the distinguished Senator from Massachusetts laid before us some facts here that were very pertinent, and I am willing, along with the chairman, to accept this amendment.

Mr. KENNEDY. I thank the Senator from New Hampshire and the Senator from Washington.

Mr. JAVITS. I wish to join in that.

Mr. MAGNUSON. All right, the Senator is on it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MAGNUSON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1289

The PRESIDING OFFICER. Without objection, the Senate will resume the consideration of the second part of the amendment (No. 1289) of the Senator from Rhode Island.

Mr. PERCY. Mr. President, I send to the desk an amendment to the second part of the Pastore amendment No. 1289.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 23, line 17, after "section 6" add "and $40,000,000 for complying with section 303(1)(C)".

On page 23, line 25, strike out "73" and insert in lieu thereof "84".

Mr. PERCY. Mr. President, I yield myself such time as I may require. Mr. President, I ask unanimous consent that the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. CRANSTON) and the Senator from New York (Mr. JAVITS) be added as cosponsors of the amendment. In presenting this amendment, I wish to pay great tribute to the Senator from New Jersey (Mr. CASE), who, through the years, has provided leadership in attempting to have category C funded. It has been authorized for many years, but never funded by Congress, though last year the Senate Appropriations Committee voted to fund $60 million for this purpose.

It is my understanding that there is an agreement and understanding now that the Senate should certainly not reverse the position that it has taken before, that we recognize that in conference, with the House of Representatives appropriating only $10 million, it would probably be unrealistic to expect the full funding of the $60 million we have gone on record before in requesting for this very important area.

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

Mr. PERCY. It is my understanding now that $40 million would be acceptable, and it would be my hope when this is taken to conference that we can fight very hard for full funding of the $40 million.

Take the State of Washington, for example. A $40 million funding level for this program would not provide for all of the needs in a State with needs as high as they are there, but it would provide about $500,000 for the State of Washington, which would be of assistance certainly, for the 16,810 children who are in public housing projects, for whom there is really no tax money that ever goes to the school system.

I should like to commend at this time, as I shall in the general remarks that I put into the RECORD on the entire bill, the tremendous leadership provided by our distinguished chairman of the Ap-

propriations Subcommittee (Mr. MAGNUSON) and the ranking minority member (Mr. COTTON), and the support they have provided in these vital areas of human needs through the years. I consider this a magnificent bill.

Mr. PERCY. Mr. President, I support Senator PASTORE's amendment to restore the $176 million in title I, ESEA—disadvantaged children—appropriations cut from House recommendations. The restoration of this $176 million does not add any frills. In fact, it does not even keep pace with Illinois' growing needs for title I, ESEA funds. In one year, the number of children needing title I, ESEA services in Illinois increased from 368,234 in fiscal year 1972 to 426,911 in fiscal year 1973, an increase of almost 16 percent. In contrast, raising title I, ESEA appropriations from 1.6 billion to 1.8 billion means only about a 11-percent increase in funds.

I know that title I, ESEA, has not been entirely successful. I know that its programs have sometimes been mismanaged and its funds sometimes misused. I also recognize that title I, ESEA is an exceptionally complex program and very difficult to administer.

With all its imperfections title I, ESEA is still a remarkable piece of legislation. It represented the Federal Government's first recognition that poor children have special education needs and need special educational assistance. Since its passage in 1965, no one has offered a more viable alternative to compensatory education. Until there is such an alternative, it would be unconscionable for me to deprive our most needy children of the necessary funds to have an education that might equip them with the wherewithal to survive and compete in life.

Mr. HRUSKA. Mr. President, the Nation has been aroused in recent months by landmark court decisions on school finance. These decisions have found that unequal property tax bases can lead to denials of equal educational opportunity.

It is indeed ironic that despite this national awareness of great inequities in school finance, I must rise again to make the annual plea for adequate impact aid for school districts adjacent to large military installations. These school districts tax themselves to the hilt against manifestly inadequate property tax bases.

The President's budget for fiscal year 1973 boldly proposed that impact aid for school operations and maintenance authcrized by Public Law 874 be aimed only at military dependents, American Indians, and geographically isolated situations where the Federal Government must provide schools.

The House Appropriations Committee set aside this proposal in light of authorization renewals which will be required during the first session of the 93d Congress. Instead, the House committee recommended maintaining the priorities approved for the just completed 1971–72 school year, and also applied in the 1969–70 school year. This approach would prevent any disruption in the finances of eligible school districts between the past school year and the one beginning this September.

The bill passed by the House eliminated most of the impact aid priority recommendations of that body's Appropriations Committee. The House bill takes no account of whether a student's home is on or off base, nor of whether his Federal connection is civilian or military. The House bill provides a flat 84 percent of entitlement.

Mr. President, the Senate should understand clearly what a flat 84 percent of entitlement means.

A school district under the House-passed bill will get only 84 percent of entitlement for each student whose parents live and work on Federal property. During the past school year, these on-base or section 3(a) students received 100 percent or 90 percent of entitlement, depending upon whether their school districts had above or below 25 percent impaction. These 16 and 6 percentage point reductions will cut most heavily into the already critical school budgets of communities close to large military installations.

But Mr. President, the financial losses of these heavily impacted districts will be offset by gains for others. This is the pernicious feature of the House bill. For each section 3(b) student whose parents worked on Federal property and resided in the local community—and who last year received 73 percent of entitlement—the school district will now receive 84 percent of entitlement.

Mr. President, in a year when calls for wealth redistribution and tax reform resound throughout the land, we should look with more than usual interest at measures which would take Federal funds from one area and bestow them on another. We should ask: "Who will benefit most from the 11 percentage point increase between 73 percent and 84 percent of entitlement for section 3(b) off-base children?" It should come as no surprise to veteran observers of this issue that windfall gains will accrue to such severely deprived areas as Montgomery County, Md., and Fairfax County, Va.

In short, Mr. President, the House bill would take critically needed dollars from overtaxed school districts suffering from severe Federal impact, and give those dollars to areas for which Federal impact has been an economic boon.

The question before us is one of setting just impact aid priorities for the fiscal year 1973. That we need a permanent solution to the problem of Federal impaction is obvious. For years, I have been in the forefront of those calling for reform. But we cannot avoid the fact that in less than 3 months the school doors will again open. What we decide on this question of priorities will determine whether or not some school districts can operate next September without having to impose draconian measures to curtail planned expenditures.

The House bill suggests that justice will be served by not setting priorities for operations and maintenance except for those few remote areas with federally operated schools. This posture would be credible had the House voted sufficient funds to assure 100 percent of entitlement for all eligible children—both the section 3(a) and section 3(b) students. It did not. It knew that the increase over fiscal year 1972 woud be astronomical and leave the President with no choice but to veto the bill.

The Senate Appropriations Committee has recommended restoring the section 3(a) and 3(b) priorities applied during fiscal years 1971 and 1972. I wholeheartedly support this recommendation. Mr. President, I urge that the Senate support it as a matter of simple justice.

The impact aid situation facing the Bellevue, Nebr., School District should dispell any doubts about how critical these priorities are for districts impacted by large military installations.

The Bellevue School District is one of the most highly federally impacted school districts in the Nation. Four out of every five students enrolled in school are dependents of Federal employees. These employees are almost wholly made up of military personnel stationed at Offutt Air Force Base and the headquarters of the Strategic Air Command.

Of the total Bellevue enrollment of approximately 11,000 students, 80 percent or 8,800 are eligible for impact aid. Of these 8,800 eligibles, 53 percent or 4,620 are in the on-base 3(a) category. Forty-seven percent or 4,180 are in the off-base 3(b) category. All but 835 of the eligibles are military connected.

Over the past several years, the severe prorations of Public Law 874 operations and maintenance funds, and the lack of construction funding under Public Law 815, have forced heavy reductions in program under extremely crowded conditions. Furthermore, these pressures have caused the levy for school operations and construction to increase from $41 per $1,000 of assessed valuation in 1965 to $61.40 per $1,000 in assessed valuation in 1972. The tax rate is one of the highest rates in the State of Nebraska and is approximately twice the average levy in the State. The assessed valuation per pupil is the lowest in the State. Expenditure per pupil is the lowest of neighboring schools, excepting that of Papillion, Nebr., another impacted school district.

The provision during the past 2 fiscal years for full funding for section 3(a) pupils when impaction exceeds 25 percent has allowed Bellevue to survive with an absolute minimal program.

The full entitlement for the coming year is projected at approximately $3,865,000. The appropriation recommended in the President's budget with priority of funding for military dependents would have provided approximately $3,683,000, still $182,000 short of full entitlement. In local taxes, the only available source for increasing revenues, this amount represents 4.5 mills or $45 per $1,000 of assessed valuation.

The recommendation of the Senate Appropriations Committee of 100 percent of entitlement for 3(a) when 25 percent impacted with 3(a)'s; of 90 percent of entitlement for other 3(a) impaction situations; and of 73 percent for 3(b)'s, would provide approximately $3,550,000 for Bellevue. This is a barely tolerable $315,000 below full entitlement. This amount represents almost eight mills or

$80.00 per $1,000 of assessed valuation in local taxes.

An 84 percent proration over sections 3(a) and 3(b), as required by the House bill, would provide the Bellevue School District with approximately $3,247,000, which is an unconscionable $618,000 short of full entitlement. This amount represents more than 15 mills or $150 per $1,000 of assessed valuation in local taxes. It also represents approximately 8 percent of the total budget for next year which could only be raised by a 25 percent increase in local taxes.

It should be noted that State laws regarding teacher employment require that contracts for any one year be made for returning staff members by April of the preceding year. Thus, the professional staff were guaranteed employment last April and budget commitments for 1972–73 are already made.

With respect to school construction funds under Public Law 815, 300 additional Capehart Housing units and 148 Department of Housing and Urban Development units with priority for military families have already been authorized for construction within the school district. The several hundred additional pupils who will move into these units will add another $1,000,000 to the District's approximately $3,000,000 of approved but unfunded Public Law 815 construction and renovation applications for unhoused pupils.

The priority of operations and maintenance funding for districts such as Bellevue, as recommended by the Committee, is desperately needed to offer an adequate educational program. There is no way that such an inadequate tax base can absorb the 84 percent operations and maintenance proration required by the House bill.

The committee's recommendation of $45.9 million for construction will not be adequate to reach Bellevue on the current priority list in fiscal year 1973. It does, however, offer prospects of relief by fiscal year 1974, when the full impact of new military housing will be felt.

Mr. President, the Bellevue School District is but one of a large number of heavily impacted districts scattered over 22 States. Each will suffer if the Senate fails to heed the Committee's recommendation.

The maintenance and operations priorities applied during the past 2 fiscal years are no substitute for urgently needed impact aid reform.

The $49.5 million recommended for construction, however generous compared with the appropriations of recent years, falls far short of meeting critical and long accumulated needs.

But at least, Mr. President, will not retreat any further from honoring a clear Federal commitment to the local communities concerned.

Mr. PERCY. I yield to my distinguished colleagues for comments on category C.

Mr. COTTON. Mr. President, will the Senator yield to me.

Mr. MAGNUSON. Mr. President, I hope the Senator from New Hampshire will join me in accepting the amendment. I do this for only one reason, other than my friendship for the Senator from Illinois. We have always put this in on the Senate floor, and the House never had it. This time the House has established the principle by putting in the $10 million. They have opened up the C student category. They opened it up for the first time.

I know how the Senate feels about it, and I am willing to go to conference backing up the position of the Senate, but I still feel and I always will feel that if we open up this C student category, there will be no end to it. I also understand there are some serious problem areas in the Nation, and I know that some of my school boards may not agree with me, but I do think they should try to get along, because there would be no end to this. Then we have the problem where some of our public housing projects just have not turned out. That is the sad part of it.

So now that the House of Representatives has established the principle, I will see what we can do in conference, and the Senator may be assured that the Senator from New Hampshire and I will accept the amendment of the Senator from Illinois.

Mr. COTTON. I would like to make this statement for the RECORD: I will go along with the distinguished chairman of the committee, and I do so because I know that the distinguished Senator from Illinois is dedicated to this cause, and I admire the fight he has put up through the years for it. He deserves great credit, and I want to be helpful.

I want, however, to comment on sailing under false colors and holding out false hopes. My distinguished chairman just said the House had now opened it up. The House committee did not. It was a part of the Hathaway amendment passed on the floor of the House.

I am sure that the Senator from Illinois, who served very ably and usefully on the Appropriations Committee, and has been in conference, knows the chairman of the House Committee was not for the Hathaway amendment. So we will have our difficulties; but I will sincerely and honestly do the best I can, even though I, too, have mental reservations about opening up this section.

Mr. PERCY. I thank my distinguished colleague.

I should like to comment on only one phase of this matter. The question of public housing has been raised. We know that public housing has been a horrible example of the benevolence of the Federal Government, building high-rise public housing, congesting all these low-income people in one area.

I can point out, for instance, the Robert Taylor Homes in Chicago, where the chance of a family to be raped, robbed, or murdered is 40 times higher in Federal public housing than it is any other place in any urban area in America. That is what we have done to the people we have congregated there.

At least, now, as we move into an advanced program of scattering public housing in low-rise—and fortunately we have made it illegal in the 1968 law ever to build high-rise public housing for families with children—this funding of category C will enable us to take funds for education along with housing; and it would mean that there would not be the resistance there has been to that type of scattered housing. We will not be imposing a great deal of housing on a city and then saying, "You have the job to educate the children. There are no tax moneys available for that purpose."

I think we have taken a great step. I am delighted that we have been joined on the floor by Senator CASE. As I said in my introductory remarks, I really put this in his name, because he has fought the battle so long. Though we are both disappointed not to have $60 million, we are gratified that we have at least four times as much as the House has put in, and I hope we will fight for every penny in conference.

Mr. CASE. I thank the Senator.

I think that his help and his initiative over the years in this field have been absolutely indispensable to getting any kind of movement. We have some movement now. Forty is better than 10 by 4 times, and it is an enormously important step.

I agree with him that the important thing now is not just to take it to conference but to hold it in conference, and I think we have a good chance to get a substantial amount.

Mr. PERCY. Mr. President, I yield back the remainder of my time.

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. PERCY) to the second part of the Pastore amendment.

The amendment to the second part of the Pastore amendment was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment to the second part of the Pastore amendment was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the second part of the Pastore amendment, as amended.

The second part of the Pastore amendment, as amended, was agreed to.

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

Mr. MAGNUSON. I yield.

Mr. BEALL. Mr. President, I rise in support of the Labor-HEW appropriations measure. This bill funds many programs, including vital education and health programs which are of utmost importance and interest to my State.

As usual, I want to congratulate the distinguished chairman of the subcommittee, Senator MAGNUSON, and the ranking minority member, Senator COTTON, for the outstanding work they did on this measure. I am particularly grateful for the committee's adding $2 million to fund the physician shortage area scholarship program, which was authored by me and incorporated into Public Law 92–157. This proposal basically provides scholarships to young men and women who agree to practice in physician shortage areas. Priority is given to students from the area and to lower-income indi-

viduals. One year of commitment is required for each year of the scholarship and if the student fails to carry out his commitment, the scholarship is converted to a loan. Thus, if the student carries out his commitment, he will be helping to solve the physician shortage problem and if he does not, the Government will not lose a cent.

The committee last year funded this program, but unfortunately this was deleted in conference. I strongly urge the Senate to remain firm in conference and make certain that this program is funded.

Again, I thank the chairman and ranking minority member for their courtesies during my testimony before them and their funding of this program. I ask unanimous consent that my testimony before the subcommittee be printed in the RECORD.

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

STATEMENT OF SENATOR J. GLENN BEALL, JR., BEFORE THE SENATE APPROPRIATIONS COMMITTEE URGING THE FUNDING OF THE "PHYSICIANS SHORTAGE AREA SCHOLARSHIP PROGRAM," MAY 23, 1972

Mr. Chairman, I appreciate this opportunity to testify today. I appear to strongly urge the appropriations of $2 million for the "Physician Shortage Area Scholarship Program" which was proposed by me and cosponsored by approximately one-quarter of the Members of the Senate. This program was enacted as part of Public Law 92-157, the "Comprehensive Health Manpower Training Act of 1971".

The physician shortage problem is one of the most critical health problems facing countless counties and communities in the country today. I am certain that members of this Subcommittee have either heard directly from communities in their States or read of efforts by communities to secure a physician through road sign advertisements, pleas to medical societies and to the Federal Government. It is often said that there is a need in the Nation for an additional 50,000 physicians. A 1970 study by the American Medical Association identified 134 counties in the country without a single physician. This is an increase of 36 since 1963.

There are many more communities without a single physician or without an adequate number of doctors. Maryland illustrates this point. While I am pleased that my State's counties are not on the AMA's list, there is no doubt that many Maryland communities are in dire need of physicians. For example, in 1970, an article in Public Health report focused on the situation in Baltimore. This article identified 16 census tracks with a population of 174,000 primarily disadvantaged citizens, in the inner-city as well as some outlining areas, which were totally lacking in primary care physicians.

To help meet the needs of physician shortage areas, I introduced S. 790, last year and as I previously indicated, the measure was incorporated in the overall health manpower legislation. Basically, this program provides for scholarships of up to $5,000 annually for a man or woman who agrees to practice primary care in physician shortage areas. A physician shortage area may be a rural community, an inner-city area, or among the nation's migrant farm workers. One year of service is required for each year of the scholarship. If an individual does his residency or intership in a physician shortage area and the training or experience received is designed to prepare him to engage in the practice of primary care, then the service commitment is reduced by one year.

A unique system of priority in awarding the scholarships is established which I believe significantly increases the probability that this program will work. Essentially this system gives priority to individuals from physician shortage areas under the theory that such individuals are not only more likely to return to such shortage areas, but also because they are more likely to remain and continue to serve the citizens of their "home" areas. Since a secondary purpose of the program is to increase the opportunity to lower-income students to attend medical school, priority is also granted to such individuals. Specifically, the priority system for awarding the scholarships is as follows:

The first priority is granted to individuals from lower income families who live in a physician-shortage area and who agree to return and practice in such area.

The second priority goes to individuals, regardless of income, who reside in a physician shortage area who agrees to return and practice in such area.

The third priority is allocated to individuals from lower income families, who although reside in an area where there is not a physician shortage, agree to practice in any physician shortage area.

The final priority would go to individuals, regardless of income, who do not come from an area of physician shortages, but who agree to practice in any physician shortage area.

There are two primary purposes for the system of priorities for selecting eligible students for scholarships and fellowships under the bill. First, the evidence supports, what commonsense tells us, the hypothesis that persons from physician-shortage areas are more likely to return and to remain in such areas and practice medicine.

The results of an American Medical Association's survey questioning physicians on the factors that influence their decision to practice in a certain area gives support to the bill's priorities. This survey found that over 45 percent of the physicians indicated that they were practicing in or around the town in which they were raised. The survey also revealed that 49 percent of the physicians raised in small towns were practicing in communities of 2500 or less. An equal percentage of doctors raised in nonmetropolitan communities of 25,000 or more were practicing in cities of that size.

This AMA survey confirmed previous studies which had indicated that "physicians who practice in small towns are more likely to have a rural than urban background".

The AMA study concluded that "physicians recruitment for rural areas would be enhanced if more young men and women with rural backgrounds were encouraged to enter the medical profession".

Continuing, the report had this to say about the influence of a doctor's origins on his place of practice, "Physicians who practice in small towns are more likely to have a rural rather than urban backgrounds. . . . rural physicians have predominantly rural backgrounds and metropolitan physicians generally had urban locations during their youth".

If we can persuade young men and women to practice in physician shortage areas, the evidence indicates that most are likely to remain. The AMA study on this point states that "once a physician establishes a practice he is not likely to move". Their survey found: "At least 63 percent of the physicians had not moved from their original practice location. This percentage was consistent regardless of the community size. A more detailed breakdown of the area showed that about one-fourth of the physicians in nonmetropolitan areas had practiced twenty years or more in the same place". This measure is then drafted to give priorities to lower income and other individuals from physician-shortage areas because it is felt that these individuals are more likely to return and remain in the areas in which they were reared.

The second advantage of the priorities established by the bill would be that it would have the effect of attracting and making it possible for more minority and lower income individuals to go to medical school. Across the country there has been a concern over the poor representation of the minority groups in our medical schools.

Another important feature of the legislation is that it would encourage students to enter family medicine. In 1931, 3 out of 4 of the Nation's doctors were engaged in family practice. In 1967, only 1 out of 5 doctors were in general practice. In Baltimore City only 9 percent of the practicing physicians are in the family practice. Indications are that this trend toward specialization and away from general practice is continuing. I believe we need more family physicians. My bill would encourage this.

Mr. Chairman, the overall health manpower legislation enacted last year includes various provisions directed toward the maldistribution problem. The loan forgiveness program under which loans are forgiven for practice in physician shortage areas was liberalized from the former law's 10% to 15% annual forgiveness up to a maximum of 50% for practice in physician shortage areas to 60% forgiveness over a two year period plus additional 25% for third year for a total forgiveness of 85%. In addition, the Congress has enacted Chairman Magnuson's "National Health Service Corps". These are important programs and they have my unqualified support.

But I believe the physician shortage problem is so critical, that it is literally a matter of life or death for some communities and citizens in those communities, that various approaches are desirable.

I naturally hope the loan forgiveness program will work, but the evidence to date makes one skeptical as only a few students have taken advantage of the loan forgiveness program since its enactment.

Finally, I want to emphasize the features of my program which I believe increase the probability of its success.

First, an individual would make commitment to serve in a physician shortage area prior to entering medical school rather than as an afterthought to unload a large indebtedness.

Secondly, the program attempts to attract individuals from physician shortage areas. Common sense, as well as the evidence I cited, supports the premise that such students are more likely to return and remain in shortage areas.

Thirdly, the scholarship program is particularly important to lower-income individuals. Many Deans advise me that lower-income students are very reluctant to assume indebtedness of the magnitude necessary to complete medical school.

Fourth, the scholarships are only for primary care practice and this will have the desirable effect of encouraging more family physicians which are desperately needed.

Finally, I would point out that if an individual does not carry out the commitment, the scholarship in effect, is converted to a loan which must be repaid with interest within three years.

Thus, if the program is successful, I believe the Committee will agree that it has been a good investment. On the other hand, if it does not work, it will not cost the government a single cent. It is my understanding that one of the reasons we lost the funding last year was that the House was reluctant to increase scholarship programs. I suspect that there was not a full understanding of the operations of this program and the fact the scholarship is converted to a loan if the student reneges on his commitment. I hope that this will not occur again this year.

Mr. Chairman, I come from an area that

frequently experiences physician shortage problems. I am convinced that there are talented and qualified men and women in my home area and other similar areas who will jump at the chance to participate in this program and that these individuals, following graduation, will return to practice medicine and to serve among their friends and neighbors. The Physician Shortage Scholarship Program has been endorsed by the American Academy of General Practitioners, the Deans of various medical schools, and the National Medical Association.

I strongly hope that the Subcommittee will fund this program and hold firm in Conference for I am convinced that this program does hold out a considerable amount of hope for physician shortage communities throughout the country.

Mr. TUNNEY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 17, line 9, strike out "$897,-178,000" and insert in lieu thereof "$927,-178,000"; and on page 17, line 12, strike out "$150,000,000" and insert in lieu thereof "$180,000,000".

Mr. TUNNEY. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. TUNNEY. Mr. President, the amendment I have offered is a simple, but most important one. It would add $30 million for health professions school construction grants.

As the Appropriations Committee report on this bill states, these facilities are needed now more than ever. Yet, the administration requested not one dime of the $250 million authorized despite the fact that there existed a backlog of $840 million in approved but unfunded construction grant applications before the expiration of the law last year. When that law expired, it voided those $840 million existing applications. But, as the Senate report succinctly puts it:

Voiding the applications does not void the need for these facilities.

This year, under the Comprehensive Health Manpower Training Act, the House provided $100 million for construction grants. Through the able leadership of this Senator from Washington, the chairman of the HEW Subcommittee, the Appropriations Committee has increased the funds for construction grants by $50 million to a total of $150 million.

Yet, in the face of the tremendous need throughout the country I believe an additional increase is most necessary. For example, in the State of Washington the $8.1 million in grant applications approved remain unfunded. In Massachusetts, last year's figure was $32.7 million. In South Carolina, it was $27 million and in California, $94.1 million. I might add, Mr. President, that of that amount, more than $15 million in California is at the stage where construction can begin immediately.

Similar examples can be given from throughout the country.

Mr. President, I have prepared a list showing 27 States which have major construction grant applications pending. Included in the list are the names of the colleges and universiites affected. I ask unanimous consent that it be printed at this point in the RECORD.

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

STATES WHICH HAVE MAJOR CONSTRUCTION GRANT APPLICATIONS PENDING

1. Alabama—South Alabama.
2. California—U. of Calif., Davis, Irvine, San Francisco, San Diego.
3. Colorado—U. of Colorado, Colorado State.
4. Florida—South Florida, College of Medicine.
5. Georgia—Emory University.
6. Illinois—Rush Medical College—U. of Illinois, South Illinois.
7. Indiana—U. of Indiana.
8. Iowa—Iowa State, U. of Iowa.
9. Kansas—Kansas State.
10. Kentucky—U. of Louisville.
11. Louisiana—LSU—Shreveport.
12. Maryland—U. of Maryland.
13. Massachusetts—U. of Massachusetts—Worcester.
14. Michigan—Michigan State—East Lansing.
15. Minnesota—U. of Minnesota—Duluth.
16. Missouri—U. of Missouri—Kansas City.
17. Nevada—U. of Nevada.
18. New Jersey—NJ College of Medicine and Dentistry.
19. New Mexico—U. of New Mexico.
20. New York—SUNY—Stoneybrook.
21. North Carolina—U. of North Carolina.
22. Ohio—U. of Toledo.
23. Oklahoma—U. of Oklahoma—OSU.
24. South Carolina—U. of South Carolina.
25. Texas—University of Texas—Houston, San Antonio—Texas Tech. Lubbock.
26. Washington—U. of Washington.
27. Wisconsin—U. of Wisconsin—Marquette.

Mr. TUNNEY. Mr. President, in a number of States, including New Jersey and Texas, for example, new medical schools are planned merely awaiting the availability of construction funds.

Mr. President, the entire thrust of the 1971 Comprehensive Act was to accelerate increases in health professions personnel—doctors, nurses, dentists, optometrists, and other health professionals. But if medical schools are to increase their enrollments as the Congress envisioned they must be able to expand and improve their existing facilities.

I can cite some rather concrete examples from my home State.

The University of California operates five medical schools in California at its San Francisco, Los Angeles, San Diego, Irvine, and Davis campuses. The latter three medical schools were founded in the early 1960's and operate primarily out of temporary facilities—in many cases in what amounts to mobile home-type facilities. The University of California Davis Medical School graduated its first class of doctors this month, without a single permanent building of any kind. The University of California Irvine Medical School similarly has no permanent buildings. And the University of California San Diego Medical School cannot increase its output of doctors without a building which has been ready to go to bid for 2 years.

The university at present trains about 3,900 medical students at the undergraduate and graduate levels. Yet, despite the critical need for adequate, permanent facilities to provide that training, the University of California has received virtually no Federal money for construction for over 3 years.

Mr. President, although few people realize it, that situation is not just a problem for California, it is a problem for the rest of the Nation as well, because at the present time California imports 70 percent of its physicians from outside the State. In other words, unless California begins to train enough doctors to handle its own needs, the efforts of other States to increase their own medical personnel will continue to be handicapped. While I know we in California welcome young doctors who wish to practice there, I am sure you can see the thrust of what I am saying. By assisting California to develop its own medical schools, the Federal Government would also be assisting the rest of the Nation.

This year California is taking a major step toward fulfilling its own responsibilities to its citizens. The legislature has placed on the ballot a $155 million bond issue as part of a $300 million program to meet the State's needs for health personnel.

As part of that program the University of California's medical schools will increase their enrollment by 3,100 students, almost double the present enrollment of 3,900. This action will go a long way toward ending a shortage of physicians in that State and end the drain on the resources of other States.

But, essential components of that effort are the Federal matching funds which will be needed to make it work.

Similar situations exist in many of the other States which have applications pending.

Mr. President, we are all aware of the need for adequate health care for all our citizens. We are all aware that an essential part of assuring that adequate care is training more doctors and other health professionals. And I am sure that we are all aware of the high priority which the people of this country place upon training those professionals and providing that care.

But I think an additional point which we seldom think about is this: construction costs have increased in this country in the past few years at the astounding rate of 10 percent per year. Thus we can talk on and on about the need for saving Federal tax dollars, but the fact remains that during the years in which inadequate funding has delayed construction, the costs of that construction has continued to increase. And unlike other areas where an unspent dollar may never be spent, the need for additional training facilities is not going to fade away. It is going to remain there next year, and each year thereafter until we provide those facilities—only it is going to cost us more for every year we wait.

Mr. President, I ask unanimous consent that my distinguished senior colleague from California (Mr. CRANSTON) be added as a cosponsor of my amendment.

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

Mr. TUNNEY. Mr. President, I ask

unanimous consent that my testimony last month before the Appropriations Subcommittee in support of this increased funding be printed in the RECORD.

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

STATEMENT OF SENATOR JOHN V. TUNNEY

Mr. Chairman, I appreciate very much the opportunity to testify before you today to testify on health appropriations. I have been here before and I know how deeply committed you and the other members of this subcommittee are to the cause of adequate health care for every citizen. Your task is a difficult one because the needs are so many and so great. I would like to talk principally about three areas of special concern to me: sickle cell anemia, mental health, and education of health professionals.

I. SICKLE CELL ANEMIA

Mr. Chairman, there is a blood disease in this country that kills half of its victims before the age of twenty.

Few survive beyond the age of forty and most are crippled long before death.

It was found to be a deadly killer more than sixty years ago.

It is called sickle-cell anemia and it strikes approximately one of every 500 black persons in this country.

Medical researchers estimate that over 2 million Americans carry the so-called sickle-cell trait. And yet the vast majority of Americans have no idea what sickle-cell anemia is; they have never heard of it.

The people who suffer most from this disease do not live in the suburbs; they do not belong to country clubs; they do not go to private schools; many of them do not have family doctors; many of them never receive any adequate health care. They are black, and until very recently they have been ignored.

In October of last year thirty Senators joined me in taking a first step toward ending that neglect, the introduction of S. 2676, the National Sickle Cell Anemia Control Act. During the next few weeks, the first hearings ever held in Congress on sickle cell anemia were held by two Senate subcommittees and on December 8, 1971, the Senate voted 81 to 0 to approve it. Similar unanimous action was taken in the House and on May 16, 1972, just last week, the President signed it into law as P.L. 92–294.

As the author of that legislation, I am particularly gratified by the swiftness with which the Congress acted in passing that legislation.

Now we must move with equal speed to provide the full funds needed to implement that law. The suffering and despair of the victims of sickle cell anemia, compounded by tragic ignorance of the disease by many Americans, demands that we fulfill the promises contained in this new law.

Mr. Chairman, during the past year and a half since we began working on this legislation, the public has finally begun to learn some of the facts about this tragic disease. Newspapers, magazines, radio and television programs have begun to focus increasing attention on the nature of sickle cell anemia and the great need for support to combat it.

It has been a long process. You will recall, I am sure, that just one year ago, under the leadership of Senator Kennedy, the Senate attempted to increase funds for sickle cell research only to lose that increase in conference with the House.

Happily, that situation has now changed, I think. In voting 391–0 in favor of the National Sickle Cell Anemia Control Act, the House made it clear, I believe, that sickle cell anemia at last occupies the priority in the Congress that it has long deserved.

And for that reason, I believe we must provide adequate funding for this new law. Its passage has given new hope to the thousands of sickle cell victims throughout the nation. Let us not be a party to dashing those hopes by failing to provide the money to implement that law.

Mr. Chairman, it is clear in my mind that if we had a disease that affected one out of every 500 white children, and that if fifty percent of those children died at about the age twenty and almost all of them died before the age of forty, with the kind of excruciating pain and complications that occurs with sickle cell anemia, we would have had a massive reasearch effort long, long before this.

Let me give you some examples of the need for funding.

Dr. Roland Scott of Howard University, a man who has dedicated his life for over twenty years to combatting this disease, described the efforts at Howard's Center for Sickle Cell Anemia in hearings which I held as chairman of the public health subcommittee of the District of Columbia Committee. Dr. Scott is chairman of the Department of Pediatrics and Child Health at Howard. I might add that at the present time Howard University is responsible for training nearly half of all the black physicians in the United States.

Dr. Scott estimated that the cost of establishing and supporting a full scale program at Howard would cost $4.4 million initially and approximately $2 million thereafter. Last year Howard University spent $200,000 for sickle cell research. *Less than one percent* of that money came from the federal government.

Take another example. The Director of the District of Columbia Health Services Administration testified before my subcommittee that he could not even get $15,000 from NIH last year to piggyback a sickle cell test on an existing program testing children in Washington for lead paint poisoning. All he wanted to do was include a very simple test that would have reached thousands of children for almost no additional cost. But he was told there was no money.

Mr. Chairman, these examples demonstrate two things. First, there is a tremendous need for funds, but secondly, there is a particular need here in the District of Columbia. I can think of no more appropriate place to begin the fight against sickle cell than here in the Nation's capital, the city with the largest percentage of black population of any city in the country.

But the need is national as well. Dr. Elmer Anderson, Chairman of the Research Foundation for Sickle Cell Anemia in Los Angeles, has testified about the efforts of that foundation in the Los Angeles area. In 1970, he said, the total income for the foundation was $6,000. That amount was equal to the hospitalization cost of just two sickle cell crises for a single patient. Dr. Anderson put it most eloquently:

"So what we are emphasizing, gentlemen, is not the idea that we are asking for $25 million for programs for testing, research, and education; but a chance to get this disease in its right perspective so that we can save lives. We are very late in finally now becoming aware of what we should be doing. I think that this stage of the game it would benefit us all to appreciate the fact that we should stop politicking and devote our energies toward creating centers where these people can go for screening and good definitive treatment and research facilities where they can do research specifically for sickle cell anemia and not as an afterthought while considering another project to work on."

Similarly, Dr. Robert Rhodes of Meharry Medical College in Nashville, Tennessee, a school that has graduated approximately 43 percent of the black physicians practicing in the United States, has summarized the need for full funding in this way:

"In summary, for all too long, sickle cell anemia has been virtually ignored as an important disease among a major segment of this Nation's population. The victim, maligned and used in many instances as only a 'good source of interesting research material.' The time certainly has come to give adequate support to such programs as will provide both care for the victim and continue to expand our knowledge of this patient and his disease. It is hoped that the current spurt of interest in sickle cell disease will remain high and provide the victim with support so long denied."

Dr. Rhodes went on to cite a World Health Organization estimate that sickle cell anemia kills over 80,000 children annually worldwide

Mr. Chairman, all of those witnesses spoke from sad experience of the need for adequate funds for research, for screening, for counselling, for treatment and for public education. But perhaps the most eloquent statement of the reasons why this Committee should provide full funding for this program was by the mother of a child with sickle cell anemia who testified before the Health Subcommittee:

"Kaaren must have been about eight months old when she had trouble with her elbows swelling . . .

"Shortly after that, Kaaren began to have bronchial infections, which would develop into pneumonia. One night she actually went into a coma.

"We struggled along with this, off and on, for two and a half years, thinking that the child would grow out of it. We had no idea of anything, except that she was weak.

"This is what the doctor said, she was just a weak child.

"In 1947 my husband and I moved to Magnolia, Arkansas . . .

"Kaaren's health began to deteriorate. She was sick most of the time and had to have a blood transfusion about every six to nine weeks.

"She would perk up immediately after the blood transfusion, and then go back down again, so that in approximately two months, she would return to the hospital for another transfusion.

"At this point no one said anything about sickle cell anemia.

"The doctor said he thought she had rheumatic fever. He changed it and said it was malaria . . .

"When we moved to Tyler, she became desperately ill, and we knew no doctor. A friend of mine suggested I use her doctor, who incidentally was an internist. I did not know what that meant at the time. It turned out that this man, a Jewish doctor, diagnosed sickle cell anemia. That was the first time we had ever heard of it . . .

He admitted he knew very little about it. He sat down with us in his office with a textbook, and read maybe ten lines, and that was it . . .

"In 1958, the pediatrician we used tested everyone, all six of us. This is when we learned that I have a trait, my husband has a trait, Kaaren, the oldest child, has the disease, the second child has nothing, the third child has the disease, and the youngest child has a trait . . .

"We were informed she would never live to see womanhood; that if she did, very shortly thereafter she would die, and that there was nothing anyone could do, so you know, get yourselves together, and get ready to face it . . ."

Mr. Chairman, the bottom line is this. The Administration has proposed $15 million for sickle cell anemia for FY 1973. Of that amount, $6 million is to be used for research and $9 million for services, presumably for screening, counselling, public education, and clinical programs. Those amounts are clearly inadequate.

They might be adequate for a token effort, but they fall far short of a national commitment to combat sickle cell anemia. The Con-

gress has called for that national commitment unanimously in both Senate and House It is now time for us to match the words in the new law with the money to make it work.

Furthermore, despite the clearest possible need for action, the vast majority of the funds appropriated for the current fiscal year have not yet been spent. The latest word I have is that possibly as much as 80 percent of the 1972 funding for sickle cell anemia will not be committed until next month, the last month of the fiscal year. So we have already lost almost a full year in the battle.

Frankly, Mr. Chairman, I would like to see this new law funded at the maximum level. I know the realities in which you operate, and I therefore would ask you simply to do the best possible job. However, I would urge that at a minimum the committee add an additional $10 million to the President's request: $5 million for additional research as provided in Section 1102 of the Act and $5 million for screening, counselling, and public education under Section 1101.

Although far less than the full amount authorized under the Act, these additions would bring the total amount allocated next year for sickle cell anemia to $25 million. Such an addition would in no way be excessive and would go a long way toward fulfilling our commitment to the victims of sickle cell anemia and their families.

II. MENTAL HEALTH FUNDING

Mr. Chairman, on July 13, 1971, I testified before this Sub-committee regarding the effects of crippling cuts in the national mental health program proposed in the Administration budget for Fiscal Year 1972. Through the wisdom of this Sub-committee and its counterpart in the House of Representatives, and with the strong support of a large number of both citizen and professional groups, these cuts were restored last year by the Congress.

In the fall of last year, despite the manifest intent of Congress, attempts were made by the Administration to restrict expenditure of these funds. Again, strong and broad-based popular support forced release of the appropriated funds and the development of the mental health program was allowed to continue.

I am before you today because the Administration's budget for Fiscal Year 1973 again imposes severe restriction on vitally needed programs of mental health research, training, and service. During the year that has passed since my last appearance before you, I have had a chance to gain some familiarity with the status of our efforts toward mental health. I have a few comments which occur to me on some of the major recent accomplishments and greatest unmet needs in our quest for better mental health for all Americans. I have divided those comments into research, training, and service. I would add, however, that these three facets are inextricably linked. To attempt to trade one off against another in some false sense of economy runs grave risks of reducing both the strength and the effectiveness of mental health programs.

Research

In research, mental health differs significantly from other health areas in that the gap between knowledge and its practical application is far less wide. This results from both the incredible complexities of the human mind and brain, and the fact that only in the past two decades has major research in mental health been undertaken. Productive interdisciplinary research teams have only relatively recently undertaken broad-gaged studies of the factors associated with major mental illness, or the contributors to such pressing social problems as drug abuse, alcoholism, and violence.

Progress has been made. In recent years the effectiveness of lithium in the treatment of the previously difficult to manage manic-depressive psychoses has been well documented by careful research, and it now appears that this drug may also be useful in treating at least some of the 300,000 Americans each year who suffer severe depression.

The use of the drug L-DOPA for relief of the previously severely crippling symptoms of Parkinson's Disease resulted from intensive research, and further studies of this chemical and its relatives promise greatly increased understanding of the basic biochemical mechanisms of the brain.

Dr. Julius Axelrod, working in the intramural laboratories of the National Institute of Mental Health and winner of the 1970 Nobel prize in medicine, has recently discovered that the human brain has the potential capacity to produce hallucinogenic substances from chemicals normally present in brain fluids. The possible role of this process in the disordered thinking of schizophrenic patients is presently under intensive study.

Methadone appears to offer at least stabilization of a significant number of the estimated 500,000 heroin addicts in the United States, while pharmacologic research holds promise for the development of long-acting true narcotic antagonists. Meanwhile, research is continuing the search for the basic factors underlying addictive behavior.

But much is still unknown. Nearly 40 percent of the hospital beds in the United States are occupied by individuals suffering from major mental illness, and it is estimated that one in ten Americans will require psychiatric hospitalization at some time during his life. There are more than five million alcoholics in our country today and an additional four to five million individuals for whom alcohol abuse is a serious problem.

Mental health problems of young people in our society are another major area. Drug abuse among teen-agers is a tragic fact of life for thousands of American families. Death due to over-dose or the physical complications of addiction has become the leading killer of young people between fifteen to twenty years of age in several of our larger cities. The upsurge of violence and crime by young people is also a sad fact. Three-quarters of those arrested for major felonies, larceny, and negligent manslaughter are less than twenty-five years old. Arrest rates are highest for those fifteen through seventeen, and next highest for ages eighteen through twenty. One need not be a psychiatrist to recognize the meaning of those statistics.

None of these problems is simple. None has an easy answer. But whether you measure the cost in either economic or human terms, continued support of both fundamental and targeted research on problems of mental health and illness is an excellent investment. The Administration proposes a budget of 144 million dollars for NIMH research support in FY 1973. This is inadequate to even cover inflationary increases over the past year and would provide no new funds for expanded research efforts. Both the National Association for Mental Health and major professional groups have urged the addition of ten to fifteen million dollars in new funds to support mental health research in the coming year. Even this modest increase would allow the beginning of nearly four hundred new research projects. This support seems to me minimal in the face of past accomplishments, great promise, and overwhelming need.

Training

The United States remains woefully short of professionally trained mental health manpower. While the number of psychiatrists, psychologists, psychiatric social workers, and mental health nurses has increased markedly since the end of World War II, the demand for skilled services has increased as well. Effective treatment programs in drug abuse, alcoholism, crisis intervention, and crime and violence, if they are to succeed, require—in fact demand—skilled professionals. In addition, we must provide mental health care to those for whom it has been only barely available—minority groups, children and adolescents, and those living in rural areas.

I strongly support these new treatment programs. But I would consider it tragic indeed if manpower shortages led to our producing yet another second-class care system for those most acutely in need. Highly trained and skilled professionals are required not only for the development of new mental health knowledge through research, but also for the application of this knowledge to new treatment programs and the complex, but vitally important function of program evaluation.

It has recently been suggested that less highly trained para-professional mental health workers can significantly replace professionals in treatment programs. The usefulness of new kinds of health workers in increasing the effectiveness of professionals has been clearly demonstrated and significant new roles for para-professionals in community mental health have evolved. I think, however, we should be wary about the concept of their fully replacing professionals in the extremely complex task of effective mental health care. The risk of producing a second-class system seems to me to be great.

The public demand for help with psychological and social problems has been demonstrated in California in the very rapid rise in various encounter and other group programs, not infrequently led by individuals with little or no professional training. Recent research has demonstrated that, contrary to popular belief, such quasi-mental health activities are not necessarily harmless, and may, in fact, delay the seeking of professional assistance for major mental disorder. Partly because of the effectiveness of past public education programs, persons in need are increasingly seeking mental health care. It is our responsibility to provide skilled professionals to help them.

As with research, despite a record of accomplishment and a clear-cut need, the Administration proposes to severely restrict the training actvities of the NIHM. In this case, a *cut* of fifteen million dollars from the appropriation for FY 1972 is requested. Of this cut, seven million dollars is removed from funds to train psychiatrists, and the intention is again made clear to eliminate the entire psychiatry training program over the next few years. The profound impact of these cuts on the manpower supply in this essential medical specialty has been pointed out in other testimony before you. I would only like to underline the particular irony that the training programs which would be most severely restricted by such cuts are those based in medical schools and major medical centers. These are precisely the programs which provide training in research, program development, and evaluation, and whose graduates are most likely to enter public service careers.

Even more short-sighted, in my view, is the proposal to cut eight million dollars from the support of mental health training in the core education of health professionals who do not plan to specialize in mental illness. The bulk of mental health care in this country, especially for less severe disorders, will likely always be provided by non-psychiatric physicians, social welfare workers, and others without primary mental health responsibilities. With proper training, these individuals can be tremendously valuable in treatment, early case finding, and effective prevention of more severe disturbances.

Mr. Chairman, there is a terrible irony in the budget cuts proposed by the President. Every member of the Congress knows how

deeply every American is concerned about drug abuse. Last year we passed major new legislation designed to combat drug abuse. Yet we are now actually being asked to reduce the production of the very professionals who can provide the key manpower in that effort. I simply cannot understand that logic.

Restoration of the proposed cuts in NIMH training funds seems to me to be the bare minimum expression of our responsibility to the mentally ill of this country. The National Coalition for Mental Health Manpower, a broad consortium of citizen and professional groups, believes that an additional forty million dollars in new funds could be effectively used in the coming year, and I would support this recommendation.

Services

A final point is services. Quality mental health care is increasingly available to broad segments of the American population. The result has been a decrease in the number of patients in outmoded public mental hospitals. Three state hospitals in California have been able to close their doors in the last year as community-based services have become available. More than three hundred Community Mental Health Centers are currently in operation, offering the potential of comprehensive services to more than 25 percent of the total United States population. These centers are increasingly offering effective services for alcoholics, drug addicts, children and adolescents, and the aged.

The visionary concept of a truly comprehensive community mental health center system, developed during the Kennedy Administration, has allowed us to take major steps toward the goal of national mental health care. That the full implementation of the concept has in some instances proved difficult speaks to the complexity of the problem rather than to fundamenal flaws in concept.

In my view, the primary task of the Community Mental Health Centers in the years immediately ahead is the assurance of high quality care to all of those treated. This will require full utilization of the research and training potentials of the Centers, perhaps through closer working relationships with universities and medical centers, and particular attention to program evaluation. To provide the best care, the Centers must have a full complement of professional staff and an atmosphere conducive to open inquiry and thoughtful innovation.

With respect to budget requests for Community Mental Health Centers, it seems to me that the highest priority must be on staffing, especially the provision of adequate professional manpower for those Centers in operation or under development. $140 million should be adequate for this purpose in FY 1973. I would also strongly support a specific allocation of $2 million for evaluation, as recommended by the Council of Comprehensive Community Mental Centers.

III. CONSTRUCTION OF HEALTH EDUCATION FACILITIES

Mr. Chairman, my third topic concerns our efforts to provide the health professionals we will need if we are ever to assure adequate health care for all Americans. There has been a great deal of discussion in the past few years about a crisis in the delivery of health care. Last year, however, the Congress passed the Comprehensive Health Manpower Training Act of 1971—legislation which the President himself termed "the most comprehensive health manpower legislation in the nation's history."

Yet, the principal goal of that legislation—to overcome health personnel shortages—will be gravely undercut by the President's failure to recommend any funds for construction of medical and other health profession schools. Denial of construction funds will destroy in a single blow the attempt to provide a coordinated, interlocking federal effort to assist education of health professionals.

The entire thrust of the legislation was to accelerate increases in health professions personnel—doctors, nurses, dentists, optometrists, and other health professionals. But if medical schools are to increase their enrollments as the Congress envisioned they must be able to expand and improve their existing facilities.

Mr. Chairman, I can give you some rather concrete examples from my home state.

The University of California operates five medical schools in California at its San Francisco, Los Angeles, San Diego, Irvine and Davis campuses. The latter three medical schools were founded in the early 1960's and operate primarily out of temporary facilities—in many cases in what amounts to mobile home type facilities.

The University at present trains about 3,900 medical students at the undergraduate and graduate levels. Yet despite the critical need for adequate, permanent facilities to provide that training, the University of California has received virtually no federal money for construction for over *three* years. Yet the President comes to us this year and proposes no new funds for construction.

Mr. Chairman, although few people realize it, that situation is not just a problem for California, it is a problem for the rest of the nation as well, because at the present time California imports 70 percent of its physicians from outside the state. In other words, unless California begins to train enough doctors to handle its own needs, the efforts of other states to increase their own medical personnel will continue to be handicapped. While I know we in California welcome young doctors who wish to practice there, I am sure you can see the thrust of what I am saying. By assisting California to develop its own medical schools, the federal government would also be assisting the rest of the nation.

This year California is taking a major step toward fulfilling its own responsibilities to its citizens. The legislature has placed on the ballot a $155 million bond issue as part of a $300 million program to meet the State's needs for health personnel.

As part of that program, the University of California's medical schools will increase their enrollment by 3,100 students, almost double the present enrollment of 3,900. This action will go a long way toward ending a shortage of physicians in that state and end the drain on the resources of other states.

But, an essential component of that effort is $97 million in federal matching funds which will be needed to make it work.

Mr. Chairman, I recall your fine work last year in providing additional construction money, particularly your gracious assistance when I offered a successful amendment to the Supplemental Appropriations bill last fall to increase funding by $20 million. I know you are aware of the needs in my state and the other states across the country. I would, therefore, ask only that you and the other members of the subcommittee be as diligent as you can in providing the maximum possible for construction grants.

The Coalition for Health Funding has recommended $250 million for such grants and I endorse that recommendation.

IV. MIGRANT AND RURAL HEALTH CARE

Mr. Chairman, there are a number of other areas in the health budget which need strengthening. I know you are aware of them and I know that other witnesses before you have made and will make the case for many of them. I know that the Committee's time is limited and so I will only touch upon them briefly. The Maternal and Child Health Services, the National Health Service Corps, and Migrant Health programs are all programs which I believe have critical importance, particularly in rural areas and areas suffering from severe economic distress. I know that I do not need to catalog for you the ways in which these programs affect directly the amount and quality of health care that is available to millions of Americans who can least afford such care.

Migrant health is a good example. In California during the peak harvest season there may be up to 100,000 migrant workers. Many counties in California remain without any migrant health services. Other large counties like Riverside and Fresno have very limited facilities to cover wide geographic areas or large numbers of migrants. The President has budgeted $23.7 million for migrant health. I would urge you to increase it to $30 million.

Similarly, funding for the National Health Service Corps should be increased substantially. Rural and inner city areas suffer critical shortages of health care workers. This program can have a major effect on that maldistribution of health services. Let me give you an example of why this program is so important. Mono County, California is a remote rural county on the east slope of the Sierras. It covers 3,028 square miles but has an average population density of only 1.3 persons per square mile. Its altitude ranges from 6,400 to 14,242 feet. On weekends the population is increased by about ten times by vacationers. Yet the county has only one hospital and that hospital recently learned that it would no longer have any physician available. Faced with this crisis the county sought help from the National Health Service Corps, and I am happy to report that as of July 1, 1972, they will have two doctors through the Corps.

Mr. Chairman, that is the kind of aid which can be provided through this program and I think it should be supported to the full extent possible.

Mr. CASE. Mr. President, will the distinguished Senator from New Hampshire yield so that I may have a short colloquy with the Senator from Washington (Mr. MAGNUSON)?

Mr. COTTON. I yield.

Mr. CASE. I wish to inquire of the Senator from Washington as to the precise disposition of the funds allotted under title V ESEA. There has been some discussion as to the specific appropriation of funds added on the House floor which were not included in the House committee report. What is the Senator's understanding of the House action and what is the intention of the committee with regard to amounts added above the budget request for title V?

Mr. MAGNUSON. The Senator is correct that there has been some question about the figures on title V. It is my understanding now that the House action really intended that an additional $10 million was to be added to the budget figure for part A of title V ESEA, making the House action on title V total $43 million in part A, title V, and $10 million in part C, title V ESEA, for a total of $53 million.

Mr. CASE. It is my understanding this action was intended to compensate State education agencies for the loss of funds formerly available on a flat grant basis under section 402 of the General Education Provisions Act. Because of the matching requirements and population formula of part C of title V ESEA, 32 State education agencies would have received less money in fiscal year 1973 under the President's budget.

Mr. MAGNUSON. I assume the Sena-

tor is correct. It is the intention of the Senate committee that the Senate accept the increase of $10 million for part A of title V ESEA added by the House, and add an additional $2 million, to make the total of part A, title V ESEA $45 million, and accept the House figure of $10 million for part C. Since this is just an adjustment of figures within the total of title V ESEA, I am confident we can work this out with the House in conference.

Mr. CASE. I thank the Senator from Washington.

To further clarify the record on this matter, I ask unanimous consent to have printed in the RECORD a copy of a letter from Representative WILLIAM HATHAWAY, the author of the amendment adopted by the House to the distinguished Senator from Delaware (Mr. BOGGS), in which he states his intention in regard to title V of the Elementary and Secondary Education Act in offering his amendment.

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

JUNE 22, 1972.

Hon. J. CALEB BOGGS,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR BOGGS: I am writing to you because I know of your interest in adequate funding for state education agencies under Title V Part A of the Elementary and Secondary Education Act. It has come to my attention that in the transmission of the appropriations figures from the House Appropriations Committee to the Senate, an error was made. My amendment offered on the floor of the House 15 June, 1972 and adopted, stated that the funding for Title V ESEA was intended to be $53 million. It was my intention that this increase of $10m above the administration budget was to be an increase to Part A of Title V ESEA. The administration budget contained a figure of $10 million for Part C of Title V, and the Hathaway Amendment intended no increase to that figure. Part C of Title V has not been funded in past years, and the $10 million figure provides an adequate beginning for that program.

Part A monies under Title V must be increased this year to compensate state education agencies for the loss of funds previously available to those agencies for planning and evaluation under Section 402 of the General Education Provisions Act. These Section 402 funds are not available to state education agencies after the end of fiscal year 1972. Because of the difference in formula application of the monies for Section 402 as opposed to Part A of Title V, it was my intention that Part A of Title V be increased by $10 million to a level of $43 million for fiscal year 1973, to compensate state education agencies for the loss of Section 402 funds. Part C monies under Title V do not provide this compensation because of the requirement that the funds be shared between local and state education agencies, and also because Part C requires a 25% matching contribution on the part of the states. Under the President's budget, 32 state education agencies would lose money unless Part A of Title V was substantially increased.

I hope this analysis clarifies any ambiguity which may have arisen as to the action taken by the House in adopting the Hathaway Amendment.

Sincerely yours,

WILLIAM HATHAWAY.

Mr. CASE. I thank my colleague from New Hampshire for yielding me this time.

Mr. MAGNUSON. Mr. President, if I may have the attention of the Senator from California (Mr. TUNNEY), is my understanding correct that his amendment provides for the adding of $30 million for health manpower construction grants?

Mr. TUNNEY. The Senator is correct.

Mr. MAGNUSON. I am perfectly willing, and so is the Senator from New Hampshire (Mr. COTTON), to take this amendment to conference and see what we can do with the conferees.

I do not believe there was a man on the Appropriations Committee on either side of the aisle that did not feel we should add more money for health professions construction, as well as for the construction of nursing facilities, and for allied health schools. The situation is bad in California. It is also bad in my State—especially in Seattle at the University of Washington. This money will be helpful in providing some really high priority items. It will provide a substantial contribution to some of the local institutions.

Mr. TUNNEY. It certainly will. I want to thank the distinguished chairman, because I know of the great work that he has done, as well as the Senator from New Hampshire (Mr. COTTON), in making it possible for the Senate to appropriate the kind of funds so desperately needed, if we are going to be able to construct the facilities which are needed to train those who will provide professional health care for the people of this country with its rapidly expanding population.

I thank the Senators from Washington and New Hampshire once more, and I want them to know that I believe this amendment demonstrates the great concern of the Senate that we do get an adequate sum of money in conference to build the kind of training facilities we so desperately need in all parts of the country, not just in California. But California is very hard hit with its lack of adequate funding for its medical schools and the practical result is that we raid other States for physicians. That situation must stop and the people of California through the legislature and the bond initiative are moving to resolve it.

Mr. COTTON. I did not hear all of the colloquy between the chairman and the Senator from California. I want to make sure that I understand it. This amendment provides for $30 million for constructions of medical schools; is that correct?

Mr. TUNNEY. That is correct.

Mr. COTTON. This is strictly for medical schools.

Mr. TUNNEY. That is correct.

Mr. COTTON. I thank the Senator from California. I can go along with the amendment and will be very glad to accept it.

Mr. TUNNEY. I want to thank the distinguished chairman, and the Senator from New Hampshire.

The PRESIDING OFFICER (Mr. BEALL). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from California (Mr. TUNNEY).

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD at this time a floor statement on the bill by the distinguished Senator from New Mexico (Mr. MONTOYA) and a statement by the distinguished chairman of the Appropriations Committee, the Senator from Louisiana (Mr. ELLENDER).

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

STATEMENT BY SENATOR MONTOYA

As a member of the Subcommittee on Appropriations for the Departments of Labor and Health, Education and Welfare, I want to commend its distinguished Chairman, Mr. Magnuson, for his role in presenting to the Senate what I believe to be one of the most equitable education and health appropriation bills ever considered by the Senate.

For many weeks, the distinguished gentleman from Washington heard testimony from many witnesses, all urging their program or project be fully funded. Thanks mainly to the leadership of Senator Magnuson, all these people received funding I am sure they can live on. Let me assure this body that had we granted every increase requested, this bill would have totaled over $100 billion. Fiscal responsibility, however, dictated that we determine priorities. I only regret, Mr. President, that we do not have at our disposal enough funds to provide funding necessary for all such worthwhile projects. This Committee heard many pleas for help, and I believe we have responded to most of them.

Mr. President, it has been the practice of this Administraton to speak loudly about the health and education crisis facing the United States today. This Committee agrees and backs up such rhetoric with funds, which the Administration failed to request in the budget to meet these crises. It is true this bill is several million dollars over the budget request. However, this is due in large part to failure of the Administration to back up its words with money.

I especially want to express sincere thanks to this Committee for providing adequate funding for several programs and projects I feel will greatly benefit the Spanish-speaking people of this country.

BILINGUAL EDUCATION

$60 million were provided for this program, which has more than proven its worth. Additional funds provided in the Senate bill will allow for 150 new projects. A more rapid development of bilingual teaching materials and faster expansion of bilingual television programs will now be possible with these additional funds. Recent studies have shown conclusively that children who participate in bilingual education programs are learning faster and reading better than their peers who lack this opportunity. Bilingual education has made learning meaningful to Spanish-Americans and other minorities whose drop-out rates far exceed the national average. This increase clearly indicates that the bilingual education program is no longer an experiment.

VOCATIONAL EDUCATION

As a long-persevering proponent of vocational education, I was most pleased with the increase in funds over the budget request granted by the Committee. Had the Committee concurred with the budget request of $542 million, approximately 27 states would have received less funds for vocational education programs than they did in 1972.

Additional funds provided by the Senate Committee ensures that no state will receive funding below the 1972 level. Because of Senate action, 12,467,500 people will be able to engage in new, emerging occupations through vocational education.

Because of emphasis placed on vocational education by Congress in recent years, plus an evolving concept of career education being formulated in the U.S. Office of Education, and a fast-growing need for skilled workers in our economy, students and parents throughout the country are becoming evermore aware of opportunities available through vocational and technical education programs. If these programs are not adequately funded, they will not be able to accommodate a growing number of Americans who see in them a chance to broaden educational options and to attain skills needed to compete in our modern job market.

The bulk of our labor force occupies positions that do not require college degrees. Higher education is vital, and we certainly should not reduce our commitments to that sector of education. Yet we should also face the fact that even in the year 1980, 80% of job openings will be in positions not requiring a college degree. We have an obligation, then, to provide education that will present the kind of training needed for these jobs, both for benefit of the future labor force and society at large.

At present, the Federal Government spends $14 on higher education for every $1 it spends on vocational education. It is not the funding level for higher education that is out of line here; it is the ratio. Vocational education deserves more help from the Federal Government. The Federal-State partnership so important in education suffers if all partners do not increase efforts simultaneously. At present, only four percent of money spent for education in grades K–12 goes for vocational education.

I believe my faith in vocational education has been vindicated by success of the program to date, and I thank the Committee for backing up their faith in the program with the increase in funds provided.

IMPACT AID

Many of my colleagues have expressed concern over failure of the Federal Government to carry out its responsibility to districts heavily impacted because of Federal activities. The Congress has annually provided funds with which government could relieve economic pressure placed on school districts by the Federal presence. Government, however, refuses to spend funds provided by the Congress.

The Committee this year, after hearing desperate pleas of school officials, increased appropriations for both P.L. 815 and 874.

In recent years, the P.L. 815 program has been funded at $15 million, while a backlog of requests totalling over $200 million has developed. The Committee recognized the plight of many such school districts and directed the Office of Education to rearrange priorities and give preference to those schools on military bases and Indian reservations. The $45 million appropriated by the Senate Committee will mean Holloman Air Force Base in New Mexico will at last be able to replace facilities which at best can be described today as deplorable.

Additional funds provided for P.L. 874 will relieve some pressure on school budgets caused to a great extent by additional burdens placed on these schools by the Federal government.

All in all, Mr. President, it can readily be said that education appropriations provided by the Senate Committee shows the Committee recognizes a clear need to improve every aspect of our educational system. Further, the Committee has taken steps to ensure that every person young and old will have opportunity to obtain an education by providing adequate funding for educational programs.

HEALTH

Perhaps the most difficult task confronting the Committee was to decide which of the many worthwhile and much needed programs related to health, health delivery and health research should be given priority in funding.

Once again, fiscal responsibility dictated caution. Every witness testifying on the health budget made an excellent presentation describing the need for funding to carry out his particular program. The Committee, however, again was forced to decide priorities. To be sure, had we granted every request for additional health funds, the Committee would have been acting in a fiscally irresponsible manner, thus inviting a veto.

It should be noted, however, that the Committee did make substantial increases over the budget request. It felt that the budget requests for the health sector were unrealistic given the clearly defined existing needs.

It would seem to me that none of the special health groups should be unhappy with appropriated funds, and each should recognize realities and limitations facing the Committee.

I was personally pleased to see the Committee recognize the plight of our mentally ill, especially the young. The Committee's actions in providing funds for mental health centers and for staffing these centers clearly shows the disposition of the Committee to give priority to treatment of the mentally ill.

The Committee and its distinguished Chairman deserve commendation for providing assistance to every aspect of our health sector and still remain within the realm of fiscal responsibility.

Thank you, Mr. President.

STATEMENT BY SENATOR ELLENDER

I wish to thank Senator Magnuson and the members of the Labor-HEW subcommittee for the fine work they have done on title II of the pending bill.

The appropriations for health represent an increase over what the Administration asked for and, in some areas, an increase over the House bill, as well. Last year, the Senate Appropriations Committee raised the budget requests for health. This year, the nurses association is again recommending increases which they believe are vitally necessary.

Frankly, the association was disappointed to see the Administration's budget requests this year. As the committee report states, the association has been concerned for several years about the downgrading of health and education as reflected by budget requests. This year is no exception. Though we were told that the fiscal 1973 budget places top priority on health, in reality many important programs were cut back. Funds for health manpower education are a glaring example. The committee report notes that the budget request for health manpower was $140 million less than the amount available for fiscal 1972; there are no funds at all for construction of schools.

As it did last year, the Administration budget contains especially serious deficiencies in the area of nursing education. I am pleased to see that the subcommittee has helped to correct this. Funds for capitation, or basic support to schools of nursing, have been raised to the same percentage of authorization as for the other health professions.

Again, I think the subcommittee has done an outstanding job in this very crucial area, and I commend this report to you.

Mr. CHILES. Mr. President, I send to the desk an amendment on behalf of the Senator from Michigan (Mr. HART) and myself.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 28, line 22, strike the ":" and insert in lieu thereof "."

On page 28, strike lines 23 and 24.

One page 29, strike lines 1 and 2.

Mr. CHILES. Mr. President, I am proposing an amendment to H.R. 15417, to add a period at the end of line 23, page 28, and to strike lines 24 and 25 of page 28, and lines 1 and 2 of page 29.

[Demonstration outside the Chamber.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Sergeant at Arms is directed to maintain order in the galleries and in the corridor outside the Chamber so that the Senate may conduct its business.

Mr. CHILES. Mr. President, if this language remains in the bill, it will severely limit Federal funds available to States for social services to current, former, and potential welfare recipients, to the level of $2.5 billion in fiscal year 1973 and thereafter.

Such a limitation at this time would not only be harmful to more than 4 million family—cases—now receiving such services, but would be highly inequitable to most States and inconsistent with current efforts to improve administration of these social services programs.

The present administration tried in 1970 and again in 1971 to limit the Federal expenditures under these programs to 110 or 115 percent of the previous year's level. For the past 2 years the Senate has rebuffed these efforts for two very good reasons: First, these percentages did not adequately allow for caseload increases, and therefore represented a virtual cutback in Federal effort, and second, the administration was trying to cut off by appropriation language what they have not been able to cut through authorization language. The Senator from Louisiana (Mr. LONG) took strong exception to these attempts, and eloquently spoke to these points on the Senate floor.

Now, for the third year running, the administration is again trying to do the same thing through appropriation language flouting the expressed will of the Congress. This year they have written the limiting language in terms of dollars rather than percentages, but the $2.5 billion limit is roughly the same thing all over again.

It may be argued, Mr. President, that the $2.5 billion represents the States' estimates of what they will spend in fiscal year 1973. In fact, however, if they make such a case, they must be referring to estimates which are already out of date. Many States, including my own, have only very recently begun moving to expand their social services programs. The following States have State plan amendments in preparation which would expand social services in excess of the $2.5 billion level:

Alabama, Arkansas, Colorado, Connecticut, District of Columbia, Florida, Georgia, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, and Nebraska.

New Hampshire, North Carolina, North Dakota, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin, and Wyoming.

[Demonstration outside the Chamber.]

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Sergeant at Arms is directed to maintain

order in the galleries and in the corridors so that the Senate can conduct its business.

Mr. ROBERT C. BYRD. Mr. President, it has become apparent that the noise is not coming from the Senate Chamber or from the galleries. I ask that the Presiding Officer direct attachés to take whatever action is necessary to maintain quiet in the areas surrounding the Chamber so that the Senate can conduct business with proper order and decorum.

The PRESIDING OFFICER. The Chair directs the Sergeant at Arms to see that there is proper order.

Mr. COTTON. Mr. President, the demonstrators were massed outside this door of the Chamber when I was trying to get in. I had to literally fight my way into the Chamber. Two officers were there in uniform and would not lift a finger to do anything. My picture was taken as I was literally fighting my way through this disruptive crowd and probably the Washington Post will publish it and accuse me of abusing the poor demonstrators.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time used not be charged against the Senator from Florida.

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

Mr. CHILES. Mr. President, the $2.5 billion limitation would stop short these efforts at program improvement.

Mr. ROBERT C. BYRD. Mr. President, I am sorry to again interrupt the Senator. However, would the Chair please ask Senators to take their seats?

The PRESIDING OFFICER. Will Senators please take their seats so that the Senator from Florida can continue to explain his amendment?

The Senator from Florida may proceed.

Mr. CHILES. Mr. President, it is noteworthy that the States of New York and Illinois are not in the above list. The reason is that these States have already received approval for major expansion of their social services programs. The other States are only trying to do what New York and Illinois have already done, with HEW approval. In fact, the administration has not only approved their program expansion, but has actually assisted and promoted it. In other words, while talking "limitations," the administration has been promoting expansion in certain States.

My own State of Florida has received some technical assistance from HEW for improvement of social services programs. I believe such help should be given by HEW. But it should be given equitably to all States. Instead, the administration is attempting to cut off expansion just after a few States have slipped under the wire with State plan changes. This is unfair, especially since the few States who already benefited were among the highest in per capita social services expenditures before their recent increases.

REFINANCING

One argument that has been made in favor of such limitations is that the additional Federal money is simply replacing State money rather than expanding social services in the States.

First, it is difficult to understand how an administration which has been talking "revenue sharing" for 3 years can be opposed to some fiscal relief to the States in the area of alleviating their welfare burden. This is especially true in the case of these social services programs, which offer to States some of the greatest flexibility of any Federal program.

Second, there is little evidence to support the charge of State refinancing through these programs. In my own State, the additional Federal dollars received have gone almost entirely into expanded social services, such as day care, help to mentally ill and retarded children, services to reduce juvenile delinquency, drug and alcohol abuse services, and most important services to the aged and disabled. Moreover, these social services go to the poorest of the poor, who are so often missed by other State and Federal programs aimed at these problems. The charge of refinancing is also denied by the many private and voluntary social services agencies who operate under contract with the State programs. Such public voluntary cooperation is rare in this country, but is clearly on the increase in these programs.

INCONSISTENT WITH PROPER ADMINISTRATION

Mr. President, earlier this month the Department of Health, Education, and Welfare issued a new regulation requiring States to administer these social services programs separately from the welfare cash assistance programs, effective next January. This will cause a major change in the State programs, the purpose of which is improved accountability for social services expenditures.

Our own experience in Florida, while supporting the value of this change, also proves that such separate administration involves higher initial administrative costs to the social services program.

Severe cuts in Federal funds, especially at this time, are inconsistent with this Federal regulation. Such limits will work directly against the very same accountability measures which the Department of Health, Education, and Welfare has just taken. The States will be squeezed even further than they are now, and will have no choice but to begin cutting back on important social services programs to meet the higher administrative costs.

It is very easy to confuse fiscal savings with accountability. One does not necessarily promote the other. In fact, to pursue fiscal savings without adequate accountability is, in effect, to make random cuts without knowing what is being cut off. Perhaps if HEW vigorously pursues tighter management controls than are now in effect, it will be in a better position next year to explain to Congress who would be hurt by such limitation. Certainly that information is not on the table for us now.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator from Florida will again indulge me.

I ask that the Sergeant at Arms be directed to close the south doors to the Chamber to keep out the noise that is coming from outside and creating a disturbance and interfering with and interrupting the conduct of the Senate's business.

The PRESIDING OFFICER. The Sergeant at Arms is so directed.

Mr. TOWER. Mr. President, it occurs to me that closing the south doors would disrupt our proceedings because we cannot get to the office of the minority leader. I do not see why the passageway could not be cleared of these people.

Mr. ROBERT C. BYRD. The passageway is being cleared. The police are removing the demonstrators, but only 20 can be removed at a time. The Sergeant at Arms is carrying out the previous order. In the meantime, I ask that the doors be closed.

Mr. TOWER. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator from Florida for yielding.

SUMMARY

Mr. CHILES. Mr. President, the $2.5 billion ceiling is unworthy in its effects on poor people. It is inequitable in its effects on States, especially in light of recent approval of expansion in a few large States, with the help of this administration. It is inconsistent with the administration's position on increased State flexibility and with new HEW regulations for improved administration of social services programs. And it is improper as an appropriation, rather than an authorization limitation.

I wish to make it clear that I am in favor of strong accountability and reasonable allocation for social services programs. This present provision in H.R. 15417, however, is the wrong way to accomplish this, at the wrong place, and at the wrong time. And finally, it is inconsistent with the whole direction taken by Senator TALMADGE in his amendments to the work incentive program, which in fact raised the Federal matching share from 75 to 90 percent for these critical work-related social services. This change is slated to become effective July 1, or next week. I urge this limiting language be sticken from the bill.

Mr. COTTON. Mr. President, I ask the chairman to yield time to me on the amendment.

Mr. MAGNUSON. I yield time on the amendment to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I have listened with great interest and frankly some little astonishment to the remarks of the distinguished Senator from Florida. I hold him in the highest regard. I have great admiration for him and I predict for him a very brilliant and useful career in this body. But he has not been here very long and before he passes judgment on a rather complex subject that some of us have been working on for 12 or 15 years, I think that he might review a little of the history and the facts.

Mr. President, this provision is a most reasonable provision. It does little but establish a ceiling. Let me suggest to the distinguished Senator from Florida and call to his attention a couple of facts that apparently he has not taken into consideration.

In the last 3 years the money used by the States in this Union in their welfare administration, just used to pay State employees, not 1 red cent of which ever goes into the hands or pockets of any

needy person, has tripled, and unfortunately the law leaves it completely open ended, for whatever any State chooses to appropriate, the Federal Government must match.

Now, 2 years ago we endeavored to close that hole, leaving plenty of leeway, and we heard outcries all over the Senate, such as I have just been listening to from the Senator from Florida, and we did not succeed.

Last year we wrote into the bill a provision that no State should spend more than 120 percent of what it had spent the year before. I will tell Senators what happened. That provision would have meant that no State in this Union would have lost one nickel, except one possibility. I never in my life heard such an uproar, that far surpassed the outcries of my friend from Florida, as we heard from the great State of California, the largest State in population in the Union, a State we all admire and which we are proud. The great State of California gets the lion's share because it is so big, but it protested vigorously. The protests were nonpartisan. We had a message from Governor Reagan saying that if we put that limit of 120 percent on, it would cost his State of California $100 million that we were taking heartlessly out of the pockets of the people of Califorina.

Then, both Senators from California, as is their duty, and quite legitimately and open, proceeded to wring their hands and gnash their teeth on the floor of the Senate. Senators CRANSTON and TUNNEY alleged that their information from California indicated that a 115 percent limitation would cost the State $80 million. We had it at 115 percent and then we put it at 120 percent. But no, Governor Reagan said it would cost $100 million. We succeeded in eradicating it and opening up the doors. So what happened in California?

California had spent in fiscal 1971, under this administration, $211 million. In fiscal 1972, last year, when they got around to it, they spent $250 million. If the 115-percent lid had been on, it would have cost the great State of California just $10 million. If the 120-percent lid had been put on, which we offered to take in order to establish the principle that the States of this Union cannot simply bleed us, and be no longer powerless to do anything about it, it would not have cost the State of Califcrnia one single nickel.

If the distinguished Senator, when he was walking about Florida, had noticed what I notice when I walk about New Hampshire, though my walking apparatus is no longer as good as his, he would have seen the same, ample evidence in Florida, I suspect, as I find in my State, and as every Senator will find in his State, that every single one of these States, when they make their estimates, are very sure—to make estimates big enough so that they are not going to be cheated by any other State and get their full share of the gravy. I do not blame them; it is good business; they do not want to be suckers. But when the time comes to raise their matching funds—we have gone back over the records—they do not match them.

As if that were not enough, the estimates we have now from all the States total $2.162 billion. So we put this figure at $2.5 billion to make absolutely sure that, based on their own estimates, it would not cost a single State in this Union anything. In all probability they would not get up to $2.5 billion, but it would at least establish for the future the principle that there shall be some limit.

In addition to that, the distinguished Senator from Florida said something about the administration—this emanated from downtown—is talking about tax sharing, and it is all very hypocritical and a horrible thing, what we are doing here and what the administration is doing. I would like to remind him of something. I would like to remind him that a few months ago the President sent up here a bill called the Emergency Employment Act. The Senate passed it. I was one of a few who voted against it. Why did I vote against it? I voted against it because I thought it was a thoroughly unsound bill. It provided Federal money to enable States to employ more people in the statehouses, and in the departments and counties and cities to employ more people in their administrative duties. I opposed it because I said these are not the people we want to create jobs for. This is simply creating jobs for a lot of political hangers-on and old ward heelers. It is helping build up a State bureaucracy or a city bureaucracy. And I voted against the bill.

But, as usual, I was outvoted, and so the authorization was passed; $1 billion for the first year. This year, $1.250 billion.

We have appropriated and put into the bill that is before you in the Senate today—perhaps the Senator from Florida had not noticed it—$1.250 billion for this year's expenditures for States to use in hiring people to help administer their State programs.

So in addition to the fact that our attempt was to at least put a stopper in the sink somewhere, we have not only gone so far that we have provided $2.5 billion when all the total estimates so far come to only $2.162 billion, but there is in this bill more gravy that these States are so anxious to resort to.

Mr. President, you never heard such a racket. Talk about the AFL–CIO or any other union organization in this country. They are amateurs compared with the people who have their noses in the public trough. My telephone has been ringing for 3 days, and I have talked with more social workers about the horrible provision that is in the bill. They sounded sweet and nice, and if I were 30 years younger, I would like to have had them come in and talk with me, but they do not know any more about what they are talking about than does the Senator from Florida.

They had simply had the word passed down the line to them that the Committee on Appropriations of the U.S. Senate is trying to put some limit on what the States can reach right into the Federal Treasury and take out, without any let or hindrance, to spend on administration.

The money requested by the States is increasing, and mine is one of them. I had a communication from my State government. I had a communication from my Governor. I like to take care of the interests of my State, but not like Jesse James took care of his interests. There has to be a line drawn somewhere, when you have an open sieve so that in 3 years it triples. This year it will probably quadruple. In addition, there is all this other gravy.

I think the Emergency Employment Act was one of the poorest things that this administration supported, when they provided $1 billion the first year and $1.25 billion the next year, and I do not know how much in other years, to furnish employment for those people so they can build up bigger bureaucracies.

The place where we want to put our money is into the hands of people who are hungry, into the hands of people who do not have sufficient clothing, into the hands of people who are the forgotten people in this great civilization that we brag so much about, into the hands of aged people who are living on social security or a mere pittance, into the hands of ambitious young people who want a chance to get out of their environment and make something of themselves—not into the hands—Mr. President, I repeat, not into the hands—of a bunch of politicians and do-gooders and social workers who run around poking their noses into everybody's business and asking some poor old grandfather how much he spends for his tobacco each week.

I listened to one of those interviews. She was pretty. She had just come out of Vassar, I think, or probably Yale or Harvard now. Everything has gone coed.

But she was up talking to this poor old fellow who was sitting out in front of his tar paper shack, and demanding of him to tell her how much money he used a week buying smoking tobacco for his pipe.

That is where you people want to spend your money. You do not want to send it to the people who need it. You want to help Florida, help California, help New Hampshire, help New York, and help Connecticut build up bigger organizations. It is not enough that place a limit high above the estimates that have been made by States that do not make he mistake of underestimating. It is not enough that we put in this bill $1.25 billion for the foolish notion of help for more bureaucracies in the State capitals, the county seats, and the city halls. No, no, we have to strike it all out. The Senator from Florida thinks this was too harsh, the $2.5 billion, when so far they have only suggested that they require $2.162 billion.

He could have raised the limit. Instead of $2.5 billion, make it $3 billion. But no, he wants to strike out every word, and leave it, every vestige of it. He wants to stick to the principle that Congress, once having made the mistake of authorizing a matching fund without limit, has to be henceforth at the mercy of the States, to spend and spend and spend; that we must take the taxpayers' money and help every man who is running for Governor, or wants to be Governor again, or running for Senator, or wants to be Senator again, to have plenty

of jobs back in the States supervising the poor. Mr. President, the poor are getting supervised to death.

I never dreamed, I am frank to say, Mr. President, that any Senator would stand on this floor and object to this provision. And I am very frank to say we added enough to it to be certain every State was covered. The committee has tried to be as cooperative as possible. We have already, this afternoon, accepted $330 million on top of the $1 billion that we added to this bill, and on top of the $1 billion that the House added to the bill.

But I am not agreeing to any more after this one, when Senators come in and want to strip the Federal Government so it stands naked and helpless. There will be no more additions to this bill agreed to by this Senator.

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

Mr. COTTON. I will yield in a moment.

No more agreed to by this Senator. The Senate can vote it, but as far as I am concerned, I am not going to indulge in any further raids on the Treasury.

Of course, if I have spoken impetuously, let me say to the Senator from Florida, as I said in the beginning, that he is a fine young man, I admire him and like him, and if he wants to come back, I yield to him.

Mr. CHILES. Mr. President, did I hear the Senator say after this he was not going to agree to any more?

Mr. COTTON. No; I am not going to agree to this. The Senate can vote it, but not with my vote.

So what? We still have the right to frankly oppose something. Whatever the Senate sees fit to add to this bill, of course, when we go to conference, we have to represent the Senate, and that I will do, but I am not going to do it without a protest. And Senators had better vote on the rest of these amendments. I hope, Mr. President, that if anyone has any regard whatsoever, not only for the future solvency of this Government but for the aim of getting our money to the people who need it, that this amendment will be rejected.

I do not think there are enough Senators in the Chamber so that I can ask for the yeas and nays.

Mr. CHILES. I join the Senator in that request.

Mr. COTTON. I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

The yeas and nays were not ordered.

Mr. COTTON. Mr. President, I suggest the absence of a quorum so that we can get the yeas and nays.

The PRESIDING OFFICER. On whose time?

Mr. COTTON. On my share of the time on the bill.

Mr. CHILES. Mr. President, if the Senator will yield, I join in the request for the yeas and nays. Perhaps while we are waiting, I can make some remarks.

The PRESIDING OFFICER. Will the Senator from New Hampshire renew his request?

Mr. COTTON. I renew my request for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. CHILES. Mr. President, I yield myself such time as I may need.

I want to say to the distinguished Senator from New Hampshire that I appreciate very much his kind remarks in the opening of his address. He was most kind to the junior Senator from Florida. I appreciate that very much. I stand at the feet of the distinguished Senator from New Hampshire not only on this subject, but on many others that will come before this body this session.

But despite by absence of knowledge or lack of education on this subject in the brief time in which I have been a Member of this body, I still press the amendment I am offering.

As I listened to the distinguished Senator from New Hampshire, he mentioned that this amendment will not cost any State anything, and that the bill as it is now written with a limitation will not cost any State anything. Mr. President, I do not stand here just for costs. In my amendment, I really am seeking equity. I seek equity with the great State of California, which is getting $273 million under this program, so that they can take care of their needy people, with which they can match 25 percent State funds to 75 percent Federal funds.

I seek equity with the great State of Illinois, that has now been approved for a program, and they will receive $147 million to match with 25 percent State funds.

I seek equity not only for the State of Florida, because Florida is now getting its program approved, but for the State of Georgia, for the State of Alabama, and for 28 States that are now trying to obtain some of these funds on the same basis that California, Illinois, New York, and other States are.

If there is something wrong with this program, then I urge the distinguished Senator from New Hampshire, with his great wisdom, which I respect, to do something about the program, to do something about the authorization, to do something to see that California, Florida, and New Hampshire share equally under the program, to put in some guidelines, if he wants to, to see that the money is spent properly, to see that we administer it properly, and do not just put many people out on a payroll so that they will be able to campaign for someone—to do that, but not come in on an appropriation bill and say, "We are just going to put a little ceiling on this; we are going to allow California to go forward, and have this tremendous infusion of money to take care of its people; we are going to allow Illinois to do that, and we are going to allow New York to do that, but we are going to deny Connecticut the right to be able to do that for its people."

We are going to require them to have to infuse all their State dollars. We are going to require them to tax with real property taxes and sales taxes and State income taxes and other things in their State or not have programs.

We talk about these programs. What are we talking about? We are talking about child care, in-home-child care, out-of-home child care, children's institutions. We are talking about protective services to children, to prohibit neglect, to prohibit abuse, to prohibit abandonment; house maker's services, to help aged persons be able to remain in their own homes rather than go to some institution; services to reduce drug and alcohol abuse; home management and consumer education for families.

Are these giveaway programs? The people in my State do not think so. We have been paying for them with State dollars. We would like a little help, because they are national in scope.

Family planning services—is that a giveaway program? To try to keep people from having kids they cannot support, they cannot take care of. To try to do something about drug abuse—is that a giveaway program? What is it going to cost us down the road, in institutions? What is it going to cost us in police protection down the road? These are the things that the Senator from Florida, with his absence of knowledge on this bill, seeks to address in this amendment.

Mr. President, I think the issues are clear, and the parties can determine how they want to vote on this. It has been before the Senate twice before—at one time in a 5 percent or 10 percent limitation. Now, under this kind of program, are we going to try to do it in this way, or are we going to try to get our authorization legislation and do something that is going to be fair? That is what I think we should do in addressing ourselves to this program.

Mr. President, I am ready to yield back the remainder of my time.

Mr. MAGNUSON. I yield myself such time on the bill as I may require.

Mr. President, I hope the Senator from Florida will take a look at what he just said and analyze it a little. These are not giveaway programs. These are programs on which we have been working for years and years and years, and they are good programs—every one he has mentioned.

We have constantly increased the money over the years, over objections of the budget, and many times over the objections of the House.

What we are talking about here is administrative costs, not what the people get. We want to make it more efficient, so that the people he talks about, about whom he is deeply concerned, will get more.

We have gone through this with the people involved over and over again. I hear from my Governor, and others hear from their Governors. They talk to the fellow in the welfare department, and he wants 25 new people or he cannot lose one—not one. He calls the Senators.

All we are saying is that we want to be a little prudent about administration. I think too many people are involved in administering these programs. I have had some experience. We have listened to them. For 3 years, we have been trying to get HEW to reexamine this and to reexamine the estimates that come in. Nobody underestimates this when it comes to jobs, unless something unusual comes up in the meantime. They overestimate.

I know that. I could cite chapter and verse on that.

We are trying to be a little more prudent and to have more efficient service. We never could find out from HEW what specific services are being rendered in some cases. So we said, "Evaluate it, and in the meantime we will have a ceiling that is plenty high if they need any more people, actually need them." We said that the $2.5 billion ought to suffice. We shifted from a percentage of increase figure. I always felt that a fair and equitable percentage increase ceiling—10, 15, 20, whatever it might be—would be suitable. Now we would have a dollar limitation, a ceiling upon the entire account.

You cannot define the allowable services. Anything that is needed, they are going to have. I am getting a little worried about employment funded by the Federal Government in this field. At least 614,000 people are now employed—directly or indirectly through grants and contracts—by HEW, and that is a conservative figure. They could not even figure it out at one time. Now they come up with an estimate. It is probably closer to 700,000.

We want to support these services, but we want them efficient. No one can tell me that in any State department there are not too many people in some cases. If a program calls for 20 people or 30 people for administrative assistance, and they are needed I do not say that you should make a big cut. But in other programs you might be able to get along with less people. All we are talking about is administration.

This is not any cut in the needs of people. No one can effectively suggest that the Senator from New Hampshire and I have cut the HEW appropriations. We are accused of just the opposite, and we accept that. The Senator was not here, but I get vetoed every once in a while. I am the most vetoed Member of the U.S. Senate, because we keep increasing these amounts. We are trying here to get some efficiency and control over the expenditure of public funds.

I do not want to accuse anybody, but I know of some cases where four or five people are involved and it is obvious duplication. This is even more difficult than looking at the administration of one program. Four or five people for one or two families will be involved, with different programs that overlap, and it is pretty hard for us to segregate them.

We are trying to take a look at this, and we have a limitation to take care of anything they want. We do not get much help downtown on this overlapping, administrationwise, except that they are greatly concerned about the growing cost. There has not been much evaluation of it.

We hear hundreds of witnesses in this field: Change the different programs. I suspect that the sign painter at HEW is the busiest man in town. He must work 24 hours a day, with a couple of assistants, in that big, sprawling Department.

I do not want any intimation here that we are not doing the best we can to take care of the needs of the people in these programs. I think that some of the programs are overstaffed. It is as plain as that. That has been my experience. And I would say that in my own State.

Mr. COTTON. I yield myself 2 minutes.

Mr. President, I have been over every one of the fine causes named by the Senator from Florida: Family planning, alcoholism, narcotics addiction, child care, child health. In the case of every one of them, this bill is much larger than last fiscal year. We have increased every one of them.

So that the mere fact that—I do not want to speak disparagingly of any other State, but I can certainly be permitted to say of New Hampshire—but I know many good yankees up in New Hampshire, if by spending $25 they can get $75, they are not quite so frugal or so thrifty or so careful as they would be if they had to match it dollar for dollar. That is the reason the expenses go up so fast.

I am going to leave that statement in the RECORD. I do not care if everyone in New Hampshire reads it, because it is true. [Laughter.]

Mr. CHILES. Mr. President, I have listened to the statements of the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from New Hampshire (Mr. COTTON) and I want them to understand that the junior Senator from Florida does not feel in any way they are neglectful of people programs, or programs that take care of people who cannot take care of themselves. I am mindful of the distinguished record that both Senators have made in those causes.

The one thing that I have not heard from either of them, though, is: How is it fair for California, New York, or Illinois, to be able to fund the programs for their States with 75-percent matching money from the Federal Government and only 25 percent of State funds, while they are going to prevent some 28 other States, who are now seeking to be able to implement their programs on the same basis, from doing that?

As to the eloquent argument of the Senator from Washington in regard to trying to determine what the administrative costs are, I join him in that regard to the fullest extent of my capabilities, but I do not know how this cap does that. I do not know what this cap does. How does it provide any better administration in California? How does it provide any better administration in New York, or in Illinois, or really, in any other place by virtue of this cap?

We are now talking about authorization legislation that needs to be enacted. We are talking about the oversight that needs to be handled by committees, and we are talking about a number of other things, but not something that we are going to do by putting on a cap and penalizing the States now trying to be able to do for their citizens what we are already allowing part of the States to do. We should take the freeze off and go forward with any kind of oversight and authorization legislation we can come up with that holds this department in check. It certainly does need to be checked.

Mr. COTTON. Mr. President, will the Senator from Florida yield for a question on my time?

Mr. CHILES. I yield.

Mr. COTTON. This question is not meant to be argumentative. It is really one just seeking information. The Senator mentioned 28 States which are losing by this limitation. They must have made up their minds in the past 30 days, because 1 month ago the estimates of all the States was $2,162,000,000. Now if there are 28 States that have had second thoughts, I am curious to know, because only 2 years ago $750,000,000 covered this whole thing. I am also curious to know, inasmuch as this limitation is only for this coming year, could the Senator from Florida name the sum that will cover all of the States' requirements?

Mr. CHILES. Yes, sir. The Senator from Florida made that estimate in his opening remarks, that approximately $3½ to $4 billion would be required to fund all the States on the basis that California is now being funded, and Illinois, New York, and those States authorized under the program.

I would further answer the Senator from New Hampshire by saying, as I tried to do in my rebuttal, that it is not a question of whether the States will be cut. I do not think they will be cut in the dollars they were given last year. It is a question of whether Florida is going to be able to be treated like California; whether Alabama will be treated like Illinois, or Maine like New York, and have the same kind of matching funds on the same basis, to be able to provide the same programs for their people which are already authorized in other States.

Mr. COTTON. May I suggest to the Senator, then, some kind of formula based on the population, or need, or something else, so that they can all be treated fairly, and that we may know that they will be, and that this will not be a helter-skelter, grab-bag performance.

Mr. CHILES. That is exactly what we should be talking about. We should be talking about authorizing legislation, which is open-ended legislation now, and some kind of equitable formula so that every State will be treated the same.

Mr. COTTON. By that time we will have "bought the world." Undoubtedly the Senator from Florida has given this thing great thought. Perhaps he could present a limitation that would be good for 1 year, which would put a little more fairplay into this. If we are to err on the liberal side, let us have some kind of umpire.

Mr. CHILES. The Senator from New Hampshire has already categorized the Senator from Florida that he does not know much about this subject and really would not be responsible to do anything like that on this kind of subject. We have already covered that field amply. I would therefore be hesitant to come up with a formula.

Mr. COTTON. Not at all. If I have said anything that could be interpreted that way, I withdraw it and apologize to the Senator, because I have great ad-

miration for his ability. I hope that he would help us to devise a formula. We want to be fair.

Mr. MAGNUSON. Mr. President, in the Appropriations Committee, we do not have much to do with formulas. Your people from Florida should go to the committee which works on these bills, and take it up with them. We are not talking about grants to people. Surely the limitation on administration is fair to everyone. It will apply to the same people, overall.

If California has more projects than Florida, then go down to HEW and find out about it. I will join the Senator. But we do not do that when we appropriate money. We try to put a ceiling on, whether it is administered in Florida, in the State of Washington, New Hampshire, or in California. All of these programs are overstaffed.

Mr. CHILES. That is what we have done. We have gone down to HEW. That is where we found out about California and New York and Illinois. We have said that that looks attractive to us and we would like to be able to participate in that and do that for our citizens just as California can. We did not think it up but we would like to be able to participate.

Mr. MAGNUSON. I might like to go with the Senator down there with him some day, the next time. Maybe there is something I have missed which could help my State of Washington. But whether I have missed anything or not, whatever they have in my State or in these other States, I want to see the administrative costs held to some reasonable level, whatever the program is, whether it is here, or there, or in one section or another. That is all we are trying to do. There are many programs down there. There are over 100 line items in this bill alone—just line items.

Mr. TUNNEY. Mr. President, no one can be complacent about the phenomenal rise in Federal expenditures in this area of social services and administration of welfare programs. Even the $2.5 billion figure which we are debating represents a tripling of Federal matching funds for this purpose in 3 years.

The question we are addressing today, however, is not whether we are happy with this situation or not. It is whether the correct solution to the problem is simply to draw the line on the money which the Federal Government will appropriate for programs which it has mandated on the States. To my mind it is not.

To begin with, disconcerting as the $2.5 billion figure may be, it seems sure to be insufficient for the needs of the coming year. Since the submission of estimates on which the committee's calculations are based, almost 30 States have now either gained or are seeking approval for modified social service programs drawn up with the assistance and encouragement of the Department of Health, Education, and Welfare. These amended programs, I understand, will take the total beyond the amount in the bill before us.

To deny funds for these revised programs, as would be necessary with a closed-end appropriation, would be to perpetuate an inequity between the citizens of different States. For while there is now a general effort by the States to extend their social services under the encouragement of this Federal matching program, they are at very different levels of advancement. California, for example, was the first to take considerable advantage of the matching funds offered. Illinois has followed suit more recently, and has included greatly expanded approved Federal funding in its programing for the coming year.

Citizens in these States are at a great comparative advantage over those in other States which have yet to win approval for expanded plans with improved services and markedly increased Federal funding. If we draw the line now, we effectively say that by this limited appropriation we have decided that only those States which got in early may enjoy the fruits of the programs which the legislation intended for the citizens of all States.

Nor should it be forgotten that the law mandates that the State and local governments should provide social services to all recipients of welfare, and to others as well. It encourages the development and expansion of better programs. It is founded on the belief that social services are a very necessary and appropriate instrument not only in meeting the genuine needs of the poor, but also in grappling with the welfare problem as a whole.

The law imposes on the Federal Government the duty to provide 50–50 or 75–25 matching funds for the programs it mandates upon the States. As the law now stands it is our duty to provide the matching funds for legitimate expenditures on services, at the level required by circumstances.

If it should be agreed that this program is leading to excessive costs, it is of course the prerogative of Congress to change the program. But that change should come in the authorizing legislation, not in the appropriations. The law now provides for open-ended funding to match appropriate expenditures in the States. It is quite inconsistent simply to refuse to appropriate the amount which is needed to fulfill this obligation.

Mr. President, we have been promised that welfare reform legislation will be taken up by the Senate after the coming recess. That will be the appropriate time for making necessary changes in the fundamental program, and mandating satisfactory monitoring and cost-control procedures. Until then, I believe it is our responsibility to appropriate whatever funds are necessary to assist the States as the law requires in providing the full range of social services which are necessary.

There is one further matter of concern to me. I understand from the California Department of Social Welfare that my State is not likely to go beyond the $273 million contained in the estimates on which these appropriations are based.

Yet what would happen if it should run over the mark, not through the implementation of an approved plan for expansion of services, but through greater than expected usage of services which the Federal law demands must be provided on an equal basis for present, past, and potential welfare recipients?

More importantly, what happens when it turns out that the $2.5 billion appropriation is not enough to match the State and local funds legitimately expended in providing improved services in a large number of States?

The law requires that the matching funds should be provided. But how is the cake to be divided? Will California simply have to take pot luck, without any assurance that it will get at least that $273 million on which its existing program is based? What will the other States get if they implement their new programs? How will it be decided which States are to be denied the mandatory matching for their attempt to provide services at a level now provided in such States as California?

There is no formula for handling such a situation, for the authorizing law does not envisage the creation of such a situation.

Mr. President, if we fail to provide this money, we will simply be throwing the financial burden of programs which Federal legislation both mandates and encourages onto State and local jurisdictions which do not have the capacity to bear it.

The soaring costs of services and administration is of deep concern to us all. However, simply denying funds which the authorizing legislation has promised is neither a consistent nor a responsible way of meeting the problem.

Mr. BAKER. Mr. President, I want to express at this time my support for the amendment of the Senator from Florida (Mr. CHILES) to the Labor–HEW Appropriations bill (H.R. 15417). This amendment would remove a limitation of $2.5 billion on appropriations for services under titles I, IVA, X and XIV of the Social Security Act which has been recommended by the Committee on Appropriations.

In the past, Mr. President, my own State of Tennessee has not taken full advantage of the open-ended appropriation for Federal matching funds which has been available for social services programs. Under the leadership of our able Governor Winfield Dunn, however, the State has now geared up for an ambitious and farsighted program of services to the people of Tennessee which will greatly expand its efforts in this area. If the $2.5 billion limitation on appropriations is approved by the Congress, the State will not be able to carry on their effort.

I fully understand that the purpose of the committee's recommendation is the establishment of a more prudent and responsible appropriations policy, and I will be the first to agree that we must have fiscal responsibility in the appropriations process. I do feel, however, that there are ways to achieve that goal without adopting an arbitrary limitation which will have the effect of penalizing those States, such as Tennessee, which have made a good-faith and vigorous effort to improve the services which they can render their citizens. For example, it is my understanding that the Depart-

ment of Health, Education, and Welfare is preparing some guidelines which will be applicable beginning in fiscal 1973 and which will have the effect of insuring that State programs are operated responsibly and that the best possible use is being made of the funds which are available.

It is my feeling that the committee should investigate this and other possible ways of insuring that social services funds are not misused. At the present time, however, I cannot support an arbitrary limitation on appropriations which could cost the people of my State vitally needed services and programs.

Mr. President, I urge the adoption of Senator CHILES' amendment.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

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

Mr. CHILES. I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Florida (Mr. CHILES).

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 Georgia (Mr. GAMBRELL), the Senator from Okahoma (Mr. HARRIS), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Georgia (Mr. GAMBRELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Tennessee (Mr. BAKER) is detained on official business, and if present and voting, would vote "yea."

The result was announced—yeas 39, nays 52, as follows:

[No. 250 Leg.]

YEAS—39

Allen	Gravel	Muskie
Bayh	Hart	Nelson
Beall	Hartke	Percy
Bentsen	Hollings	Saxbe
Brock	Hughes	Schweiker
Brooke	Humphrey	Sparkman
Case	Javits	Stevenson
Chiles	Jordan, N.C.	Taft
Church	Kennedy	Talmadge
Cranston	Mathias	Tower
Eagleton	Metcalf	Tunney
Ervin	Mondale	Weicker
Fulbright	Moss	Williams

NAYS—52

Aiken	Cannon	Griffin
Allott	Cook	Gurney
Anderson	Cooper	Hansen
Bellmon	Cotton	Hatfield
Bennett	Curtis	Hruska
Bible	Dole	Inouye
Boggs	Dominick	Jackson
Buckley	Eastland	Jordan, Idaho
Burdick	Ellender	Long
Byrd, Harry F., Jr.	Fannin	Magnuson
Byrd, Robert C.	Fong	McClellan
	Goldwater	McIntyre
Miller	Randolph	Stennis
Montoya	Roth	Stevens
Packwood	Scott	Symington
Pastore	Smith	Thurmond
Pearson	Spong	Young
Proxmire	Stafford	

NOT VOTING—9

Baker	Mansfield	Mundt
Gambrell	McGee	Pell
Harris	McGovern	Ribicoff

So Mr. CHILES' amendment was rejected.

Mr. COTTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

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 the President had approved and signed the following acts:

On June 16, 1972:

S. 3607. An Act to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

On June 23, 1972:

S. 659. An Act to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act (creating a National Foundation for Postsecondary Education and a National Institute of Education), the Elementary and Secondary Education Act of 1965, Public Law 874, Eighty-first Congress, and related Acts, and for other purposes.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. BEALL) laid before the Senate a message from the President of the United States submitting the nomination of Robert J. Blackwell, of Virginia, to be Assistant Secretary of Commerce for Maritime Affairs, which was referred to the Committee on Commerce.

PROCESSING OF APPROPRIATION BILLS

Mr. ELLENDER. Mr. President, there was reported in the House of Representatives last evening from the Committee on Appropriations, House Joint Resolution 1234 which is a continuing resolution for the period from July 1, 1972, to August 18, 1972, and provides new budget authority for the entire Government for that period.

I have always been opposed to the concept of a continuing resolution. The Congress ought to process the authorization and appropriation bills in sufficient time so that there would be no need for a continuing resolution. The Congress this year has not processed the authorization bills. The Committee on Appropriations, of which I have the honor to serve as chairman, has reported every appropriation bill which we have received from the House of Representatives this year, and before Friday night when the Congress recesses for the convention, every bill which we have received and reported is scheduled to have passed the Senate. The only bill which we will receive which we will not have sufficient time to act upon is the agriculture bill, and I have been advised we will not receive it from the House until Friday. The remaining three appropriation bills, the Department of Defense appropriation bill, the military construction appropriation bill and the foreign assistance appropriation bill, are not scheduled to be reported until some time after the recess.

The primary reason for the delay in the appropriation bills is the delay in the authorizing process. The budget submitted by the President in January provided new obligational authority to be contained in the appropriation bills of approximately $170 billion, of which approximately $45 billion required authorizing legislation. As of the end of last week, only $11.4 billion of the $45 billion had been authorized by the Congress. Consequently, it is not possible to process these appropriation bills to final conclusion. Some of the major items pending include an amount in excess of $22 billion for procurement for the Department of Defense, over $2 billion for foreign aid, over $700 million for the Office of Economic Opportunity, and approximately $400 million for the Office of Child Development.

Mr. President, the situation could be better. The Senate Committee on Appropriations has done its very best to handle the appropriation bills, but they cannot be all processed for lack of authorizing legislation. I do hope that all authorizing committees will promptly handle the remaining authorization bills so that soon after the recess we can process the remaining appropriation bills.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 15417) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

Mr. SCOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, I ask unanimous consent that it be in order for me to offer amendment No. 1300.

The PRESIDING OFFICER. Is there objection?

Mr. FULBRIGHT. Mr. President, reserving the right to object, what is the amendment?

Mr. SCOTT. I am about to explain it. It has to do with disaster relief on the east coast.

Mr. FULBRIGHT. Would this unanimous consent waive any points of order on nongermane amendments?

The PRESIDING OFFICER. If the unanimous consent is granted, it is not subject to a point of order.

Mr. FULBRIGHT. I do not see how we can agree to unanimous consent without knowing what the request is.

I have to reserve the right to object until the amendment is explained.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 46, following line 23, insert the following:

SEC. 409. There is hereby appropriated the sum of $200,000,000 for expenses necessary to carry out the functions of the Office of Emergency Preparedness under the Disaster Relief Act of 1970.

Mr. SCOTT. Mr. President, if I may explain the amendment at this time, this is an amendment which I offer on behalf of myself, and Senators SCHWEIKER, MATHIAS, BEALL, JAVITS, BUCKLEY, CASE, WILLIAMS, HARRY F. BYRD, JR., SPONG, RANDOLPH, ROBERT C. BYRD, and SPARKMAN.

The amendment would appropriate funds under the Disaster Relief Act, as there is now a very considerable emergency of which I think the general public is well aware. This would make additional sums of Federal money available to flood victims since the funds now available for disasters are far from adequate to meet the purpose. This measure follows meetings with the Governors of the several States involved and a meeting today with the Governor of Pennsylvania and the full Pennsylvania delegation. Not only these east coast States are involved but also I believe the State of South Dakota would qualify, along with other States.

It is our desire to have the Senate act on this amendment at this time, since further delay would certainly result in considerable tragedy and considerable deferment of any relief for the thousands of applicants involved. In Pennsylvania alone there are 200 factories which are out of commission. There are 126 bridges out. There are at least 47 dead. One-half of the highway system of the Commonwealth is affected. I would hope that the Senator would not object under the circumstances, since I have taken it up with the manager of the bill and it is my understanding he has no objection.

Mr. FULBRIGHT. Mr. President, reserving the right to object, I would merely like to inquire if there have been any hearings. Is this an adequate amount? Is this grant money to house individuals?

Mr. SCOTT. This money will be strictly limited to the purposes of the existing Disaster Relief Act of 1970 and would be administered in accordance with those provisions. It affects the small business loans provision, for example, the $2,500 forgiveness loans, which are involved here. There is a real emergency existing. The other body is being asked to consider similar legislation. In view of the fact that we are very close to a recess——

Mr. FULBRIGHT. I certainly expect the Federal Government to do its proper part in this disaster. That is not the point. It is the procedure that is coming to bother me—that people get up on the foreign aid program and they want to offer amendments that have never been considered by any committee and nobody has any idea what is in them. It is true that in this case the Governor of Pennsylvania has said the destruction is very great in his State, and even beyond that. Suppose we had a proposal to give away $200 million, without the slightest evidence having been taken, except what one reads in the newspapers, and purely on emotional grounds. It think it is a procedure that should not be encouraged.

I raise the question only on procedural grounds. I do not know whether the chairman says it is all right to take this amendment without any hearings. It seems to me it is very unusual procedure. A committee can act on short notice. My committee has acted on short notice. But are we going to start taking additional amendments involving $200 million, or $500 million, or $900 million, without any hearings, with no evidence or testimony except what we read in the newspapers—and most people spend their time denouncing the newspapers as being inaccurate? So I only announce this as an objection to procedure. I would not object to aid on the part of the Federal Government.

What is a forgiveness loan? If it is a grant, why do we not call it a grant? It is like some of these foreign aid items, in which we have engaged in all kinds of semantics. We call them loans and they turn out to be grants. Is this a $2,500 individual grant to every citizen who has suffered any loss, or is there any evidence necessary to show that he actually suffered that loss, and how is it to be administered? The SBA makes loans. I did not know it was authorized to make grants to individuals.

Mr. SCOTT. These are small business loans authorized under the Disaster Relief Act of 1970.

Mr. FULBRIGHT. What does the Senator mean by forgiveness loans?

Mr. SCOTT. Very simply, this provision means that, if you borrow $3,000, you only pay back $500.

The Senator from Alabama asked me to yield.

Mr. SPARKMAN. Mr. President, I would like to ask this. I think it may clear it up. The Senator from Pennsylvania is not offering an amendment to change the Disaster Relief Act?

Mr. SCOTT. Not in any way.

Mr. SPARKMAN. But to make additional funds available under the terms of the existing law?

Mr. SCOTT. Yes.

Mr. SPARKMAN. While the Senator mentioned specific States, it is not limited to them. For instance, yesterday we had tornadoes in Alabama in at least three or four or five counties. They would be covered, just as well as one would be in Arkansas, or anywhere else, under the terms of the existing act.

Mr. SCOTT. Of course, if the money is not there and there was a disaster tomorrow there, or in any other particular State, the Federal Government would not have the necessary funds. The east coast has been hit by the worst disaster in modern times, particularly the Commonwealth of Pennsylvania. The people up there are not going to be impressed by the need for hearings. This is a natural disaster. We did the same thing with regard to Alaska at the time of the earthquake. It is in somewhat the same situation. But the situation, I say with all respect, differs from foreign assistance loans, because the general action of the Federal Government in responding to disasters is to act as quickly as possible.

Mr. FULBRIGHT. Nobody could act more quickly than we did on the foreign aid bill, when, without any hearings and without any evidence, we gave away $500,000.

How much money is to be made available?

Mr. SCOTT. There is only $92.5 million left in the fund. This is an attempt to build the fund up by an additional $200 million. The Commonwealth of Pennsylvania alone has sustained damage far beyond $1 billion. The other States are all eligible for it, and eligible proportionately.

Mr. FULBRIGHT. Are these loans? What is the term "foregiveness loan?"

Mr. SPARKMAN. I am not familiar with that.

Mr. MONTOYA. Mr. President, would the Senator yield on that point? I held hearings on disaster relief. That comes under the jurisdiction of the committee.

Mr. SCOTT. I am glad to yield to the Senator from New Mexico. Then I shall be glad to yield to the Senator from North Dakota.

Mr. MONTOYA. We provided this year $92 million. Usually Congress appropriates $100 million for this fund, and if there is a disaster it exhausts the particular appropriation. Then, in turn, they come in for a supplemental appropriation. We considered this matter in conference yesterday—that is, the conferees dealing with the appropriations for the Office of the President, of which this is one—and we decided that we would wait until Mr. Lincoln provides the Congress with adequate information and tells us what he needs to take care of the flood situation in the several States.

At the time of the hearings, approximately 3 weeks ago, the Disaster Relief Agency had, besides the new money, approximately $100 million in its fund. I might say that hearings are very much in order on any requests for appropriations because of the experience in California, and that experience taught us to be a little more careful with the way Federal moneys are expended. As a result of the earthquake in California, many people were just calling in saying they were in need of money, with little verification on the part of the Federal officials as to whether the damage in those homes was caused by the earthquake.

It is our intention, and the intention of the subcommittee, to prescribe guidelines so that Uncle Sam will not be taken. I am not saying this will happen in the State of Pennsylvania or any of the other States, but I am saying I think we have a responsibility to prescribe adequate guidelines so that the money is expended for and on behalf of needy people.

Now let us get into the $2,500 forgiveness loans. Under the Disaster Relief Act, a person comes in and claims certain damage to property as a result of a flood situation or any other disaster.

Mr. SCOTT. Up to $50,000 on a home, or $100,000 on personal property, or a combination of the two at $55,000. For businesses, the figure is $500,000.

Mr. MONTOYA. And a loan is made by the Small Business Administration within this program. I believe $2,500 of that is forgiven, and he has to pay the rest.

Mr. SCOTT. The figures remain the same as I just indicated.

I yield now to the Senator from North Dakota.

Mr. YOUNG. Mr. President, the provision having to do with $2,500 forgiveness is a part of the Small Business Act. There were some abuses in the early stages of the relief for the earthquake in California. For example, many got loans of $3,000, and under certain conditions, $2,500 was forgiven. But that comes under an entirely different bill than the Senator is seeking appropriations for now. That comes under the Small Business Act.

Mr. MONTOYA. Mr. President, if the Senator will yield, the small business loans are made under the Small Business Act, but they are handled by the Small Business Administration people in conjunction with the disaster relief people as part of the same program.

Mr. YOUNG. The funds that the Senator from Pennsylvania seeks, as I understand, are to provide additional funds for the Office of Emergency Preparedness.

Mr. SCOTT. Yes, for disaster relief.

Mr. YOUNG. We have had a rather common practice of not appropriating enough money for this emergency fund, and as it was depleted, we would appropriate more money. I agree with my friend from New Mexico that if time permitted, it would be better to hold hearings. But we will be going home soon for a recess, and I doubt if the Appropriations Committee could take action until sometime in the latter part of July, and the money may be needed badly before then.

Mr. MONTOYA. If the Senator will yield further——

Mr. SCOTT. Yes.

Mr. MONTOYA. All that we are waiting for is for the President to tell Congress how much is going to be needed, and then we will have hearings on the request immediately. But we want to establish certain guidelines, and get assurances from the administrators of the program that this money is not going to go out a window to every applicant.

Mr. YOUNG. If we want to provide guidelines affecting the Small Business Administration, I would think that would be legislation on an appropriation bill, because this appropriation does not affect the Small Business Administration, as I understand it. That provision comes under Small Business Administration Loans Act.

Mr. MONTOYA. Well, when we exact a certain kind of performance of an agency as to the expenditure of money, we can do that in the committee report. We do not have to do it as a part of a legislative enactment.

Mr. SPARKMAN. May I ask, is it not true that in these disaster loans, the Small Business Administration does administer the program?

Mr. MONTOYA. That is correct.

Mr. SPARKMAN. So there should not be confusion between that and the Small Business Act as such. It is true that the first disaster loan program was a Small Business Administration program, but then they came in with some massive disasters, and even there, it was provided that the Small Business Administration would administer the relief.

Mr. SCOTT. I thank the Senator. Before I yield to the Senator from West Virginia, let me say that the refugees, the people who are out of jobs, and all of the people in Pennsylvania, New Jersey, New York, Virginia, West Virginia, and South Dakota are not going to take it very kindly if we tell them that the Senate of the United States, with 4 more days to go, has adjourned for a couple of political conventions because it would rather have them relate the story of their tragedy and sufferings in a hearing, when the whole Nation knows this is one of the worst disasters this Nation has ever suffered. I sincerely hope that the Senator from New Mexico will never experience what is happening to the people of Pennsylvania right now.

I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I believe some background on this subject matter would be informative to my colleagues in the Senate.

I am sure Senators remember that up until 2 years ago, when a disaster of any major type—hurricane, tornado, flood, or whatever—struck a region of this country, we responded to them on an individual basis, and we asked for money to attempt to alleviate the particular situations as they arose.

That was not good legislative or appropriations procedure, because we have had these catastrophes, these disasters, these tragedies which have swept with suddenness across the country, with loss of life, loss of business and industry, and loss of homes.

The Disaster Relief Act of 1970 was an initiative within the Senate that brought into effect a massive continuing program, Senators will recall, and placed the former procedure upon the shelf. As the Senator from Kentucky, the ranking minority member of the Public Works Committee, the Senator from New Mexico (Mr. MONTOYA) and other members of the Public Works Committee well know, we took the initiative in putting together a permanent program for disaster relief. Included in it were these major forms of assistance to individuals, businesses, and communities:

Emergency food supplies and food stamps;

Temporary housing free of charge for up to 1 year;

Debris removal, on both public and private property;

Replacement of all public facilities, including roads, bridges, hospitals, schools and other public buildings, publicly owned water and sewer lines and private nonprofit medical facilities;

Low-interest, long-term loans on homes from the Small Business Administration and Farmers Home Administration. Repayment of the amount between $500 and $3,000 is forgiven, and repayment of both principal and interest can be deferred;

Long-term disaster loans to businesses by the Small Business Administration;

Loans to major sources of employment affected by disasters so they can resume operations; and

Grants to communities whose tax bases have been substantially lessened by losses to property valuations in their taxing areas;

Unemployment payments to those not covered by State programs; and

Rent and mortgage assistance.

We know that we cannot appropriate a sum large enough and set it aside to take care of these situations as they arise. We attempted to have a little in the bank, Mr. President, to take care of these matters, whether the Buffalo Creek tragedy in West Virginia, the one in Rapid City, S. Dak., or now the more recent tragedy in the five States that have been hit with very massive losses.

Ordinarily I would believe that we should have hearings—prompt hearings—on the money which will be needed. But in this instance, with the full knowledge of the background of what we did, with the tools ready to be used under coordinated effort, I believe I would agree that we cannot wait for hearings.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats, and refrain from engaging in audible conversation.

The Senator may proceed.

Mr. RANDOLPH. We cannot have such action by the Senate or the House of Representatives, for a period of perhaps 3 weeks or a month. I believe the amount of money in the fund at the present time is plainly insufficient. Without amounts considerably beyond the amount we now have—which is $92 million. We cannot cope with this problem, which is very widespread.

So I think there comes a time when we are well reasoned to do what we would not want to do otherwise, and, under the exigencies of the situation, I hope that approval can come from the Senate today.

In the first half of this year we have experienced 26 disasters. In all of 1971 we experienced 17 of these catastrophes, and the record year was 1969 when the United States recorded 29 disasters. The appropriation request for Office of Emergency Preparedness of $100 million and the appropriation of $92 million was based on what I would call normal incidence. Obviously, this is not a year of "normal incidence," and we must act accordingly. We must redeem our pledge made in the 1970 act to respond quickly and fully with the wide range of assistance I have described. We must show the people of the devastated areas that we are concerned and that we will not renege on our promise.

Mr. SCOTT. I thank the Senator, and I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, the Senator from West Virginia has given a very good background on the Small Business Disaster Act.

Senators will recall that after great floods in Louisiana, Mississippi, and California we held extensive hearings, and

the National Disaster Relief Act was a result of those hearings. They will recall the procedure, that the Governor of a State would ask the President to declare a State or area a national disaster area; then the provisions of the act would come into effect. The Office of Emergency Preparedness, now under the leadership of General Lincoln, would take charge of combining and coordinating together the work of the various other agencies, including the Small Business Administration.

We did provide in that act that various emergency measures could be used to provide temporary housing, of course food, and assistance to small business men who had loans with the Small Business Administration and could not repay them, who would be forgiven up to the extent of $2,500 if it was so determined by the Small Business Administrator.

In this case, the area has already been declared a national disaster area. The program cannot be changed; it has already been arranged and put into operation under the National Disaster Relief Act. The question is whether there is enough money; and I assume that is what the Senator from Pennsylvania is attempting to provide today. If there is not enough money available now in the fund, I certainly would think that some reasonable sum ought to be added to the fund to take care of the emergency.

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

Mr. SCOTT. First, will the Senator permit me to ask that the amendment be formally called up?

The PRESIDING OFFICER. The amendment is before the Senate.

Mr. MONTOYA. I am not objecting. I say to the Senator from Pennsylvania that I am in great sympathy with this. In fact, I made a tour of the area last Friday and Saturday. I am in great sympathy with the people in that area who have suffered from this disaster.

When the earthquake occurred in California, we did not have any emergency appropriation for it, because additional funds were not available to start the program. The President later sent a special request to Congress for, I believe, $100 million additional. We held hearings within a day after he sent his request. The matter was presented to Congress in a supplemental appropriation, and that was approved by Congress, and the money was made available for the people in California.

What I mean to say is that we have no estimate from the President at the present time, and I am sure that they are preparing an estimate for submission to Congress. If that should come in and come within the jurisdiction of my committee, I can assure the Senator from Pennsylvania that I will hold hearings immediately. I do not think it would take us more than 2 days of hearings, and then we would report the matter to the Senate and to the House. I am sure that the House also would expedite hearings on the budget request.

In view of that, if the Senator from Pennsylvania will think this matter over and wait for the President to act, I can assure him that our committee will act as expeditiously as possible.

Mr. SCOTT. I may say to the Senator that we have a morale situation here. We are trying to get the appropriative process started, because we have scores of thousands of very worried people. Our job is people.

I am perfectly willing, at a normal time, to have hearings, and I appreciate the Senator's assurances.

We can have, and will have, further estimates from the Federal Government as to the amount necessary, but no sums will be expended unless the Federal Government through the Office of Management and Budget approves them, within the guidelines of the existing legislation. I would like the appropriation approved at this time so that it could go to conference. Even though the conference may occur at a later date, the fact that this money has been tentatively appropriated, that the Senate has gone on record as favoring it, will enable us then to work it out.

The PRESIDING OFFICER. The 30 minutes of the Senator from Pennsylvania have expired.

Mr. SCOTT. Will the Senator yield me 5 minutes on the bill?

Mr. MAGNUSON. I yield to the Senator.

Mr. SCOTT. Therefore, I would hope that at this time we could accept the amendment. We cannot explain to our people about hearings. We cannot explain that we cannot do anything for them in the Senate until we have hearings.

I am perfectly willing to have hearings conducted in the period during which this matter is pending in conference, for example; but I would like at least to have it accepted, so that the Senate goes on record as believing that there ought to be adequate funds to take care of the tragedy which has befallen these people.

Funds appropriated under this amendment could be used to make loans to industries and businesses which were a major source of employment in a disaster-stricken area and which no longer were in substantial operation. I am particularly concerned for some of our businesses in the hard-hit northeast sector of the State, from the Allentown-Bethlehem-Easton area on up to the Hazleton-Wilkes-Barre-Scranton area. These businesses are vitally dependent on the rail lines in the area which were severely damaged and rendered inoperable. The Erie-Lackawanna Railroad filed for bankruptcy yesterday because of the serious damage and the Lehigh Valley Railroad is in a similarly precarious position.

I am hopeful that these funds can be used, not only to help businesses back on their feet, but also to help the railroads which are crucial to the existence of the businesses. In this way, we can be assured that Pennsylvania's economy will return to normal as soon as possible.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in today's Washington Post.

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

NIXON VOWS MORE FLOOD FUNDS, ORDERS AGENCIES TO CUT RED TAPE

(By William H. Jones and Nancy Scannell)

President Nixon pledged yesterday to ask Congress for additional funds if needed to repair the massive damage inflicted by tropical storm Agnes, which caused the most destructive flooding in the nation's history last week.

As floodwaters continued to subside yesterday, uncovering more bodies and ruined buildings, officials in the nine Mid-Atlantic states hardest hit placed the death toll at 133 and damages in excess of $1.7 billion.

The announcement from the White House came amid complaints from governors of some of the affected states that the $92 million federal emergency fund granted to aid flood-ravaged areas would be grossly insufficient.

The governors also expressed fears that the federal assistance would be slowed by governmental red tape, but Press Secretary Ronald Ziegler said the President has issued "direct instructions (to federal agencies) . . . to provide all assistance necessary to cut through red tape and get the job done."

Ziegler said that Gen. George Lincoln, director of the Office of Emergency Preparedness, had assured the governors of Pennsylvania, Maryland, Virginia, New Jersey and Delaware that the federal government "is doing everything possible to provide necessary assistance."

Besides its immediate involvement in aiding flood victims of Agnes, the Department of Housing and Urban Development announced yesterday that on July 10 it will reduce by 40 per cent the cost of subsidized flood insurance in an effort to encourage wider purchases and to prod communities into implementing land use and control measures.

The reduction in flood insurance rates was coupled with a stern warning to local government officials that they should stop bowing to the demands of homebuilders and contractors who oppose changes in zoning laws that would reduce losses of life and property in future water disasters.

George K. Bernstein, federal insurance administrator in the Department of Housing and Urban Development, told a news conference that he had surveyed some of the damaged areas along the Susquehanna River and reached the conclusion that "much of the buildings that have been destroyed should not be built again."

Citing housing developments along the Florida West Coast, where builders have been fighting codes which would require first floor levels above high flood stage, and the Seneca area of Montgomery County, where rebuilding has been permitted despite repeated floods. Bernstein said: "We can't allow this to continue."

Historically, floods have been one major peril not covered in home owners or business policies written by the American insurance industry.

For example, the home owners policies of the Maryland Casualty Companies currently include the following statement:

"This policy does not insure against loss . . . caused by, resulting from, contributed to or aggravated by any of the following: (a) flood, surface water, waves, tidal water or tidal wave, overflow of streams or other bodies of water, or spray from any of the foregoing, all whether driven by wind or not; (b) water which backs up through sewers or drains; or (c) water below the surface which . . . which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls . . ."

Those exclusions pretty well account for all the damage caused by the torrents of water associated with tropical storm Agnes, although Bernstein said many owners "erroneously believe they are covered" at present.

No private flood insurance exists anywhere

in the U.S., he stated, except for a limited California veterans' program.

To alleviate the cost of repairing damage caused by flooding, Congress set up the federal flood insurance program on Aug. 1, 1968, offering protection for buildings already in use but requiring bans on construction in flood plains and tougher building codes for new developments.

Any community in the nation can apply to become eligible under the program, and to date about 1,200 counties and towns have signed up. However, only 90,000 individual policies have been sold, most of them along the Atlantic and Gulf Coasts. Most jurisdictions in metropolitan Washington are eligible, except for Montgomery County in Maryland and Prince William County in Virginia.

In the areas ravaged by Agnes, the HUD official said some 27,000 policies of flood insurance had been sold. All told, however, probably less than 10 per cent of the more than $1 billion in damage from Agnes was insured.

Under the subsidized program, Bernstein said, $10,000 worth of flood insurance on a home will be available at $25 a year starting July 10, compared to $40 previously.

Insurance may be purchased for existing buildings in amounts up to a maximum of $17,500 for single-family residences and up to $30,000 for other structures. Contents coverage is available in amounts up to $5,000 per housing unit.

Individuals may purchase the flood policies from commercial insurance firms and agents. Bernstein, who said there have been reports of insurance agents refusing to sell flood insurance, said individuals who get involved in that situation should contact their state insurance departments. Such agents, he hinted, may find themselves in legal jeopardy.

Asked about his jurisdiction's absence from the U.S. program. Montgomery County Executive James P. Gleason said that until the county's government passes legislation that would prohibit construction in any flood plain—such as the Seneca area—it is not eligible for the federal program.

A 1965 law prohibits rebuilding within 500 feet of the Potomac River, the Great and Little Seneca Creeks, Rock Creek and the Patuxent River, which Gleason announced he would enforce after flood damaged in the village of Seneca last September. However, the County Council overrode Gleason earlier this year and exempted Seneca from general flood plain construction restrictions.

A spokesman for the Prince William County government said he did not know why the county had never acted to become eligible for U.S. flood insurance. The chairman of the county's Board of Supervisors, C. Scott Winfield, could not be reached for comment. Some of the worst flooding in Northern Virginia occurred in Prince William.

Meanwhile, there were these other developments:

PENNSYLVANIA

At least 50 dead; more than 250,000 homeless; damage estimated at minimum $1.5 billion; Susquehanna River dropping rapidly, but Wilkes-Barre area seriously flooded still.

A helicopter crash near Philadelphia killed the pilot and a three-man television news team that was filming flood damage. The victims included Del Vaughn of CBS News, New York.

The Susquehanna fell from 43 to 21 feet late Sunday, but still left most of Wilkes-Barre and its surrounding towns of Kingston and Forty Fort almost completely submerged. The 145,000 homeless in that area continued to stay in emergency shelters; the 600 stranded in the city's high-lying area received food dropped from helicopters.

Water in the area is not expected to recede for a few days and residents will be permitted to return home only after houses are considered structurally safe. Water supply continued to be a serious problem and much of the area still is without electricity.

In Harrisburg, the state capital, potable water was not a problem yesterday and electricity was gradually being restored.

Roads were beginning to open up in the area and trains were expected to begin operating between Philadelphia and Lancaster, a route that includes a Harrisburg stop. In Pittsburgh, the business area was returning to normal.

NEW YORK

Twenty-three dead; 50 injured; 98,000 homeless; damage estimated in excess of $235 million; house-to-house searches for bodies in the Corning and Elmira areas upstate which were severely flooded; rivers receding.

The U.S. Department of Agriculture said it was shipping in 16 tons of surplus food to the Bath, Painted Post and Corning areas for some 15,000 homeless there.

VIRGINIA

Eighteen dead; more than 37,000 homeless; damage estimates from $165 to $300 million; 32 injured; water and electricity restored to Northern Virginia, with conservation of water still urged.

In Richmond, water service was restored but residents were urged not to use it for drinking. Electrical power was restored to almost all of the city and the James River continued to recede. There was some concern, however, about possible flooding in the Petersburg area because of expected high cresting of the Appomattox River.

MARYLAND

At least 21 dead; 2,000 homeless; damages in excess of $50 million; the Susequehanna and Potomac Rivers continuing to recede.

WEST VIRGINIA

No fatalities; damages estimated at $20 million; Ohio River beginning to recede, but posing a threat to the city of Parkersburg, and some flooding remains in Wheeling area.

NORTH CAROLINA, NEW JERSEY, DELAWARE, OHIO

Rivers receding and flooded areas returning to normal; two dead in North Carolina and one each in New Jersey and Delaware; damages estimated at $20 million in New Jersey, $1.5 million in North Carolina, $20 million in Ohio and unknown in Delaware.

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

Mr. SCOTT. I yield.

Mr. JAVITS. Mr. President, there is an added reason for acting now, which I would like to lay before the Senate.

Governor Rockefeller and I toured western New York, which has been hit very badly. I would say that the ratio to Pennsylvania is probably about 1 to 2.

Here is the situation: The banks will not lend the money to small businessmen and homeowners who need it immediately—as they go back, they need it at once—unless they have the feeling that the United States is going to come through. Therefore, there is great validity to Senator SCOTT's argument that if we demonstrate that money will be available, it will encourage bank credit.

I had meetings with mayors, local officials, and businessmen, together with Governor Rockefeller, and it was clear that the banks would come through, but they are small banks. Unless they have a feeling of confidence that these people are going to be backed up and that the Federal Government is going to respond fairly promptly, they are going to be very timid about it. I think it is an important added argument.

Mr. SCOTT. I think it is an important added argument, and it is an argument the Treasury Department is aware of, and it is the point they have made in discussing it with the banks.

Mr. MAGNUSON. Mr. President, I would be glad to lend my support, of course. I am sure the Senator from New Hampshire and other Senators want to try to do something about it. This has been a great tragedy. It was unexpected, and we never do have enough money in the fund. We keep replenishing it, but sometimes a tragedy like this hits and we run short.

I want to be helpful. However, I do want the Senate to know that if we pass this bill today or tonight—and I hope we will—I do not know whether there will be any conference with the House on a bill of this magnitude between now and Friday night. I would not want any implication that in taking this amendment, which I shall recommend, something is wrong with me or with any other Senator because we do not act on it or do not have a conference. I would be willing to have a conference with the House on this bill tomorrow morning, if we pass the bill.

A conference is going to be necessary on approximately 400 items—about 100 line items—between the House and the Senate, items that have been accepted, and that cannot be resolved in 1 or 2 days.

I understand that the House will not adjourn Friday but Thursday, and I do not know how we will get the House to have a conference in 48 hours on a bill of this magnitude.

I wanted to be sure that there was no implication that we could get this done in the HEW bill when we should get it done before we leave.

I want to make some suggestions. Only two major appropriation bills remain. One, public works, was just filed; but anyone in the Appropriation Committee will confirm that a conference on public works is never ended.

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

Mr. MAGNUSON. I yield.

Mr. YOUNG. There is a continuing resolution.

Mr. MAGNUSON. I think we ought to work this out. There is a continuing resolution that we will have to pass, and it may be germane to put this matter in that measure, because then it would go quickly. Also, it is possible to have a joint resolution on this matter by the House and the Senate. I know that they would take it up immediately.

I will recommend taking the money in this bill, but I do think we can work something out by which we can get it done faster, with complete assurance funds would be available immediately, and that is what we all want to do.

Mr. SCOTT. The faster the better.

Will the Senator yield some time to the Senator from North Dakota?

Mr. MAGNUSON. I might say that the Interior bill is also on the calendar, but the distinguished Senator from Nevada says he has a long session ahead of him on that, too. I want to get this done and not have it tied into a bill that is not going to be out of conference quickly.

I yield to the Senator from North Dakota.

Mr. YOUNG. The point made by the Senator from Washington is well taken. We could amend the continuing resolution on the Senate side; but if it went back to the House, we would probably have trouble there. It probably would be too late to pass it on the House side. I suggest putting it in this bill and asking the House to put it in the continuing resolution. So when the continuing resolution comes to us, when that finally passes, that will be the end of it.

Mr. MAGNUSON. This bill will not get back to the House.

Mr. YOUNG. If they put the money in the continuing resolution on the House side——

Mr. MAGNUSON. And then we get it.

Mr. YOUNG. And it would not need any further amendment. We will have to work that out with the House, then, tomorrow.

Mr. SCOTT. That is right. The House Members are working on this matter now.

Mr. MAGNUSON. All right. I just want to cooperate and make these funds available quickly.

Mr. SCOTT. If the Senator will take it into the bill now, then it will help us in what we are trying to do in the House.

Mr. MAGNUSON. All right. I am glad to accept the amendment.

Mr. SCOTT. I thank the distinguished Senator.

Mr. MAGNUSON, Mr. President, I yield back the remainder of my time.

Mr. SCOTT. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BEALL). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. SCOTT).

The amendment was agreed to.

Mr. LONG. Mr. President, I have an amendment at the desk which I ask the clerk to state.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

On page 29, after line 2, insert the following: "work incentives."

"For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such program, and for related child care and other supportive services, as authorized by Section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, and $150,000 for transfer to the appropriation for "Departmental Management," $455,133,000, which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes for the current fiscal year."

Mr. LONG. Mr. President, this amendment simply puts into the bill the amount of money that was requested by the administration in its budget message of last January for the work incentive program, plus the additional amount recommended subsequent to that time for that same program. The additional amount relates to the Talmadge amendment enacted last December to make the work incentive program effective, in order to move people off welfare and into jobs.

In my judgment, it was inexcusable, almost unpardonable, that the administration took until June 19 to even get its request in here for the amount of money to be made available to finance the Talmadge amendment.

Mr. President, this is something that we will have to do anyway. The question is whether we should appropriate the funds now or wait until some later time. The administration, I regret to say, has tarried so long that the House did not put in the bill even the amount requested in the January budget.

We need to move ahead with this work incentive program as rapidly as we can, because the experience under the work incentive program as revised and improved by the Talmadge amendment will demonstrate whether we are able to get people into jobs voluntarily, or whether we will have to create instead some sort of program where we will have to tell people that they are not eligible for welfare unless they take a job.

So it will be instructive and enlightening to see what can be done to make the work incentive program work as everybody would like to have it work, from the President on down, and as the Congress would hope it would work, so that we can see what can be achieved by the voluntary approach in trying to solve the welfare problem.

The law as it now stands, incorporates the amendment of the Senator from Georgia (Mr. TALMADGE), which passed the Senate without objection last December, and was signed into law enthusiastically by the President at that time. The question now is, Can that program as improved hope to put people to work in an effective way?

If we provide the funds sought by the President, the Labor Department estimates that they could place 75,000 people directly in jobs and about 190,000 additional people into training and manpower programs and other constructive work that will lead them into jobs.

In the hope that we can implement the program, I would hope that the committee would agree to this amendment, and that the Senate would agree to it now; otherwise we will have to act on the funding request at a later date. The longer we tarry, the more time it will take to find out whether the work incentive program can be made to work.

Mr. TALMADGE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. TALMADGE. The distinguished Senator knows that the work incentive program originated in the House in 1967 and was written into law that year. Its operation and execution has been a miserable failure. The Department of Labor contracted with the Auerbach Corp., to ascertain why the program was not working. They looked at the program in all areas of the country and submitted a **massive report.** Unfortunately, the Department of Labor and others would not put their recommendations into effect. The matter came to the Finance Committee and the committee by a unanimous vote, on three separate occasions, approved an amendment I offered based on the recommendations in the Auerbach report. In 1970, the House refused to go to conference on the social security bill to which the amendment was attached. In 1971, the first time the Senate passed by amendment, the House, under their so-called germaneness rule, rejected the amendment on parliamentary grounds. Last December the House finally agreed to the amendments. When the President signed them into law, he submitted a glowing statement as to what they would accomplish and he praised the amendments in their entirety.

Then, unfortunately, he waited until June 19 of this year to request funding for my amendment. When the matter got to the Appropriations Committee, the committee handling the HEW appropriation made an insertion in the report that it was submitted too late for consideration and that it would be considered at another time.

But, Mr. President, time is of the essence. The law goes into effect July 1 of this year. The law requires that a minimum of 15 percent of the employable welfare recipients be referred for work or for training. So it is absolutely imperative that funds be made available so that action can begin now.

If these amendments work as they are calculated to work, the Government can only save money. A tax credit provision I proposed which was also signed into law last year, for instance, rewards employers who hire participants in the work incentive program. As the Senator knows, every time it costs the Government $1 in the tax credit, it will save $3 welfare, because someone will go off welfare and go onto a private payroll.

Funding the work incentive program offers the greatest opportunity for an impact on the massive welfare costs we now face, with 14 million people in this country on public assistance.

The Talmadge amendment will not require any mother with young children to work. If they are not able bodied, they will not be required to work. But the amendment does aim at substituting the private payroll for a dole. We thought it was better to train people for private employment and private jobs than it was to continue them, generation after generation, on the welfare rolls.

I therefore hope, Mr. President, that the Senate will accept the amendment.

Mr. LONG. Mr. President, I am satisfied that if we are going to make progress toward moving people off welfare and into employment, that is the first thing that we should be doing. We had a hearing just today with the administration about this very effort to move people under the work incentive program into jobs and they pointed out what they are doing. We had occasion to make suggestions to them and to find fault with some of their conduct. But they also could find fault with us, by asking, "Where is the money?"

We will have to appropriate the funds

if we want to make a start with the welfare problem. There is no problem with the economy involved here because what we are recommending here is to get people off welfare and into jobs.

We need to be getting on with the program so that we can see what prospect there is of moving people into jobs. I hope that the Senator from Washington will agree to this amendment.

Mr. COTTON. Will the Senator from Louisiana yield for a question?

Mr. LONG. I yield.

Mr. COTTON. What is the amount involved?

Mr. LONG. The amount involved in the amendment is approximately $455 million. Of that amount, $205 million is the initial budget request submitted in January, which the House did not include in the bill they sent over because they were, apparently, dismayed that the administration was so late in getting its request in. The other part is $250 million occasioned by the Talmadge amendment.

Please understand that this is exactly the amount requested by the President. I personally think that this is a conservative figure.

Mr. COTTON. Mr. President, I say to the Senator that I will await word from my chairman before I attempt to make a decision on this. However, I would say that for a long time I have seen all of these attempts to get people to work when they are on relief and do not want to work. And I have grown a little doubtful about the possibilities. This appears to me to be a plan for a trial run by the Committee on Finance itself. If this is workable, and it is an experiment, it ought to be tried before we plunge into an expansive program, so that we will get an idea of what it will cost us.

As far as I am concerned, speaking for the minority, but not attempting to speak for the chairman at all, I would be very happy to accept the amendment with one understanding, that some of the distinguished Members of the Senate who get down to the White House occasionally talk to the President about this. I believe that the Senator was down there this morning?

Mr. LONG. Not I, though I believe that the Republican members of the committee were there.

Mr. TALMADGE. Mr. President, we held a hearing in the Finance Committee this morning on this very matter.

Mr. COTTON. Mr. President, if we accept the $455 million, I want someone to be sure to tell the President about this. He has not called me up or I might have had an opportunity to tell him. I want someone to be sure to tell the President that, when he gets around to deciding whether he is going to sign a veto on the HEW bill, that $455 million is for him for another purpose and the money is not to be held against it. Will the Senators agree to get that message to the President?

Mr. LONG. Mr. President, if I can break the sound barrier better than the Senator from New Hampshire, I will be glad to do so.

Mr. TALMADGE. Mr. President, I might say that this is the President's budget request.

Mr. MAGNUSON. Mr. President——

Mr. JAVITS. Mr. President, I want time in opposition. I do not know who controls the time.

Mr. COTTON. Mr. President, I will yield the Senator from New York 5 minutes.

Mr. MAGNUSON. Mr. President, I thought I had the floor.

I first ask unanimous consent to have printed in the RECORD a letter received on June 19 from the Budget on this item, in the form of a letter from the President of the United States, and also a statement directed to the committee from the Department of HEW's Administrator of Social and Rehabilitation Services on work incentives, with a list of the witnesses that would testify on what this program is all about.

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

PROPOSED AMENDMENTS TO THE 1973 BUDGET

(Communication from the President of the United States transmitting amendments to the requests for appropriations transmitted in the budget for the fiscal year 1973 involving an increase in the amount of $140,000,000 in budget authority and a decrease of $20,000,000 in proposals not affecting budget authority for the Departments of Labor and Health, Education, and Welfare)

THE WHITE HOUSE,
Washington, June 16, 1972.

The PRESIDENT OF THE SENATE.

SIR: I ask the Congress to consider amendments to the request for appropriations transmitted in the budget for the fiscal year 1973 involving an increase in the amount of $140,000,000 in budget authority and a decrease of $20,000,000 in proposals not affecting budget authority for the Departments of Labor and Health, Education, and Welfare.

These amendments do not add to the outlay totals of the budget I transmitted to the Congress in January, 1972. The details of these proposals are set forth in the enclosed letter from the Director of the Office of Management and Budget, with those comments and observations I concur.

Respectfully,

RICHARD M. NIXON.

[Estimate No. 23, 92d, Congress, Second Sess.]

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 16, 1972.

THE PRESIDENT, *The White House.*

SIR: I have the honor to submit for your consideration amendments to the requests for your appropriations transmitted in the budget for the fiscal year 1973 for the Departments of Labor and Health, Education, and Welfare. The amendments inculde $250,000,000 in budget authority for the Work Incentive Program, designed to help welfare recipients obtain productive employment. This increase is required to carry out amendments to the Social Security Act enacted in the last session of the Congress.

Offsetting this increase in budget authority are decreases of $25,000,000 in Grants to States for Public Assistance and $85,000,000 in Manpower Training Services (inculding a $39,000,000 reduction in Manpower Development and Training Act activities), reflecting increased placements in training and public service employment under the Work Incentive Program and the Public Employment Program. The amendments also decrease the Limitation on Grants to States for Unemployment Insurance and Employment Service by $20,000,000, resulting from a re-analysis of projected workloads. The net result of these amendments is an increase in budget authority in the amount of $140,000,000 and a decrease of $20,000,000 in proposals not affecting budget authority.

In addition, the amendments, together with congressional changes and delays in enactment of administrative proposals, will result in decreases in estimates included in the January budget for items planned for separate transmittal. The effect of the decreases, together with other changes, is to offset entirely 1973 outlays expected from these budget amendments, requiring no change in the total 1973 outlay estimate.

The revised Work Incentive Program represents a large step toward the workfare provisions contained in your proposals for welfare reform. Operations under this program will be directed towards evaluation, experimentation, and otherwise preparing for the full implementation of welfare reform. Therefore, $60 million of the budget authority proposed to be transmitted after enactment of your welfare reform proposal will not now be needed.

In addition, delays in congressional enactment of adminstration legislative proposals in the areas of food, drug, and product safety and the development of health maintenance organizations have reduced the amounts the Department of Health, Education, and Welfare will be able to obligate or spend in 1973 to carry out these proposals. Congressional action on the proposal for a National Foundation for Higher Education reduced the authorized appropriation $90 million below the budget estimate.

The effect of these amendments, proposed changes, and other offsets, and the details of these amendments are set forth in the enclosures to this letter. I recommend these amendments to the budget for the fiscal year 1973 be transmitted to the Congress.

Respectfully yours,

CASPAR W. WEINBERGER,
Director.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SOCIAL AND REHABILITATION SERVICE

Budget appendix page	Heading	Request in January budget	Increased pay cost (H. Doc. 92-267)	Proposed amendment	Revised request
450	Grants to States for Public Assistance	$13,369,704,000	----------	—$25,000,000	$13,344,704,000

The reduction reflects the expected decrease in cash payments to recipients to Aid to Families with Dependent Children as a result of placing additional individuals in on-the-job training and public employment under the revised Work Incentive Program.

Budget appendix page	Heading	Request in January budget	Increased pay costs (H. Doc. 92-267)	Proposed amendment	Revised request
453	Work Incentives (Delete the paragraph under the heading and nsert in lieu thereof the following:) For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individual for such program, and for related child care and other supportive services, as authorized by [part A of title IV] section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, [$259,136,000] and $150,000 for transfer to the appropriation for "Departmental management", $455,133,000, which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes for the current fiscal year.	$205,000,000	$133,000	$250,000,000	$455,133,000

The additional appropriation is needed to meet the requirements of the amendments to the Work Incentive Program enacted in the last session of the Congress, including added costs for increased Federal matching, registration of all employable recipients of Aid to Families with Dependent Children, placement of more individuals in on-the-job training and public employment, and child care and other supportive services.

DEPARTMENT OF LABOR, MANPOWER ADMINISTRATION

Budget appendix page	Heading	Request in January budget	Increased pay costs (H. Doc. 92-267)	Proposed amendment	Revised request
640	Manpower Training Services	$1,633,366,000	$1,050,000	−$85,000,000	$1,549,416,000
	(Limitation on the amount available for Manpower Development and Training Act activities)	(758,554,000)		(−39,000,000)	(719,554,000)

The reduction reflects increased training and employment under the Work Incentive Program in lieu of the training programs funded from this appropriation.

Budget appendix page	Heading	Request in January budget	Increased pay costs (H. Doc. 92-267)	Proposed amendment	Revised request
647	Limitation on Grants to States for Unemployment Insurance and Employment Services	($820,300,000)		(−$20,000,000)	($800,300,000)
	(Limitation on the amount available on a contingency basis for increased costs of administration)	(44,000,000)		(−20,000,000)	(24,000,000)

The reduction is associated with lower workloads than originally projected and improved operational effectiveness.

SUMMARY OF AMENDMENTS AND OTHER CHANGES

	Budget authority	Other proposals not changing budget authority	1973 effect
Budget amendments transmitted herewith:			
Department of Health, Education, and Welfare:			
Work Incentives	+$250,000,000		+$230,000,000
Grants to States for Public Assistance	−25,000,000		−25,000,000
Department of Labor:			
Manpower Training Services	−85,000,000		−65,000,000
(Limitation on the amount available for Manpower Development and Training Act activities)	(−39,000,000)		(−25,000,000)
Limitation on Grants to States for Unemployment Insurance and Employment Services		−$20,000,000	−20,000,000
(Limitation on the amount available on a contingency basis for increased costs of administration)		(−20,000,000)	(−20,000,000)
Proposed amendments	140,000,000	−20,000,000	120,000,000
Proposed for later transmittal:			
Department of Health, Education, and Welfare:			
Food, Drug, and Product Safety	−20,000,000		−15,000,000
Health Services Planning and Development			−18,000,000
National Foundation for Higher Education	−90,000,000		−27,000,000
Welfare Reform	−60,000,000		−50,000,000
Other offsets:			
Department of Health, Education, and Welfare:			
School Assistance in Federally Affected Areas (lapse of 1972 budget authority)			−10,000,000
Total	−30,000,000	−20,000,000	0

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SOCIAL AND REHABILITATION SERVICE, WORK INCENTIVE

LIST OF WITNESSES

John D. Twiname, Administrator, Social and Rehabilitation Service accompanied by David R. Beecher, Acting Commissioner, Community Services Administration, Social and Rehabilitation Service.

Malcolm R. Lovell, Jr., Assistant Secretary for Manpower, Department of Labor.

F. D. DeGeorge, Assistant Administrator for Financial Management, Social and Rehabilitation Service.

Anna L. Perkins, Acting Director, Division of Budget, Social and Rehabilitation Service.

Charles Miller, Deputy Assistant Secretary, Budget.

STATEMENT BY ADMINISTRATOR, SOCIAL AND REHABILITATION SERVICE ON "WORK INCENTIVES"

Mr. Chairman and Members of the Committee: I appreciate this opportunity to discuss with you the 1973 program for implementing the amendments to the Social Security Act, enacted December 28, 1971 relating to the improvement of the Work-Incentive Program.

WIN is the outgrowth of a variety of approaches to enhance employability and develop employment for recipients to AFDC. Its predecessors go back at least to the Community Work and Training program of 1962 when this program was optional with the States, and no Federal funds were supplied

directly to purchase training, supervision, and equipment. It was, nevertheless, a major departure from the former detachment of the Federal Government with respect to employability problems of recipients of public assistance.

The Community Work and Training program was not sufficient, however, and the Congress added a new demonstration program under Title V of the Economic Opportunity Act. Departments of Public Welfare were the "responsible agents" in carrying out this program, which included incentives for participants and provisions for purchase of manpower services from the Department of Labor. Much closer interrelationship between manpower and welfare agencies was required upon enactment of the WIN program January 2, 1968.

The recent amendments to the Work Incentive Program emphasize a results-oriented approach to dealing with problems of dependency in the Aid to Families with Dependent Children (AFDC) Program. The WIN program has been revised to remove barriers which stand in the way of carrying out the objective of assuring, to the maximum extent possible, that employable AFDC recipients enter into the labor force and accept employment so that they will become self-sufficient.

Other major changes have been mandated by the 1971 amendments to the WIN program. Heretofore, Departments of Public Welfare screened AFDC caseloads and referred, to the Employment Service, persons deemed to be appropriate for WIN in accordance with criteria established by the State. Under the 1971 amendments, every adult and child 16 or over must register for WIN as a condition of eligibility for AFDC, unless specifically exempted by the law from registration.

A new provision requires that the welfare agency establish a separate administrative unit to perform services only in connection with the administration of the WIN program. A number of welfare agencies have previously established separate WIN units, and experience shows that the program in these States has generally operated more effectively.

A major barrier, shortage of State funds to match Federal dollars, has been removed by changing the Federal-State matching from 80%–20% to 90%–10% for training and incentives and from 75%–25% to 90%–10% for supportive social services including child care.

Provisions which guarantee the appropriate correlation of training to job markets, the provision of needed manpower, social services and child care, and development of job opportunities are an integral part of the legislation. Priorities for consideration for manpower and supportive services are spelled out in the Act.

The 1971 amendments mandate the installation of a Public Service Employment component to replace the Special Work Projects of the Original WIN program. To insure that the new component, along with on-the-job training, is adequately utilized, the 1971 amendments require that 33⅓% of WIN funds be allocated for these two components. Public Service Employment will be used for those clients who are immediately employable but for whom no job is available in the regular labor market and/or who, after a period of subsidized employment, will be able to compete successfully in the local labor market.

The 1971 amendments, together with improved operations, management, and reporting procedures will provide WIN with the means and resources to expand its operations. The registration requirement will make an estimated 1.5 million AFDC recipients available to Department of Labor local agencies for manpower services by the end of the first year of operation. The new Public Service Employment component will provide WIN with access to jobs that have heretofore been of limited availability to WIN enrollees. A standardized on-the-job training contracting procedure will increase the use of this previously under-utilized component. A provision in the Revenue Act of 1971, which provides a 20 percent tax credit to employers who hire WIN enrollees, should increase the movement of enrollees into private employment. The establishment of a separate unit in the welfare agency, to serve as a focal point for effective delivery of all social services and child care required by the WIN participant and his family, will further enhance the WIN program. Still further enhancement will result from the requirement that staff of this separate unit participate in the development of employability and operational plans.

Under the 1971 amendments to the WIN program it is anticipated that approximately 6,500,000 AFDC recipients will be processed for registration and 1,500,000 will be registered for work or training. The average enrollment level in man-years is expected to be 138,000 in the first year, of which 24,500 man-years will be devoted to on-the-job training, 8,000 man-years to public service employment, and 40,300 man-years to institutional training, with the remainder of the effort going to work experience, orientation, and other components of the program. In addition, we expect to enroll WIN clientele in other manpower programs for an equivalent of 38,800 man-years. Since many of these training activities will constitute less than one year's duration, the number of persons receiving manpower services will be considerably more than the number of man-years of effort.

Most important, we expect to place 75,000 individuals directly into employment. To support this objective, we estimate that this will require 186,000 child care man-years and 198,000 man-years of other supportive services.

TRAINING AND INCENTIVES

The 1971 amendments significantly enlarge the scope of the WIN program. Specific additional functions include registration of all employable AFDC recipients, implementation of a work test requirement, development of a new public service employment program, development of an expanded OJT program, development of a new information system, implementation of a new Federal adjudication process, and establishment of State and local labor market advisory committees. Special efforts are being directed toward developing methods and controls that will insure more effective management of the program. An increase of 140 positions is required in 1973 to carry out the responsibilities of the Department of Labor under the revised WIN Program. Of these positions, 30 would be assigned to the Central Office and 110 to regional offices and local offices.

SUPPORTIVE SERVICES

New staff requirements of 145 positions are required to carry out the responsibilities of the Department of Health, Education, and Welfare under the revised WIN Program. We intend to supplement this requirement by providing $1,500,000 of 1972 S&E funds, $2,000,000 reprogrammed funds from the 1972 child care funds, and $1,900,000 of the 1973 funds included in this request for contract support to provide the technical assistance and training necessary to implement the new amendments. This level of staffing was established on the basis of strong reliance on joint efforts with the Department of Labor to unify wherever possible all functions that can be managed jointly and on providing a major portion of the technical assistance and training through contract support.

Of the 145 positions requested, 98 would be assigned to the ten regional offices and 47 would be located in the central office. Heavy emphasis will be placed upon staff utilization for monitoring, fiscal accountability, and insuring effective coordination between the welfare agency and the manpower agency.

APPROPRIATION REQUEST

The 1973 request for the Work Incentive Program is $455,133,000, an increase of $195,935,000 over the 1972 appropriation of $259,198,000. This would provide for $249,133,000 for the Department of Labor to administer the training and incentives activity and $206,000,000 for the Department of Health, Education, and Welfare to administer the supportive services activities.

Mr. Chairman, this concludes my statement. I will be happy to answer any questions you or members of your committee might have.

Mr. MAGNUSON. Mr. President, this is not the best way for the Appropriations Committee to conduct its business. However, the Department indicates that they would send this up for consideration in the first supplemental regardless. So, we might as well take it here and see if the House wants to proceed with it.

I thought at first when the Senator from Louisiana spoke to me about it that we might put in a smaller amount to keep it moving until the supplemental got here. We could then find out a little more about their so-called new program.

I believe this will have some positive result, I say to my friend, the Senator from Louisiana. It is supposed to have. However, the record on the program has not been good. It has not been good at all. It has been another program that started out badly. There was conflicting and overlapping social work going on. Congress was not laying down legislative guidelines on what it wants them to do with respect to mothers with dependent children and other situations. The record has not been very good.

I am hopeful that if we can get this through, they will do something about all of those programs that are intended to put people to work, job training, vocational training—and there is a lot of money provided in the bill for that—and on-the-job training.

They have produced a great many enrollments, particularly in the Labor Department, for training and job programs. However, the Senator from New Hampshire and I found that they would have 2,000 enrollees in some of these programs. We would say, "Yes, but we want to know how many people finally got a job." They did not know.

Mr. COTTON. Mr. President, we found people that trained for five jobs, one after another, and never went to work.

Mr. MAGNUSON. Then they say that 25 of them or 50 got places. That would be tops, or perhaps 100 out of 1,000 enrollees.

We wanted to know how much it cost the taxpayer per capita to get a fellow a job. It is a fantastic amount of money for the American people to finance the getting of jobs for such people. I understand that there are a lot of dropouts.

Mr. TALMADGE. Mr. President, the Finance Committee was concerned with that same thing, the expenditure of money under the original work incentive program with so little results. These amendments were carefully drawn to improve the program so as to get results. If they do, the Government will save money.

Mr. MAGNUSON. Mr. President, as the Senator from New Hampshire has said, some people were in training programs

for jobs one, two, three, four, and five times and never got work. People when they were trained would not try to get jobs. The amount of placements of actual people who go to work at the end of the line was pretty small and at a very high average cost, a cost of $10,000, $15,000, or $20,000 per trainee who actually got a job.

I hope that this program will do what the two Senators have suggested it would and help to solve at least part of the problem.

When we sit on the Appropriations Committee and hear the figures as to the cost, they are unbelievable. Something has got to be turned around, to coin a phrase. I hope that this will do just that.

I will welcome, along with the Senator from New Hampshire, accepting the amendment and taking it to conference.

I want to point out one thing. I do not know whether the Senator from Louisiana pointed this out or not because I was called out to the telephone for a while.

This is moneywise another $455 million appropriation to put this program into effect, the so-called new program we are talking about. There are some offsets which would be in the bill if it were not for this program. And the figures are in the budget request for the information of the Senators.

Mr. LONG. Mr. President, I thank the distinguished Senator for his statement. It is important for us to see whether these suggestions, the committee suggestions as well as the administration's suggestions, as to the most effective way of helping welfare recipients get jobs, can be made effective. It is important that we know as soon as we can the extent to which these ideas, many of which are part of the administration's suggestions under the name of welfare reform, can be made to work.

The sooner we get the funds, the sooner we will know if they will work.

Mr. MAGNUSON. Then, we tried another program. The Committee on Finance cooperated with us and you were going to give a tax exemption to somebody who would hire these people. I believe they called it job alliance. That did not work either. I will be a little charitable about that because the general economy has been down and there have not been the jobs around.

But something has to be done to get jobs for people who are able to work and those who do not want to work, to work at some kind of job.

Mr. TALMADGE. The tax credit provision just became effective at the beginning of this year. It allows a 20-percent tax credit provided somebody is employed from the work incentive program and kept employed for 2 years. That means the Government would save $3 every time it gives $1 in tax credit. We thought that was a fine investment, because it would take someone off of the welfare rolls and put him in a job and by that time he will be a productive person and become a taxpayer. We thought it good for welfare recipients and for the Government.

Mr. COTTON. Mr. President, I yield such time as he may desire to the Senator from New York on the bill.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, it appears that this is being rolled through here without anyone giving the other side of the coin. I have noted that this amendment is going to be accepted by the manager of the bill and by the distinguished ranking minority member, so I just wish to be recorded against it. I wish to note that I will vote "no" and to state why so that there will be some idea as to what is wrong with it.

It is said that this provision is great. It is not so great and here is why. We will be in a huge struggle with respect to welfare reform. One of the things to be used to defeat welfare reform, if it is to be defeated in this Congress, and I hope and pray it will not be defeated, is what is going on here now.

Mr. President, there is something of a program—and I will point out why I say "something of a program"—on so-called workfare, of taking people off welfare through work. It is said, "Let us see how this works for a few years. Let us take it easy."

The very distinguished Senator from Louisiana, who is nobody's fool, will be up here on the floor of the Senate, in the chair now occupied by the Senator from Washington (Mr. MAGNUSON) arguing, "You gave $450 million to try this out. Why don't you try it out and see how it works before you try welfare, and we will delay any additional welfare legislation.

The welfare reform debate is beginning. The reason for implementing this at this time in this way is to add another string to the bow to defeat welfare reform. There is nothing wrong with the Talmadge amendment standing alone. It affects a small part of the welfare program, even with $435 million. Nonetheless it is a string to the bow to defeat welfare reform.

Let us see how true welfare reform compares with the Talmadge amendment. Talmadge continues the inequitable situation which exists today where families headed by unemployed fathers are not included, and the working poor are not covered at all.

Thus they perpetuate the welfare system which gives a working or unemployed father incentives to leave his family so they can receive benefits.

The Talmadge amendments attempt to deal with the severe dual agency and multijurisdictional coordination problems of WIN by requiring joint DOL and DHEW issuance of regulations and by establishing joint committees at the State and regional levels. These requirements are not likely to solve the basic problems. The State ES agencies will continue to be dependent on the welfare agencies as their sole source of supportive services, regardless of whether or not these agencies can supply the services. Moreover, no one agency will have responsibility, and therefore be accountable for the WIN program. The diffusion of authority between the two Federal agencies and between different levels of government is likely to continue to hamper WIN performance.

The Talmadge amendments do expand the manpower services authorized or possible for DOL under the WIN program. Unlike H.R. 1, however, the amendments contain allocation formulas that are likely to restrict or constrain efficient management and prevent the placing of resources where the greatest need is.

The Talmadge amendments leave untouched the basic work incentive problems in WIN of vast variations in basic benefit levels and the limiting of earnings disregards to female heads. As a result, male heads of families in the WIN program will continue to have no monetary incentive to take full-time jobs, and the monetary incentives for female heads to go to work will continue to vary significantly between States. In States with low benefit levels, a full-time job would make a female head of a family ineligible for supplemental income benefits even at very low rates of pay, and thereby weaken the incentive to work.

The Talmadge amendments will continue to leave the application of sanctions to a number of different State, county, and city welfare agencies. In addition, the 60-day counseling provision has been left untouched. As a result, the uneven application of sanctions is still a problem with which we must deal.

The Talmadge amendments will continue the present reliance on the State welfare department as the sole delivery agency, with a resulting lack of authority for the manpower agency to secure child care directly when needed. Moreover, the Talmadge amendments make no provision for correcting the shortage of physical facilities.

I am not going to try to extend this. I know the amendment of the Senator from Louisiana (Mr. LONG) will be accepted, but I did want to spread this view on the record so that we all might be aware of the situation. This is not standing alone. The Talmadge amendment was passed and now we are funding it with a half billion dollars. But this will be used as one of the blocking agents with reference to welfare reform. I hope that we realize the problem is not being met by the Talmadge amendments. True welfare reform is eventually required by the country, and it should not be frustrated by the passage of an amendment such as this.

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

Mr. COTTON. Mr. President, I yield 1 additional minute to the Senator, and then I ask that he yield to me.

Mr. JAVITS. Of course.

For whatever it is worth, under these circumstances I feel these arguments should stand on the record. Probably if there were no debate, no prospects, no other measure, if this were not the enormous matter it is going to be, I would go along with the committee and say nothing about it. Surely, it is something that tries to move some distance forward, but knowing what we all know and what the situation is, I felt it necessary to spread this on the record, especially inasmuch as the Senator from Connecticut (Mr. RIBICOFF) who exercised leadership in connection with this effort in the Committee on Finance, is not here to do it himself.

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

Mr. JAVITS. I will yield in just a moment, but at least I have tried to separate some of the arguments on the matter.

Mr. TALMADGE. The amendment of the Senator from Connecticut (Mr. RIBICOFF) was being considered in the Committee on Finance at the time my amendment came up. The Senator from Connecticut (Mr. RIBICOFF) stated in executive session he thought the Talmadge amendment was superior to his amendment and he withdrew his amendment in support of the Talmadge amendment.

Mr. JAVITS. I am not challenging the privilege of the Senator from Georgia to say what happened in the Committee on Finance and I respect it, but I do not think it changes the fundamental thrust of what I have said.

Mr. COTTON. Mr. President, I think what the distinguished Senator from New York had to say makes sense. I think it is unfortunate we have to look at this piecemeal, but facts are facts. It is now the 27th of June, we are going to adjourn shortly for the Democratic Convention and then be back here for a short period, I assume, and then adjourn for the Republican Convention, and perhaps come back. H.R. 1 is the welfare bill, is it not?

Mr. JAVITS. Yes.

Mr. COTTON. It has seemed to me from the long years I have been around here that that bill involves so much and requires so much scrutiny that the chances of actually legislating H.R. 1 before next January are, indeed, very slim. That is the reason I was willing to accept this amendment.

Mr. JAVITS. Mr. President, if the Senator will yield to me for 30 seconds, I wish to state that the first thing the Senator said fully recompenses me for what I said. The Senator said he was impressed with what I had said. I have served my purpose fully if I have left so important and distinguished a Senator with the feeling that this is not just as it appears to be on the surface, and that there is much more to it.

Mr. LONG. Mr. President, I believe the Senator said the budget amendment I am offering is an effort to keep H.R. 1 from coming before this body. Nothing could be further from the truth. I have spent a great deal of time in hearings on H.R. 1. My guess is that I have spent more time this year, in open hearings and executive sessions, working on H.R. 1 than any Senator has spent on any bill. I would not want to spend that much time unless I wanted to see a bill emerge, and I think the bill put forth by the Finance Committee happens to be the best bill ever drafted by the Finance Committee in the history of the U.S. Senate. That is what I think of that bill. I think the bill is such a good bill that I shall do everything in my power to have it passed. Anyone who works 2 solid years to get a bill like that out of the Finance Committee has to be in favor of it.

When the bill gets here on the Senate floor, we will see whether Senators vote in favor of "workfare" or in favor of "loaffare." If the Senate wants to provide welfare for 100 million recipients and pay people more for loafing than for working, to make loafing more attractive than working, that is not going to make the bill attractive to some of us, and that may cause more debate than anything else.

If the Senate is in favor of making work more attractive than loafing, it may be that Mr. JAVITS and his group will not be satisfied with the way things are going and may engage in extended debate. I cannot predict that. I have seen some polls that show loafing is more attractive than working.

I want to assure the Senator that this will be a fight that is welcomed. I will be here in good shape for that fight. I urge that he get himself in shape for it, for this is going to be a knockdown, drag-out affair.

HEW earlier urged the President to veto a bill which we passed which sought to put people to work rather than spend a lifetime on welfare, but the President signed it.

I would urge, in a spirit of bipartisanship, when we are going to decide whether we are going to have a "workfare" or a "loaf-fare" bill, let us do what we have to do that provides for letting people go to work, with some training if necessary, and with some day care provided if that is keeping a mother from taking a job.

Mr. CHURCH. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, do I have time? If so, I yield to the Senator from Idaho.

Mr. MAGNUSON. Mr. President, I would like to get some action on this amendment. I want to take a minute or so. I was glad to hear the debate.

ON "PLAYING POLITICS": A REPLY TO MR. ZIEGLER

Mr. CHURCH. Mr. President, I have served notice that I intend to offer an amendment to the debt ceiling legislation to increase social security benefits by 20 percent. The support I have received for this proposal from Democrats and Republicans alike has been very gratifying.

I ask unanimous consent that the text of a letter I sent last night to my colleagues in the Senate describing the basic provisions of my amendment and asking for their cosponsorship appear at this point 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 27, 1972.

DEAR COLLEAGUE: As you know, I recently announced that I intend to offer, as an amendment to the Debt Ceiling legislation, my proposed amendment to H.R. 1 to provide a 20% across the board increase in Social Security benefits. Since I made that announcement, I have conferred with Senator Long, Chairman of the Senate Finance Committee and Congressman Mills, Chairman of the House Ways and Means Committee.

I have reason to believe there is a strong possibility such a proposal can become law. The key to making the 20% increase a reality is to avoid adding other amendments to the debt ceiling bill. Therefore, I have forgone the temptation of proposing, in addition to a 20% increase, other Social Security changes which I feel are meritorious, in hopes that those changes will be made later, when H.R. 1 comes up for debate. Accordingly, my amendment to the Debt Limitation Bill will be limited to a 20% increase with cost of living adjustments and the financing needed to fund this provision.

I am advised that if this increase were to pass the Congress and be signed into law by the President before July 10, the new benefits would be reflected in Social Security checks for the month of October.

If you would like to cosponsor this amendment to the Debt Ceiling bill, please get in touch with Mike Wetherell of my staff (5-6142) or Dave Affeldt of the staff of the Senate Special Committee on Aging (5-5364).

With best wishes,

Sincerely,

FRANK CHURCH.

Mr. CHURCH. Mr. President, in this connection I am told that President Nixon's Press Secretary, Ronald Ziegler, has accused me today of "playing politics" by seeking to guarantee a 20-percent increase in social security by attaching such an amendment to the pending debt ceiling bill.

President Nixon's latest enlargement of the war alone in Vietnam will cost more than my amendment to give a little help to 20 million elderly Americans, nearly half of whom are living in poverty or next to it.

This administration never ceases to amaze me. Billions of dollars in subsidies to big business are benignly approved by the White House, but giving elderly people a boost now, when so many are in such urgent need, is "playing politics."

If that be so, then my reply to Mr. Ziegler is "make the most of it!"

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 635) to amend the Mining and Minerals Policy Act of 1970, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. EDMONDSON, Mr. BARING, Mr. SAYLOR, and Mr. MCCLURE were appointed managers on the part of the House at the conference.

The message also announced that the House insisted upon its amendments to the bill (S. 3284) to increase the authorization for appropriation for completing work in the Missouri River Basin by the Secretary of the Interior, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. HALEY, Mr. JOHNSON of California, Mr. HOSMER, and Mr. CAMP were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 13435) to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. HALEY, Mr. JOHN-

SON of California, Mr. HOSMER, and Mr. LLOYD were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 15507. An act to amend the National Capital Transportation Act of 1969 to provide for Federal guarantees of obligations issued by the Washington Metropolitan Area Transit Authority, to authorize an increased contribution by the District of Columbia, and for other purposes; and

H.R. 15586. An act making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1973, and for other purposes.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 15507. An act to amend the National Capital Transportation Act of 1969 to provide for Federal guarantees of obligations issued by the Washington Metropolitan Area Transit Authority, to authorize an increased contribution by the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

H.R. 15586. An act making appropriations for public works for water and power development, including the Corps of Engineers—Civil, the Bureau of Reclamation, the Bonneville Power Administration and other power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Atomic Energy Commission, and related independent agencies and commissions for the fiscal year ending June 30, 1973, and for other purposes; to the Committee on Appropriations.

ORDER FOR RECOGNITION OF SENATOR NELSON ON WEDNESDAY AND SENATOR METCALF ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the recognition of the two leaders or their designees under the standing order, the distinguished Senator from Wisconsin (Mr. NELSON) be recognized for not to exceed 15 minutes, and that on Thursday, following the recognition of the two leaders or their designees under the standing order, the distinguished Senator from Montana (Mr. METCALF) be recognized for not to exceed 15 minutes.

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

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 15417) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

Mr. CRANSTON. Mr. President, will the Senator from Louisiana yield me 1 minute?

Mr. LONG. I yield.

Mr. CRANSTON. Mr. President, I simply rise to compliment the Senator from Louisiana and the Senator from Georgia on the activities they have engaged in in favor of welfare. It is very obvious to me that the awesome problems of welfare require that we provide work opportunities for American citizens, many of whom are on welfare but who would like to work and who cannot find it from private industry, and who cannot find it from Government. This is not a force-work amendment. I do not favor that approach to solve the welfare problem. I think the two Senators have provided a constructive alternative to welfare which provides a real cure for that problem, and I therefore support it wholeheartedly.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I am willing to yield back my time if the other side is willing to yield back its time.

Mr. COTTON. Mr. President, this will be for just a moment, to give the chairman an opportunity to get back, but may I suggest the absence of a quorum, the time to be taken out of my time on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Does the Senator yield back his time?

Mr. LONG. Mr. President, I yield back my time if the committee is ready to yield back its time.

Mr. COTTON. Yes, Mr. President. I yield back our 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 Louisiana.

The amendment was agreed to.

Mr. CURTIS obtained the floor.

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

Mr. CURTIS. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I offer an amendment. I have discussed it with the distinguished manager of the bill. This is also a budget request, one that reduces the cost of the amendment by putting into effect certain offsets also recommended by the budget. I understand the distinguished chairman of the subcommittee and the manager of the bill has offered amendments to offset much of the cost.

Mr. MAGNUSON. Mr. President, it really is a technical amendment, after we adopted the other one, to put the proper offsets in the bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 2, line 15, strike out "$758,554,000" and insert in lieu thereof "$719,554,000."

On page 5, line 4, strike out "$820,300,000" and insert in lieu thereof "$800,300,000."

On page 5, line 7, strike out "$44,000,000" and insert in lieu thereof "$24,000,000."

On page 27, line 22, strike out "$13,369,704,000" and insert in lieu thereof "$13,344,704,000."

The PRESIDING OFFICER. Do Senators yield back their time?

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

Mr. MAGNUSON. 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 Louisiana.

The amendment was agreed to.

Mr. CURTIS. Mr. President, I have an amendment at the desk, which I call up and ask that it be stated.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

At the appropriate place in the bill insert the following:

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing twenty-five persons or less for compliance with the Occupational Safety and Health Act of 1970.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Are we operating under limited time?

The PRESIDING OFFICER. The Senator is correct. The Senator has 30 minutes.

Mr. CURTIS. I yield myself 15 minutes.

Mr. President, the House of Representatives added an amendment to this bill which denied funds for the enforcement of the Occupational Safety and Health Act as to those small businesses employing 25 persons or less. The amendment I have offered is identical with the House amendment.

The Occupational Safety and Health Act was passed in the fall of 1970. It is a very far-reaching act. It empowers an inspector to impose a fine in an individual's place of business, without ever going to court.

But that is not all. It is an act as to which it is most difficult to find out what it provides. This stack of publications on my desk represents a partial collection of the codes, standards, specifications, and other requirements which have been blanketed into the Occupational Safety and Health Act, or the regulations pertaining to it.

In other words, Mr. President, the employers of our country, down to those with one employee, must conform to a law that they have to go into a stack of documents far in excess of what I have before me on my desk to find out what the law is.

I maintain two things. First, Congress ought to take another look at this law. That, of course, is the responsibility of the legislative committee. In the mean-

time, this law should not be imposed upon small businesses.

On June 12, I asked the Library of Congress to provide me with a copy of every backup standard and code which the Occupational Safety and Health Act blanketed into law. On the following Wednesday, the Library advised my office that it was a monumental undertaking, which would require the cooperation of the Labor Department.

The Library asked the Department to mail it a list of the documents. On Friday, the list had still not arrived. A member of my staff called the Labor Department, and was told that the Department has a complete set of the documents, but cannot lend them to anyone, not even for an hour or so, and not even to a Member of Congress.

The Department was kind enough to send a list of the documents to my office by messenger. Mr. President, here is the list. If an employer wants to find out what the law is, he not only must read the law, but here is a list of standards, publications, building codes, inspection codes, and other things that are incorporated into the law which our people must obey.

Mr. President, this is but a partial list. The entire stack of documents makes a stack 17 feet high. It would cost between $4,000 and $6,000 to buy all of the publications that are incorporated into the law and the regulations by reference, and up to which our people must live.

Certainly, to begin with, we need an exemption for small businesses. There is nothing particularly magic about the number 25, but that is what the House has passed. We are in the closing days before a recess. So I hope this amendment providing for a similar number will be agreed to.

Mr. President, this is a serious matter, because our people back home are dealt with very harshly under this law.

One employer in the State of Nebraska was fined $36,000 by an inspector—not by a court, but an inspector. He was not small enough to come under the exemption I am talking about here, but imagine the terrors placed in the minds of the small employers. Faced with all the other problems of their busineses, they hear about this law, and that is the straw that breaks their backs.

On April 6, I wrote a letter to the Secretary of Labor saying:

> I have a request from a gentleman in a small city in western Nebraska. He is the operator of a gasoline station, and has four employees. He wants the information as to what he is required to do to be in compliance with the Occupational Safety and Health Act. Will you please send to me, so that I may forward it to him, a statement giving him the full information that he needs?

Mr. President, it took 6 weeks to get a reply. Then when I got the reply, the Secretary sent a bundle of documents like this. There is a long letter here, which in due time I shall ask unanimous consent to have printed in the RECORD, wherein an Assistant Secretary, in behalf of the Secretary, does not answer our question, does not tell the employer of four what he has to do, but sends him a bundle of documents.

You might think this was all that man had to read. Not so at all. Here is the principal document, the Federal Register, part 2, Occupational Safety and Health Act. At first it would appear to say that all the regulations for this man are in this book.

But over here on page 10578, I find this, if he has a stationary engine around his filling station:

> (11) *Stationary engines in buildings.* Stationary engines and gas turbines installed in buildings, including portable engines used instead of or to supplement stationary engines, shall comply with the standard for the installation and use of Staitonary Combustion Engines and Gas Turbines, NFPA 37–1970, and the appropriate provisions of paragraphs (b), (c), and (d) of this section.

Which refer to a number of books. So that poor fellow must read all of this, and then the chances are that there is not a library in the State that has all of those publications for him to find out what the law is.

Do not think that your Federal Government is generous, kind, understanding, and affectionate in its enforcement procedures. They are applying this law with the heel. They are applying it in a gestapo fashion. They fined one employer because an employee owned a tool that he was not using, but it was in his tool box. The tool was admittedly dangerous, but it was not being used. It was in his tool box, and they fined the employer.

There is another case in my State in which, within an hour after a fire, where they had exhausted the fire extinguisher, an inspector appeared and fined the employer on the spot for not having a fire extinguisher loaded there.

The record of the Department of Labor in this act is humiliating to anyone who believes in fairness and a sense of justice. It is wrong. Congress has a responsibility, and we should rework this law. In the meantime, all we are asking today is that there be an exemption such as provided by the House of Representatives, by an overwhelming vote, with respect to establishments which have 25 or fewer employees.

Mr. President, how much of my 15 minutes have I used?

The PRESIDING OFFICER. The Senator has consumed 10 minutes.

Mr. COTTON. If the Senator needs more time, I will grant him some on the bill.

Mr. CURTIS. Mr. President, I ask unanimous consent that there be a quorum call, consuming not more than 5 minutes, and that it not be charged to my time.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. CURTIS. Mr. President, I yield 5 minutes to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I rise to support the Curtis amendment.

No one in this Chamber questions the need for safe working conditions for the men and women of America. This has been recommended time and again, by action at both the Federal and State level, as legislation has been enacted to establish and enforce occupational safety standards and to otherwise improve working conditions.

The Occupational Safety and Health Act of 1970 was hailed as landmark legislation in the field of worker safety. There is much in this act that is good and necessary. At the same time, certain provisions of the act, and the manner in which they are being administered, have led businessmen, farmers, and others all across the Nation to raise serious questions concerning the legislation.

The safety standards established under the act cover every conceivable situation in virtually every business establishment that employs hired help. These standards were presented to the public in 225 pages of the Federal Register, with little or no effort on the part of the Federal Government to inform those affected as to what they contained or what they must do to comply with them.

Understanding these requirements is difficult for the average small businessman and farmer even when he knows what they are. A huge corporation like United States Steel has safety engineers and other specialists to handle matters of this type. The small machine shop in North Dakota is staffed by the owner and two or three employees. Even so, both are expected to meet the requirements imposed under the act.

The amendment being offered here today would provide time for Congress to consider thoroughly the severe impact this program is having, and may have, on small business and agriculture across the country.

A great many bills have been introduced in both Houses which would amend this legislation in one way or another. Most of them are directed at providing an exemption for operations with fewer than 25 employees, just as this amendment provides.

The amendment we are now considering is necessary in order to permit Congress to review in detail the problems this program has created all across the country. Some will argue that it will dangerously weaken the act. I cannot agree with this. It is a temporary measure. Most important, small employers who would be affected by this measure work right alongside their employees. They are immediately at hand to observe working conditions and to take the steps needed to assure a safe and healthful working environment.

In the last few months, I have received hundreds of letters, telegrams, and telephone calls from concerned farmers and businessmen expressing the hope that action such as proposed here would be taken. I mentioned just a few of these during remarks on the Senate floor on April 7. I would like to cite again some of the problems illustrated in these letters.

Mr. President, these letters are directed to me at the Senate Office Building. I am going to give the date of the letter but not the name of the writer, because I do not want to get any businessman in more trouble than he is already in.

All the letters are from North Dakota. This letter was addressed to me on May 2, 1972, and reads in part:

We do general construction and sell and erect Buildings. In the summer we employ about 10 men and have 5 steady employees.

We believe in safety for employees at all times but some of the rules in the OHSA would not be economically feasible for a small business. It will cause small businesses like ours to discontinue which will make for more unemployment therefore hurting economy.

Mr. President, I have many more letters from North Dakota businessmen. Rather than read them all, I ask unanimous consent to have printed in the RECORD excerpts from other letters I have received.

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

MARCH 21, 1972.

Senator MILTON R. YOUNG,
U.S. Senate,
Washington, D.C.

As a small business employing 12 people, we are faced with a decision to close our body shop and put two men out of employment, or to invest in a new building and equipment. At the present we are renting, and the owner will not invest any money to improve the building.

MARCH 21, 1972.

Senator MILTON YOUNG,
U.S. Capitol,
Washington, D.C.:

We are writing on this Occupational Safety and Health Act.

It is our belief that this bill law is going to make it difficult, especially us smaller firms to comply, causing many to terminate their business. This can do nothing more than add to the unemployment and welfare payments. We have always felt that the State Workmen's Compensation Bureau have done their job, why then was it necessary to have a federal bill passed?

APRIL 20, 1972.

Hon. MILTON R. YOUNG,
U.S. Senator,
Senate Office Building,
Washington, D.C.

We operate a small wash plant as part of our business. Last August a Federal representative came into our office with a very expensive and unreal list of safety precautions we would have to take. We, too, believe in safety but the list he had prepared for our business was ridiculous. We have operated the plant since 1952 with one or two very minor accidents. We closed the plant after he visited us and will not reopen it because of the expense involved in complying with the law. Unfortunately, this will eliminate some jobs in our organization.

APRIL 19, 1972.

Senator MILTON YOUNG,
U.S. Senate,
Washington, D.C.

. . . it would be nearly impossible for small operators like myself, with only one employee, to comply. The cost of compliance would be so high we would just have to do without any hired help, and that will just add to the already high unemployment. I have never had an injury claim with Workmens' Compensation in all the years I have operated, and believe we can continue this record.

APRIL 10, 1972.

Senator MILTON R. YOUNG,
Senate Office Building,
Washington, D.C.

This law surely needs to be changed as it applies to small business. I do not believe that there is any way that any small business could pass a strict inspection under this law. It is so far reaching and so complicated that you could find something wrong with even a new building constructed under ideal conditions.

We keep our stations and buildings up in good shape and have never had any kind of a serious accident. However if this law was strictly applied we would have no choice but to go out of business.

APRIL 14, 1972.

Hon. MILTON R. YOUNG,
U.S. Senate,
Washington, D.C.

As a member of the Board of the Baptist Home I am concerned about the Federal regulations that are being imposed upon the Home. I recognize that rules and regulations are necessary to maintain and protect our Senior citizens but I do feel that it is almost impossible for a Home of our size to comply with all of the regulations that came out in the book titled "29-Labor". I know that this stems from the Occupational Safety and Health Administration Act of 1970, known as the Williams-Stieger Bill.

I do feel that many of the regulations are almost impossible for us to comply with. It would be just too costly. I could wish some type of reconsideration and relief might be given.

APRIL 11, 1972.

DEAR SENATOR MILTON R. YOUNG: In the past 60 years we have owned and managed a lot of farm machinery, with only one small accident, and that is history of most of our farmers.

I have found a remedy, had to as, I was already swamped with a lot of mostly unnecessary paper work, in that I saw the danger and waste of time, so I quit hiring any farm labor at all but I don't like this remedy.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, I yield 6 minutes to the distinguished Senator from Texas (Mr. TOWER).

Mr. MAGNUSON. Mr. President, if the Senator needs more time, I will be glad to give him more time on the bill from my time.

Mr. CURTIS. I thank the Senator.

Mr. President, I yield 10 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. TOWER. Mr. President, I am pleased to be a sponsor of the pending amendment and urge its adoption.

This amendment would bar the expenditure of funds to the Occupational Safety and Health Administration for enforcing the Occupational Health and Safety Act against employers who employ 25 or less employees.

This small business exemption from OSHA is of tremendous importance. The House of Representatives approved this amendment on June 15 by a solid vote of 213–154. The amendment we are now debating is intended to put the Senate on record in favor of the House provision so as to insure that it will survive the conference on the HEW appropriations bill.

On April 5, of this year I joined as a sponsor of S. 3662, the occupational safety and health amendments of 1972. One of the Amendments in S. 3262 would be to give employers with 25 or less employees an exemption from the act. The figure of 25 employees is one commonly used in Federal legislation to denote small businesses and is a reasonable one.

On May 18 I introduced S. 3630 which would require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry. Both of these bills are pending in the Senate Labor and Public Welfare Committee and to the best of my knowledge no committee action is contemplated.

There are a number of reasons why this amendment should be adopted. Unlike an authorization bill, the amendment has the effect of suspending the provisions of OSHA as they relate to small businessmen. Therefore, during the 1973 fiscal year, the Senate Labor and Public Welfare Committee will be more likely to examine the ramification of the Occupational Safety and Health Act and make the changes that many of us in the Senate feel should be made. Furthermore, enactment of this amendment will clearly convey to the Department of Labor the congressional concern on this issue. If the Congress working with the Labor Department can come up with a more equitable system of enforcement of the act, then there will be a better chance that this amendment will not need to be included in the fiscal year 1974 appropriations bill.

However, Mr. President, because of the manner in which the Occupational Safety and Health Administration has enforced the act and because no congressional action can be expected in the waning months of the 92d Congress, I feel that an amendment in the appropriations bill providing for the small business exemption is the only equitable method that can be utilized at this time.

As I am sure is the case with other Members of the Congress, I have been besieged by complaints from small businessmen concerning compliance with OSHA and the manner in which it is being enforced. Thousands of small businessmen and small farmers do not have the slightest idea what they must do to comply with the act. When they have sought advice from the Labor Department a vague and often times uncourteous reply was forthcoming. For instance, I just received a letter from a small businessman who called my attention to a meeting sponsored by a local Chamber of Commerce to better inform the small business community on how best to comply with OSHA. At the meeting a regional representative was extremely rude and even said that he was not authorized to give answers to specific questions concerning the act.

Mr. President, this is the type of attitude that has been encountered at the Occupational Safety and Health Administration. On numerous occasions my

office has attempted to help employers cut through the bureaucratic maze and obtain straight answers to their questions. In response we have received vague answers and assurances that the act would be better understood in due time. When a small businessman writes to me to complain about OSHA, a response comes back from the Department of Labor 6 weeks later that includes a short form letter and a 248 page compliance book that was originally published in the Federal Register.

Mr. President, it is not in the interests of the public safety or the public welfare to treat all businesses as if they were identical. It is because OSHA considers the corner grocery store and General Motors the same, that complaints have been received by the thousands. It is unrealistic to provide the same type of standards to these types of concerns.

Mr. President, I urge prompt adoption of the amendment and commend my distinguished friend from Nebraska for his leadership in this matter.

Mr. CURTIS. Mr. President, I thank the distinguished Senator from Texas.

Mr. PEARSON. Mr. President, I support the amendment to the Labor-HEW appropriations bill providing that no funds shall be expended in carrying out inspections under the Occupational Safety and Health Act in places of employment where there are 25 or less workers.

What we seek in gaining the Senate's approval of this important amendment is not an end to the Federal Government's role in assuring the worker's right to health and safety on the job. Rather, we seek a means to provide improved methods of implementation in a manner which suggests commonsense and an effective partnership between the public and private sector.

Mr. President, over 75 bills have been offered in the House to amend OSHA, most of which would have the effect of modifying existing standards so that small businessmen and farmers could more easily comply with them. Numerous bills have been offered in the Senate. The bill I have cosponsored with my distinguished colleague from Nebraska (Mr. CURTIS) offers what I consider to be the most comprehensive and sound approach to helping the businessman or farmer achieve as safe working conditions as possible for his employees.

In some cases, the results of this congressional concern has had an effect. The Department of Labor, which is responsible for administering OSHA, has retreated from its insistence on compliance with a number of insignificant and trivial regulations, many of which have little bearing on occupational safety.

Nevertheless, Mr. President, confusion, disenchantment, and outright hostility concerning OSHA abound. An owner of an establishment, employing as few as one, part-time worker, is required to digest stacks of Government documents in search of regulations which may or may not apply to him. Employers seeking information from Department of Labor representatives are informed that if an inspector visits a worksite, he is obliged to make an inspection and note all violations of Federal regulations.

Finally, I am greatly concerned with what I understand to be a proliferation of totally false rumors and abuses which in my judgment have not been adequately disspelled by appropriate Federal officials. In many areas, particularly in Midwestern States, employers, including farmers, have been subjected to salesmen of safety equipment, some of whom I am told have resorted to overzealous and unscrupulous means to promote their wares. I have also been made aware of individuals posing as Federal inspectors who levy fines which the unsuspecting employer promptly pays, as well as other illegal or unethical plots designed to capitalize on the employer's fears and lack of knowledge concerning this act.

Mr. President, by requiring the Department of Labor to refrain from inspections of establishments employing less than 25 people for 1 year, we would, I feel, afford the Secretary adequate time to thoroughly review existing standards with an eye to providing a more commonsense approach to compliance. At the same time, a 1-year moratorium would allow those employers affected to prepare for eventual coverage under the act, without the threat of fine, intimidation, or harassment by a Federal inspector or agency.

Finally, it is hoped that approval will impress upon Congress and the bureaucracy the intensity of feeling that exists among many of the Nation's small businessmen and farmers who have been subjected to the heavy head of a far from perfect Federal standard. Mr. President, I urge the adoption of this proposal.

I am supporting this amendment because I feel that safety would be better assured under the current circumstances if small businessmen were to be given an exemption at least through the upcoming fiscal year. I support the congressional intent of the Occupational Safety and Health Act which is to "assure so far as possible every working man and woman in the Nation safe and healthful working conditions."

I strongly feel that occupational safety will be advanced if the Government would relieve the small businessman of the onerous burden placed upon him and instead concentrate upon the Nation's larger businesses. It is obvious that under current circumstances small businessmen cannot in large numbers find out what they must do to comply with the law. Furthermore, the case can be strongly made that there is broader Federal interest or at least a different Federal interest in occupational safety for larger businesses as opposed to smaller ones. Passage of this amendment would allow OSHA to place its greatest priority on larger businesses, thereby enabling the Government to increase its effort where it can have the greatest impact.

Realistically, occupational health and safety programs should have the greatest priority in the larger business and factory environment where much of the work is done with large machinery and where there is a high turnover rate in employees. Because of the overall size of the operation, employers are unable to have a close relationship with their employees.

This should be contrasted with the small business environment. In this situation there exists an everyday relationship between employer and employee. The small businessman has an interest in keeping his employee turnover at a minimum, and therefore, will go out of his way to make sure that safety conditions are adequate and remain adequate Good health and safety conditions in a small business environment work to the personal advantage of both the employer and employee since they quite frequently work side by side.

This amendment is of tremendous importance to the Nation's small farmers. Farmers have been trying to comply with regulations that are more tailored to industry and manufacturing. Furthermore, like the small businessman, the small farmer cannot be expected to face the same safety problems as those faced by the large corporation farmer. Besides being unable to comprehend many standards that are irrelevant to his small farming operation, he also cannot expected to become an instant expert on the Federal Register where the volume upon volume of OSHA regulations have been published.

Mr. President, in conclusion, I would emphasize that it simply makes no sense to continue to lump together large and small businesses under the Occupational Safety and Health Act. They simply have too many different needs and different capabilities in complying with these rules and regulations. While the large corporations have vast legal and monetary resources with which to comply with these regulations, or even fight them if they believe them to be arbitrary, the small businessmen do not. They are completely confused by the hundreds of pages of technical data that they are to understand if they are to stay in business. It is important then that a different set of standards be devised for the small businessman and farmer. This amendment will give us time to act on this matter while not putting anyone out of business in the meantime.

Mr. CURTIS. I am ready now to yield more time to further speakers, but I wonder whether those in charge of the bill would like to take some time now.

Mr. WILLIAMS. Mr. President, I wish to speak in opposition to the amendment. I have been advised by the manager of the bill that time is available, so possibly it will be best for me to take some time now, if the Senator will yield to me.

Mr. CURTIS. Mr. President, very well. I am sure that the manager of the bill will consent to the Senator's using time.

Mr. MONTOYA. Mr. President, how much time does the Senator require?

Mr. WILLIAMS. Ten minutes.

Mr. MONTOYA. Mr. President, I yield 10 minutes to the Senator from New Jersey.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from New Jersey is recognized for 10 minutes.

Mr. WILLIAMS. Mr. President, I do not rise to defend the administration and its practices concerning enforcing the safety law. Certainly, I know of the failures of the administration and the mistakes that are being made. However, I do support the action of the Appropria-

tions Committee in striking this provision from the bill.

The provision that the House put in that would prohibit the payment of salaries for the inspection of the business establishments employing 25 people or less. However, before I make any comments supporting the committee and opposing the amendment by the Senator from Nebraska, I would like to commend the Senator from Nebraska for the work he has done in focusing this body's attention on the failures that have occurred in the administration of a very necessary law.

There is hardly a Member here who has not recited to me experiences that have come to their attention from their States. I have the same litany from my State concerning the administration of this law. Notwithstanding that, I believe that men and women working in plants with up to 25 employees are entitled to safety and health protection. That is why I oppose the amendment.

Mr. President, while this amendment would leave smaller firms subject to the act's requirements, it would eliminate any effective way to enforce those requirements—no matter how blatantly the act might be violated or how hazardous the working conditions that might exist.

The effect would be to deny the act's protections to a substantial number of employees—30 percent of those now covered, according to Bureau of Labor Statistics estimates—and allow 90 percent of the firms to whom the act applies to ignore its provisions.

It should further be emphasized that by the end of this year most such firms will no longer be subject to any State law with respect to any hazards covered by Federal standards. In short, they will be free of any meaningful legal restraints regarding the safety of their workers.

Thus, the rider adopted by the House represents a most damaging and reckless tampering with the substantive legislation enacted by Congress, and I hope that the Senate will reject it.

Most of us, I am sure, have received complaints from small businesses with respect to the implementation of the Occupational Safety and Health Act.

It is clear from my mail and from my discussions with operators of small enterprises that one of the chief causes of their concern about the act is the lack of adequate and accurate information regarding its requirements and the regulations issued to implement it.

I am happy to note that our Appropriations Committee is aware of this, and, as stated in its report, has provided additional funds so that the Labor Department can "significantly increase its efforts to inform and assist businesses in the interpretation of standards and regulations to enable employers to determine whether their workplace is in compliance or what would be required for compliance."

I should also point out that I have previously announced that the Labor Subcommittee would shortly hold oversight hearings on the implementation of this act. These hearings are scheduled to begin on July 25, and our first area of attention will be the problems encountered by small businesses under the act.

In addition, the General Accounting Office has already begun looking at certain aspects of the administration of the act, including matters which are relevant to the small business situation.

Through these inquiries, we should be in a position to make informed judgments concerning any improvements that need to be made in the administration of this law.

I believe most strongly, however, that the meat ax approach of the House amendment represents a decidedly improper way to proceed.

It is evident that employees of small establishments have as much right to be protected from safety and health risks as do employees of larger firms, and it is this consideration that led Congress to reject the idea of any exemption for smaller employers when it passed this legislation in 1970.

It should be emphasized that when we talk of small businesses we are not just talking about mom-and-pop grocery stores. We are also talking about a great variety of high hazard activities which are very commonly performed by small firms. Included in this group are logging and sawmill operations which have accident frequency rates well over twice the national average for all manufacturing.

These are typically small employers: in fact more than 16,000 logging camps in this country have 20 or fewer employees.

Mention may be made of a host of other types of small establishments—construction firms, foundries, machine shops, print shops, electroplating shops, welding shops, stone cutting operations—where there are either above average accident rates or where the health problems are severe. Such hazards as carbon monoxide, asbestos, toxic solvents, silica epoxy and polyester resins, noise, and chromates may typically be found in one or more of these types of establishments.

In 1970, the Department of Health, Education, and Welfare conducted an extensive occupational health survey in the Chicago metropolitan area. It found that the smallest firms surveyed—those employing eight to 19 workers—had the highest percentage of employees exposed to one or more potential occupational hazards. In this group, 46.3 percent of the workers were so exposed, as against an overall average of 33.8 percent. Overall, this survey disclosed that these small firms had the highest concentration of health hazards, the fewest safeguards, and the least awareness on the part of management, of the dangers existing in the workplace.

To remove workers in these activities from the effective protection of the act would be unfair and irresponsible, and I strongly urge the Senate to reject this attempt to do so.

In closing, I would like to stress that the administration has an excellent piece of legislation to work with, and its implementation should live up to the promise of the act itself.

As President Nixon pointed out when he signed this measure into law it was "one of the most important pieces of legislation from the standpoint of the 55 million people who will be covered by it were passed by the Congress." He also described it as "a bill that represents in its culmination the American system at its best, Democrats, Republicans, the House, the Senate, the White House, business, labor, all cooperating in a common goal—the saving of lives, the avoiding of injuries, making places of work for 55 million Americans safer and more pleasant places."

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

Mr. WILLIAMS. I yield to the distinguished Senator from Rhode Island.

Mr. PASTORE. Mr. President, is it true that before a man can comply with the safety law, a man who employs up to 25 people would have to read all of the books on the desk of the Senator from Nebraska?

Mr. WILLIAMS. The answer obviously is no. And yet I will say to the Senator that from what I have learned in my studies and investigation of this matter, the small employer does not have what I would call adequate information regarding what standards apply to his place of work. And this is regrettable. However, our Appropriations Committee has included money for the administrators of the law to make such information more readily available to the small employer.

Mr. PASTORE. Mr. President, in other words the whole subject will be clarified?

Mr. WILLIAMS. The Appropriations Committee has made that possible by a specific inclusion of funds for that purpose, as I understand it.

Mr. MAGNUSON. Mr. President, if the Senator will yield, I believe that we should protect workingmen, no matter whether it involves three people, 25 people, 300 people, or 35,000 people. However, what the Senator from Nebraska and the others have pointed out, as the Senator has said, is that there is a maladministration of this law. What bothers me is whether the law requires, when a Federal inspector comes in, an immediate citation.

Mr. WILLIAMS. The law says, in effect, that where a violation is found, there is no right to expect one free bite.

Mr. MAGNUSON. Well, I understand about the free bite business. However, suppose that an inspector comes in and says that the rollers on the chair that the fellow was working on are not made well and that they will have to be corrected because they are a hazard. What would happen in that case?

We have a tough State law in my State. However, they can come in and say, "We will give you a little time to fix this up, and we will come back."

The fellow may not even know he is violating any law, because sometimes there are no guidelines for them.

The point I am trying to make is that the legislative committee surely ought to see that the law gives some period of grace so that a person could take time to fix anything that might be in his plant or workshop or in his little business establishment and give him time to do it, because he may not even know he is violating a law.

Mr. WILLIAMS. I appreciate what the Senator is saying. And the law does per-

mit in situations where there is a violation that is not of a serious nature, the inspector to say, "You had better straighten this out." And there does not have to be any penalty.

Mr. MAGNUSON. That is something that I am glad to hear. If the law does provide that, we ought to tell the Labor Department that in no uncertain terms.

Mr. President, I have one other question to ask. As I understand it, the Federal inspector can accept a State inspection if they wish.

Mr. WILLIAMS. The law does make provision for States to submit a plan for taking over all or part of the program, and if a State's program will be at least as effective as the Federal program it should be approved.

Mr. MAGNUSON. In a State where they have good laws—and my State happens to be one—they have no trouble with citations in all of these places. It might involve a cleaning establishment and they perhaps keep the gasoline in the wrong place. The inspector says, "You should be able to get this fixed up." And they do it.

This is the real problem. The Federal inspectors swarmed all over everybody in some instances when they made a citation. An inspector would show up and serve a citation and the fellow would not want to have publicity in the newspapers concerning the fact that he was being cited for having something unsafe in his plant. Then the reporters might get hold of it.

If there is some way of fixing it up, I do not think there is any problem such as that suggested by the Senator from Nebraska. There are some real problems. I want to vote to make a start because we did put some money in the bill to do something about this, and to give more training to the inspectors.

Mr. WILLIAMS. The Senator is correct.

Mr. PASTORE. Mr. President, I was the Governor of Rhode Island from 1945 to 1950. And one of the prides of my administration was the fact that we had one of the best industrial safety records in the country. Does this law supersede the law in Rhode Island?

Mr. WILLIAMS. The law provides every State an opportunity to take over the program.

I will say, however, this is just a part of that provision. It says to the States if they do not have a plan approved within 2 years of the enactment of the law, and that was in December 1970, then the Federal standards pre-empt any existing State standards. That will happen at the end of this year. That is why, as I explained to the Senator from North Dakota, there is little or no basis for agreeing to any exemption. Those people could end up in a no man's land, and not be subject to any regulation whatsoever.

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

Mr. WILLIAMS. Mr. President, will the Senator yield to me for 5 minutes?

Mr. MAGNUSON. I yield.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. WILLIAMS. I must emphasize again that there is no latitude to have an enforcement exemption figure of less than 25, or 10, as we have done in other areas of the law, because there will be a Federal pre-emption at the end of 1972 where States have not accepted the opportunity the Federal law gives them.

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

Mr. WILLIAMS. I yield.

Mr. PASTORE. I was surprised in the colloquy between the Senator from New Jersey and the Senator from Washington to learn that an inspector can come in and it is his sole judgment to say whether or not there will be prosecution. It seems to me that is a tremendous police power given to one individual. Why would not the proper method be to have the inspector go in and tell the man what the safety regulations are so the man does not have to read 20 or 30 books? Let the burden be on the Government to come in and say, "Your business hires only 10 people. You have here and there some minor violations. That is wrong and that is wrong. Fix it up. I will give you 30 days to do it and if you do not we will bring an action." This procedure we have now is almost entrapment. A man is in compliance with the State law but it does not conform to the Federal law. So the man is brought into Federal court charged with a Federal offense for endangering the safety of people who work for him. It seems to me that is the wrong way to go about it.

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

Mr. WILLIAMS. I yield.

Mr. MONTOYA. Is it not true that even if this amendment were agreed to we would still have the rigid provisions of the law and people would still continue to violate that law irrespective of this amendment?

Mr. WILLIAMS. That is correct. This does not deal with the standards issued under the law.

Mr. MONTOYA. Any violator under the law which would remain on the statute books would be subject to criminal prosecution by the U.S. attorney's office.

Mr. WILLIAMS. To the limited extent that criminal prosecution is provided for.

Mr. MONTOYA. So the amendment in the end does not fulfill any useful purpose.

Mr. WILLIAMS. That is correct. The violations still would be violations because the amendment does not go to the standards of safety. It only withholds money with respect to the inspector going to smaller plants.

Mr. MONTOYA. So if we have any complaints about the administration, and we have many, those complaints should be directed at the legislative committee so that there will be remedial legislation to take care of this situation.

Mr. WILLIAMS. Yes. I will say that the Senator from Nebraska has talked to me and I appreciated his bringing to me examples of maladministration over the last few weeks. I made a statement we would have oversight hearings on these problems. I anticipated them before that. I do owe him an apology that we have not had them and can only plead that the committee's business just did not permit the scheduling of hearings before this time. This I regret. We do have hearings scheduled very shortly on this. They are needed. There are many things that have to be straightened out. As the Senator from New Mexico said, I do not think this is the way.

Mr. MONTOYA. As a matter of fact, the safety law is designed to save human life.

Mr. WILLIAMS. The Senator is correct.

Mr. MONTOYA. Whether those human lives work in an establishment that employs less than 25 or over 25, I think this fictitious line of demarcation removes the very objective we had in mind when the law was passed, and that is to protect human life.

Mr. WILLIAMS. I could not agree more. The Senator states it with great eloquence.

Mr. PASTORE. Mr. President, will the Senator yield? Let us get into this matter of eloquence.

Mr. WILLIAMS. I would not want it to be construed that anyone supporting this amendment has less concern for the well-being for workers in small establishments.

Mr. MONTOYA. I did not mean to imply that.

Mr. WILLIAMS. This is frustration with the administration of the law. We all are concerned with the safety of the working men and women, wherever they work.

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

Mr. WILLIAMS. I yield.

Mr. PASTORE. I hope we will not be misunderstood in this Chamber. No one is being asked for a sloppy safety law. We all agree that is true whether an employer hires five people or 500 people, because five lives are just as precious as 500. No one argues that this afternoon, when the Federal Government gets into some of these supervisory activities, some of the rules get misinterpreted. We have seen that time and time again. This is often because those working for the Federal Government are trained on a national level and they do not know the local problems. Sometimes administration gets overdone. So much jurisdiction could be given to the inspector with respect to whether to prosecute or not that I do not think it is a good law, it puts too much power in the hands of one man. That is a police state atmosphere.

If the Government wants to promote safety, let the Government carry the burden of instruction in telling the people what to do, let us not say to the employer that he better read all those books on the desk of the Senator from Nebraska down to the fine print to know whether he is in compliance with the law. He will miss a paragraph at his peril. Pretty soon you will have half the people of this country in jail. Then, where would you be?

Sometimes these inspectors are not reasonable. They have the idea they have the power of the Federal Government behind them and they go in and push people around.

All of us with experience in State government have had some acquaintance with overhearing individuals who

overstep sensible authority and push people around.

There are pushy people in this world. We want protection without pushiness. We want safety without surliness. We can have this common quality of orderly business with a touch of commonsense.

Mr. WILLIAMS. The Senator has made that clear. The penalties in this law do not send people to jail. The law does provide for review of the decision of an inspector and there is ample opportunity to appeal. I think the procedures for a man to have a proper hearing are well provided for in the law. Notwithstanding that, we all share the frustrations of this law and certainly I would think this debate this afternoon should be ample notice where it should count in this particular part of Government, the administration of the Occupational Safety and Health Act.

Mr. CURTIS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JAVITS and Mr. CURTIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington yielded to the Senator from New Jersey and he has the floor now.

Mr. MAGNUSON. Mr. President, how much time do I have remaining? I have been yielding all afternoon. How much time do I have remaining on the bill?

The PRESIDING OFFICER. Sixty-three minutes.

Mr. MAGNUSON. I am glad to yield 2 minutes to the Senator from New York on the bill.

Mr. JAVITS. Mr. President, I oppose the amendment to exempt employers with fewer than 25 employees from the Occupational Safety and Health Act of 1970. As the ranking minority member of the Labor and Public Welfare Committee, I had a great deal to do with the enactment of the law. I hope very much that the Senate will not now act to deprive 20 million workers of its protection. That is what the pending amendment would do.

Enactment of the occupational safety and health law was not a matter of legislative whimsy. It was based on our appalling record of industrial accidents and diseases which each year results in 14,000 deaths, over 2 million disabling injuries, and uncounted thousands of illnesses, and the clear showing that this record could not be expected to improve due to voluntary action by business or the States.

It bears remembering that despite the intense labor-management fight over the organizational and procedural provisions of the new Federal law, the interested parties were in complete agreement that a Federal law was necessary. It is also noteworthy that at no time during the consideration of the legislation was the suggestion made to exempt small businesses or any particular category of employment.

Now we are witnessing an effort to emasculate enforcement of the law for 20 million employees of small businesses throughout the Nation. The basis for this effort is that the act is too onerous to be applied to small businessmen. Throughout the country, what amounts to a vicious campaign based on unfounded rumors has stirred up fears of small businessmen that the new act will force them out of business. In some areas of the country petitions have even been circulated based on what amounts to a smear campaign against the new Occupational Safety and Health Administration.

The Labor Department has investigated many of these charges and the reports of their investigation demonstrate the falsity and viciousness of the campaign which has been mounted. I ask unanimous consent that at this point there be printed in the RECORD a release from the Labor Department showing the results of the investigation of occupational safety and health enforcement policies in Wyoming.

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

OSHA FINDS CRITICISMS BASED LARGELY ON MISINFORMATION AND RUMORS

Criticisms against the Occupational Safety and Health Administration (OSHA) are based in large part on misinformation, unfounded rumors and misunderstanding, Assistant Secretary of Labor George C. Guenther said today.

The criticisms have dealt with allegations of harshness of OSHA's standards and its inspection for compliance with those standards, with charges of "unfairness" of the Williams-Steiger Occupational Safety and Health Act of 1970, and related comments, Guenther said.

He cited in particular criticisms in Wyoming, where he said OSHA had been accused of levying fines against ranchers and farmers, of ordering the closing of a public school, and of driving a small firm out of business because of inability to comply with safety and health standards required by the Act.

Guenther ordered a review in mid-April. An analysis by the OSHA Area Director in Billings, Mont., which area includes Wyoming, determined the allegations to be groundless. The Area Director reported:

At the time of the criticism, no farm or ranch in Wyoming had been inspected.

A furniture store that allegedly was forced out of business because it could not financially comply with OSHA requirements for separate toilet facilities had never been inspected. The owner had sold his store for other reasons and retired.

OSHA was not involved in the closing of a public elementary school in Lander, ordered because of a possible asbestos hazard to students and faculty. OSHA has no jurisdiction in schools because public employees are exempted by the Act. The school actually was closed by the Superintendent on the recommendation of the National Institute for Occupational Safety and Health, of the Department of Health, Education, and Welfare.

"Although Wyoming is not a heavily industrialized State," Guenther said, "it, too, has job-related deaths and injuries." He said the Wyoming Bureau of Compensation received 12,054 reports of injury, including 38 fatalities, and paid out $2,643,300 in claims during Fiscal Year 1971. That Bureau covers 47 percent or 69,500 of the 144,900 employees in the State.

Furthermore, Guenther said, "we know of no instance where an employer has been forced out of business by OSHA. Indeed, the Act provides for assistance by the Small Business Administration in obtaining long-term loans to help establishments make repairs or other changes to bring them into compliance with OSHA safety and health standards."

To clarify the misunderstanding, Guenther said OSHA personnel in the four States are stepping up their meetings with State and local officials, trade associations, retail groups, Chambers of Commerce, employee groups, etc., to explain the rights and responsibilities of employers and employees under the Act.

"We are doing everything possible, not only in Wyoming but in every State, to help clear up any confusion or misunderstanding," he said. "It is our hope that those affected by the Act—some 60 million employees in 5 million establishments—will understand OSHA's implementation of the Act.

Mr. JAVITS. Mr. President, I am not saying that the new law will not require changes in existing practices by many businessmen. Of course it will. Some of them will be expensive, but by and large the high cost changes will have to be made by heavy manufacturing establishments, not small businesses. Some records will have to be kept, but records have to be kept even now for purposes of workmen's compensation, and the Department of Labor has recently exempted employers with fewer than eight employees from all of the recordkeeping requirements of the act.

Furthermore, the law does provide economic assistance for small businesses through loans from the Small Business Administration. That was an amendment which I authored when the legislation was being considered by the Labor Committee, and it demonstrates the fact that we did take into consideration the fact that application of the new law would cause some small businessmen to incur additional expenses. These loan provisions have been used to good advantage by some small businesses already. I ask unanimous consent that a release from the Labor Department be printed in the RECORD at this point.

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

OSHA AND SBA HELP COOPERAGE COMPANY WITH COMPLIANCE LOANS

The only industry in a small New Hampshire town and the jobs of its 70 elderly employees have been assured through the Small Business Administration loan feature of the Williams-Steiger Occupational Safety and Health Act of 1970.

The provision permits the Small Business Administration to lend money or to help obtain loan funds to finance an establishment's making repairs necessary to bring it into compliance with the Act's safety and health standards for employees, before or after an inspection.

Assistant Secretary of Labor George C. Guenther said the Act makes eligible any small business that "is likely to suffer substantial economic injury" without such assistance. The loan in this case involved the Spaulding and Frost Company, Inc., of Fremont, N.H., a barrel maker that is the only industry in the town of 800.

The firm was the third business in the nation, and the first in New England, to apply for a loan. The SBA recently made a $60,000 direct loan to bring the 101-year-old family-owned firm—the only white pine cooperage firm in the nation—into compliance with OSHA standards.

OSHA Regional Administrator Donald E. MacKenzie in Boston reported that David Forman, a young Boston management consultant, had been negotiating to acquire the company. Forman said he and the owners agreed on terms, contingent upon the availability of a loan to bring the operation into compliance with the job safety and health law.

"We had a plant facility in disrepair and the company was faced with liquidation," Forman said, adding that the employees—most of whom were in their 60s—would have lost their jobs.

He consulted with OSHA personnel in Boston and OSHA and SBA officials in Concord, N.H. OSHA arranged for the New Hampshire Department of Labor to make a "courtesy" inspection of the cooperage plant using OSHA safety and health standards. If OSHA, rather than the State, had made the inspection, the Act would have required OSHA to propose citations and possible penalties for any alleged violations uncovered.

The State inspection uncovered 137 separate areas or pieces of equipment not in compliance.

OSHA Area Director Francis R. Amirault in Concord said that although there were "unsafe working conditions," the firm had a good safety record. "This undoubtedly is accounted for by the employees themselves, who had spent most of their adult lifetimes working with this machinery and were as familiar with it as their own equipment," he said. Some of the machinery, according to Forman, dates back to the turn of the century.

He reported the modernizing will involve electrical power, grounding of equipment, electrical blowers to remove sawdust, and machinery guards.

Forman said the firm now has a backlog of more than 5,000 orders for old-type barrels and pails. Production is about 150 per day. Many of the items are used as flower planters or wine casks.

Spaulding and Frost has not heard the last of OSHA, however. "After the company makes these corrections, OSHA compliance officers will be around to inspect it," MacKenzie said. "As required by the Act when a loan has been obtained through SBA to achieve compliance, we must make certain that the funds were used properly."

Mr. JAVITS. In the last analysis, the question comes down to whether we really believe that all American workers need and deserve the protection of occupational safety and health standards. In my judgment, just to ask that question is to answer it. An employee of a small business is no less subject to occupational dangers to his health or even his life than an employee of a large business. If certain standards should be observed in order to protect a worker, there is no reason to say that they should be observed by a large employer but not a small employer. It also bears emphasis that the standards about which the small businessmen are now complaining are for the most part "national consensus" standards which have been developed with the approval and consent of the business community itself. The complaints we are now receiving about enforcement of these standards which the business community itself developed demonstrate the futility of a completely voluntary approach to health and safety problems.

Of course many—perhaps most—small businesses in this country are engaged in essentially nonhazardous activities. To the extent that this is true, small business will be less affected by the provisions of the new law than larger businesses. In addition, the Labor Department's policy of concentrating on "target industries"—those with the worst injury record—will further reduce the impact of the new law on small businesses except those that are within the target industry group. Also, since the available manpower for enforcement purposes is extremely limited—only about 800 Federal inspectors are now in the field—it is to be expected that the Labor Department would focus most of its efforts on larger businesses as the way to get the most protection for the largest number of employees utilizing existing resources.

Finally, another excellent reason why we should not enact this amendment is that under the law, at the end of this year those States which have not filed an acceptable State plan will be completely preempted by the Federal law. If this amendment is adopted, employees of small businesses in these States will have no protection whatsoever.

Mr. President, it would indeed be tragic if Congress were to act precipitately to exempt all small business from enforcement under the new occupational safety and health law. If there are problems—and of course there are problems in putting any new law such as this one into operation—they should be dealt with through the appropriate oversight hearings. Perhaps some corrective legislation is necessary, but if it is, it should be enacted in a responsible manner with a full hearing record showing what the problems are, and not on the basis of a rumor campaign. It is my understanding that the chairman of our committee, the Senator from New Jersey, does intend to hold such hearings in the near future and I also know that the staff of the committee has been looking into the problems which have arisen under the new law.

I hope the Senate will reject this amendment.

Mr. President, one point I wish to make in response to the earlier plea made by the proponents is this. We were conscious of that. When the inspector goes around he issues what is equivalent to a traffic ticket.

He serves a citation. A lot of people view it in the same way as one gets a traffic ticket. He immediately sends a check and forgets it. But it can be contested, and it is the same way with the small businessman.

In addition to that, the Review Commission has knocked down many of the fines and many of the citations.

Other than that, we ourselves, outside the law, in legislative oversight, have corrected problems of this kind if in our communities. I am sure it is true of other Senators. We get a "beef" and we correct it.

The only plea we make here is, Why jeopardize 20 million workers for things we ourselves can correct? That is the relative essence of the amendment. Why jeopardize 20 million workers for things we can correct ourselves?

On January 1, 1973, preemption will take effect. We could get into the situation where a small businessman will be employing workers who will not be under either a State law or a Federal law. If no inspectors are going into that place of employment, and no State law applies because of the preemption, it will be in a desert and we will be here wringing our hands and hearing, "What have you done to the employees?"

Mr. PASTORE. I am not in sympathy with the amendment of the Senator from Nebraska. I am directing my remarks to the fact that there has been a sloppy operation and there has been abuse after abuse, and I am wondering why. If one admits there has been abuse, it means there has been harassment of business people. That is the point I am making here this afternoon. To me, that is unpardonable. The Federal Government ought not to be mixed up in harassment.

Mr. JAVITS. May I use the word which my assistant used, and which was a very descriptive word? He called it "Mickey Mouse" operations in the department. That is what we call it.

Mr. PASTORE. Well, let us remove the rats, too.

Mr. JAVITS. I am with the Senator.

Mr. CURTIS. Mr. President, I yield myself 1 minute.

There is something to be gained by this amendment. Are we going to apply the same rules to the small businessman with a handful of drawers, as we do to General Motors? This law incorporated many things. This is an official publication of the Department of Labor, a list of various codes that must be complied with. The small businessman has no chance at all. Here is one, NFPA, 1970 standard for fire doors and windows. That is the National Fire Protection Association bulletin. This is only a partial list. The small businessman has no chance in this. They are not stupid. They are going to be safe. They are going to practice all the safety they can. Human beings cause accidents, and education prevents accidents, not a Gestapo procedure like this.

I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator has no time remaining.

Mr. COTTON. Mr. President, I yield 5 minutes on the bill to the Senator from Wyoming.

Mr. HANSEN. I thank the Senator.

Mr. President, let me say this is indeed a sloppy safety law. I do not think anyone could more articulately or accurately describe the situation than the Senator from Rhode Island has. He spoke about the good laws. I agree with him and I applaud him for his perceptiveness in seeing what the situation is.

Along with the distinguished Senator from Nebraska, we went to the staff of the distinguished Senator from New Jersey and told him about the problems several months ago and asked him if hearings could be arranged in order that this amendment might be considered. I am concerned about this amendment because what it means in Wyoming is that people actually are losing their jobs. I have letters in my office—I can show them—not from employers, but from employees, who say if this law is enforced "I am going to be out of work because my employer is not going to run the risk of Gestapo tactics"—and I underscore that word, because that is exactly what it is. It is exactly as the Senator from Rhode Island pointed out. It is a police state. These people come in. They are the inspectors. They are the judge and the jury. They levy fines. If anyone thinks it is like a traffic ticket in Wyoming, that is not the way we regard it out there.

We have our publications in the newspapers showing what has been levied. They have scared the living daylights out of more businessmen than will ever be known.

I am concerned, as I was on the floor when the distinguished Senator from Washington eloquently pleaded his case to have unemployment benefits apply to the people of the State of Washington, where the unemployment rate had exceeded 11 percent. It will not take many more laws like this before there will be an 11-percent rate of unemployment in the State of Wyoming and many people will be out of work.

I am concerned about this matter and I think it is time we recognize that there is a vast difference indeed between a big employer and a small employer who does not have the faintest idea what is in any one of those books and yet is faced with the responsibility of having an inspector from the Federal Government step on his place. He cannot answer a single question. He cannot help him interpret the law. He cannot tell him anything about it. All that happens is that if he steps into that place of business and finds anything wrong, that small businessman is fined and there are citations, one after another, and the amount of the fine depends not on what a court determines, but upon the conscience of and the manner in which the inspector happens to look at the offense. That is how serious it is.

I wish we could have had the opportunity to have amended the law. That opportunity, I regret to say, was denied us. I think it is important to recognize that a lot of little employers in this country are going to close down shop, just exactly as they have done in the State of Wyoming, and we will increase unemployment and we will put people on the welfare rolls. We will deny the income that follows from productive work if we do not adopt this amendment.

I think it is very much in the public interest to take the steps that would flow from the adoption of this amendment, in concert with the House action, and then, if they can amend the law, as the Senator from Rhode Island (Mr. PASTORE) so eloquently states the case, as it should be, then they will wipe out the 25-man exemption; but until that is done, there is not one small businessman out of 1,000 who can possibly hope to understand the situation, and he will just have to run the risk of an inordinate fine or decide that it might be simpler to lay some people off and go out of business.

Mr. President, the legislation to appropriate money for administration of the Occupational Safety and Health Act presents an excellent opportunity to comment on the effect this law has had on employers and employees alike in Wyoming and in most other States.

I can truthfully say that no one issue has been more controversial in Wyoming in my years of public service than this law and the manner in which it is being administered. The Congress has said it believes the health and safety of employees must be protected, and that no worker should suffer physical harm or a diminished life expectancy as a result of his working environment. But I submit that the Congress had no idea of the problems that would develop concerning application of this law. These problems exist in every State and can be documented. It is the responsibility of Congress at this point to correct deficiencies in this law so that it is equitable to employers, as well as employees.

The issuance of standards to implement the Occupational Safety and Health Act and the enforcement of those standards has caused tremendous confusion, concern, and anger among employers and employees in the State of Wyoming. We must recognize that serious problems do exist with the present law and that it can be improved.

I do not want to mislead anyone. I support the goals of the Occupational Safety and Health Act, and voted for the bill in the Senate. But the fact that the cause is good and the intent of Congress laudable does not alter the fact that problems exist.

National consensus standards form the heart of the standards adopted by the Department of Labor under the Occupational Safety and Health Act. While these standards may be reasonable when applied to the industries for which they were intended, they become unrealistic and unworkable when applied to every employer in the United States.

The act should be amended to require the Labor Department, before assessing a penalty against an employer, to prove that the failure to meet a standard actually has created a hazard for an employee which would not have existed if the standard had been adopted in that particular instance. If the Federal Government requires employers to incur costs—which incidentally may be passed on to the consumer in many cases through higher prices—without being able to show that the cost is justified by improving employee working conditions, then it is no wonder that citizens question the reasonableness of those who passed this law and those who administer it.

For the same reason, the act should be amended to make it clear that an employer is not responsible for matters over which he has no control or for complying with standards he has never been notified he must meet.

The Labor Department is now working to rescind standards which are inapplicable in many instances and in some cases, downright ridiculous. I commend the Department for taking this corrective action. However, this process presents yet another problem for employers, because they are unaware the Labor Department has recognized it made a mistake and is in the process of dropping a particular standard. So the good, law-abiding citizen who has struggled through hundreds of pages of standards which, in many cases, require reading supplemental materials before they can be understood, goes to the expense of making changes to meet a standard that may not exist any more, and which the employer and the Government both know is foolish and unlikely to enhance safety or health for employees.

We might ask why a citizen would take such action. The Department has continually told me there is no need to worry, that penalties are not assessed for violation of these questionable standards, and that the Department is concentrating its inspections on target industries.

But, Mr. President, the people know only too well that this complicated law applies to every employer, not just to employers in target industries or to employers who get caught. People want to obey the law. They know that fines are levied without giving an employer an opportunity to correct violations of which he was unaware when they are pointed out by inspectors. Employers have done their best to inform themselves about the standards, but when reading them, they have no way of knowing that the Labor Department which wrote the standards has not decided in less than a year that some of these standards are bad.

OSHA officials have said the tremendous problems experienced in Wyoming are the result of misinformation.

I have done my best to cooperate with Federal agencies, businessmen and citizens to present facts and to see that people have access to the information they must have to comply with this law. But, if misinformation is at the heart of the problem, I ask who is responsible for the misinformation. The answer is the Federal Government.

The act is implemented by the Labor Department through adoption of hundreds of pages of standards. I have already mentioned that many of the standards are unworkable when applied to all American employers. What makes sense in terms of a large, hazardous industry is ridiculous when applied to a small, nonhazardous business. On top of this, copies of the standards and any changes that have been made in the standards are not readily available to employers, and not easily understood when they are available. I have received many complaints from employers who have tried in vain to get a copy of the standards from the Government.

Then, when a copy of the standards finally is obtained, the employer must struggle through the document or documents. Even though many of the standards do not have application to a particular business, there is no way of knowing which standards are applicable and which are not. The Department has not prepared copies of standards which apply to different kinds of businesses. So, a small businessman who does not have the resources to hire an expert to advise him on the Occupational Safety and Health Act is overwhelmed with reams of material, most of which may not even apply to him. Steps must be taken to provide information about this law and what it requires of employers in a precise and understandable form for individual employers. Too often, after reading through all of the standards, an employer learns that many are meaningless without also reading through supplementary manuals which define terms and explain equipment. Then the job is to get copies of these manuals.

Meanwhile, as the employer is trying to figure out just what the Government expects him to do, OSHA inspectors are in the field, inspecting businesses and levy-

ing fines for violation of standards which the Government has not had the ability to explain to the employers. An employer with the very best of intentions is given no opportunity to comply once the standards are explained to him. He is branded a lawbreaker and fined.

For example, Mr. President, the Labor Department has published a brochure carefully setting forth the four standards which apply to agricultural employees. Indeed, in correspondence with the Department, officials have emphasized that only four standards are being applied to agricultural employers. This sounds simple enough, and a farmer or rancher would be justified in assuming that all he must do is obtain a copy of the four standards, make certain he is complying with them, and all will be well between him and his Government. But not so, Mr. President. Buried in the text of the Department's brochure—not emphasized as are the four standards—is a paragraph mentioning the general duty of the employer. Only after questioning OSHA officials will one learn that the general duty clause, as this paragraph is called, is actually much broader in scope and applicability than are the four standards, and, indeed, an agricultural employer might be fined for violating other standards under this clause which are not defined in the brochure aimed at his industry. Therefore, an employer who has read the four agricultural standards and in good faith has complied with them, may find out later that OSHA inspections will fine him for violation of standards not specifically set forth in the brochure prepared by OSHA itself.

I can understand that the implementation of a complicated and far-reaching new law such as the Occupational Safety and Health Act is a demanding undertaking. We do not expect the Federal Government and its agencies to be letter perfect from the beginning in the administration of this law. It takes time to train new inspectors and administrators, and to get the program operating efficiently. It will take time, and certainly many mistakes already have been made by the Government.

But, Mr. President, if it will take time for the Federal Government to get its house in shape under the Occupational Safety and Health Act, I cannot understand why the Federal Government insists on demanding perfection from its citizens—especially when the Department is part of the reason for their inability to immediately comply. Why cannot citizens be given a period of grace during which to learn the law and bring their operations up to compliance? Why must they suffer the mistakes of the Government in trying to put this law into effect? Why must they be fined without being given an opportunity to comply? Of all the fines levied against Wyoming employers, only one fine was for a serious violation of this law.

It is because of the obvious inability of employers to obtain accurate and complete information about this responsibilities that I support the effort to prevent application of this law to employers with 25 or fewer employees.

The small employer does not have on his payroll an expert or a lawyer to tell him what he is supposed to do under this law, or to gather the information he needs to comply. The small employer must try to figure out for himself what is expected of him, and we have seen many examples of instances where the employer could not comply because he was unable to get copies of the standards, or because they were no longer current and complete when he did get them. So long as such problems and inequities remain with respect to this law, the least we can do is give small employers a break. The amendment does nothing to correct similar inequities which affect all employers, and it is the obligation of the Congress, as I view the situation, to see that our citizens are treated fairly. This amendment would make a small start.

The Occupational Safety and Health Act is a complicated law.

We now know what some of the problems are, and the legislation must be amended to see that the problems are corrected and that they will not recur.

I do not believe it is the intention of Congress to give employers in this country a persecution complex. But if Congress fails to act to correct inequities in this law, that is just what will result from the well intended efforts of Congress and the Labor Department.

In an attempt to bring equity to the situation, I have joined with the distinguished Senator from Nebraska (Mr. CURTIS) and other Senators in support of a 13-point amendment to this act. One provision of our amendment would call for exemptions of employers from the act who have 25 or fewer employees.

Other provisions would:

Delay for 1 year the effectiveness of the regulations for employers with more than 25 but less than 100 employees. This "phase-in" period will enable small employers to make changes to come into compliance with the law.

Require the Secretary of Labor to evaluate and differentiate between the effects of requirements on different kinds of businesses. The requirements which seem reasonable for a "hazardous" industry can be oppressive and unnecessary when applied to a nonhazardous industry.

Require the Secretary to estimate and publish the average cost to employers of compliance with regulations, so as to determine that it is actually possible for them to comply and still remain in business.

Permit compensation to employers for the cost of having to comply with regulations that are later changed, necessitating additional modifications.

Relieve employers from responsibility for noncompliance by employees who refuse to cooperate with requirements.

These are the main provisions of the Curtis bill, and I believe they would help make fair treatment for all concerned a purpose of this law.

We must make changes in this legislation in order to be fair to all concerned. The problems encountered in Wyoming are not, I am certain, peculiar to this State only, although Wyoming is not a large manufacturing or industrial area, and the act has been particularly hard on the kinds of small businesses with few employees that are common to Wyoming.

Many employers are upset by their inability to get information about their responsibilities. Others are angry about standards which are so expensive to meet and which will not improve employee health and safety in their particular circumstances. Still others resent the unfairness of being penalized and called lawbreakers even though they have not been given an opportunity to comply with the standards.

One citizen has expressed great concern about the impact OSHA will have on his program to place handicapped persons in useful jobs, noting that many employers now are afraid to hire the handicapped because of the responsibilities which OSHA places on them in terms of responsibility for the acts of their employees.

A mother with the responsibility of supporting her three sons is worried that her employer will be forced to close his business or reduce his work force because of the cost of modifications required to meet the act's standards. A few Wyoming employers have had to close their businesses or are thinking of closing because of inability to meet standards.

Mr. President, the people who have expressed concern about OSHA are genuine in their concern, and I hope the previous action by the House, the action I hope the Senate will take today, and action that may follow oversight hearings, which are soon to be held on the Senate side, will bring the necessary changes in the law and the standards developed to implement the law.

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

Mr. HANSEN. I do not know that I have time.

Mr. McINTYRE. Will the manager of the bill yield me time?

Mr. MAGNUSON. Mr. President, I yield for a question.

Mr. McINTYRE. Mr. President, I want to say that beginning some time ago, the Select Committee on Small Business looked into the multitudinous of the forms that were involved, and also the OSAH problem. I was very much concerned with that, I want to say to the Senator from Wyoming.

I commend the Senator from Nebraska. I can understand his frustrations and the frustrations of the Senator from Wyoming as he relates those instances. I am on the Select Committee on Small Business, and I am chairman of the Small Business Subcommittee of the Committee on Banking, Housing and Urban Affairs.

Only this morning, the Select Committee on Small Business had a gentleman who was from the National General Contractors Association. He brought up the question of bond. We showed him the books that the small businessman has to know something about. So I put the question to him, "Well, we have an amendment up today that I have been quite interested in, and that is the amendment that would, as I understand it, deny the appropriations for the enforcement of this act by the Labor Department or Labor Department appropriations with respect to small business employing 25 or under. What is your reaction?" He said, "Trouble."

He posed this question to me, and I pose it to the Senator from Nebraska and the Senator from Wyoming: "I am a general contractor. I may have 300 employees. On my job I could have five or six or seven subcontractors working, and out of those five or six or seven they may have 15 or 20 employees. I have the overall responsibility, and yet the same people working on the same job under my aegis would be free from responsibility if the amendment of the Senator from Nebraska were adopted."

He is a small businessman, too. My feeling is that, much as I would like to support the amendment and bring about an end to some of the frustrations, I do not know that it is a good amendment.

Does the Senator have a good answer, or an answer to that general contractor on a big job, we will say, with nine or 10 subs, some of them having fewer than 25 employees, while he has 200 employees?

Mr. HANSEN. Mr. President, my answer to my distinguished friend from New Hampshire is that I do not have an answer to this specific question. The Senator from Nebraska and the others who are cosponsors of this amendment had no idea, when we proposed it, that it was a panacea for all of the problems. But whatever it will do in each instance that the distinguished Senator from New Hampshire points out, I will tie to a thousand small businessmen for every one the Senator is talking about who will be benefited. And they are just as eager as anyone else to see their employees have good, safe, working conditions, and just as law abiding and concerned citizens as anyone else.

I am sorry the amendment may not reach the specific case to which the Senator refers. All I can say that is that in the State of Wyoming, if I have any understanding at all, it would be beneficial; and for each case where it would apply as the Senator posed his question, I would say there are a thousand on the other side whose problems will be resolved by this amendment.

Mr. McINTYRE. I understand and sympathize with the proposal of the Senator from Nebraska. I just do not think it would do the job.

I do not, for example, see anything sacrosanct about the figure 25. So I shall oppose the amendment.

Mr. CURTIS. Mr. President, will the Senator yield to me?

Mr. HANSEN. I yield.

Mr. CURTIS. On this proposal of 25, that number was selected because that was what was in the House bill, adopted by an overwhelming majority. I believe it would be wise to put it in here tonight, and settle the matter.

There are large employers who are also entitled to some relief under this act, and another look at it, but the line has to be drawn somewhere. Admittedly there will be awkward situations in some subcontractual relationships. But to deny this amendment means that every little shop with one, two, or a dozen employees, all of our farmers, and everyone else must live under a law whereby they are bound by a stack of books 17 feet high that they must search to find out what the law is.

The fact that this will not cure everything in the field of subcontracting is no reason for turning it down. There is need for the amendment, or there would not be so much complaint about the law.

Let us also keep in mind who is concerned about safety. The employee is, because his own life and health are involved. The employer is, because of his compensation rates, his insurance rates, and many other things.

The Government of the United States does not have to be the guardian of everybody. If we are interested in safety, why do we not have a national law on highway safety? Three times as many people are injured and killed on the highways as in industry.

This is not an issue of safety. It is an issue of imposing the same difficult law, of which you cannot find out what its provisions are, on the little employer, that we impose on the largest employees in the land.

The amendment should be agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I promised to yield to the Senator from New Hampshire. Will he permit me to yield first to the Senator from West Virginia? He has an important engagement.

Mr. McINTYRE. I am happy to yield.

Mr. MAGNUSON. I yield 5 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I have been impressed with the concern of the Senator from Nebraska, an understandable concern, and I listened with interest to the eloquence of the Senator from Rhode Island as he expressed his opposition to the pressures which seem to have developed in the application of the Occupational Safety and Health Act of 1970.

I wish to address one or two questions to the able chairman of the Committee on Labor and Public Welfare, a committee on which I have the privilege and responsibility to sit.

I ask the Senator from New Jersey: Does he share the concern that has been expressed by several Senators here about the problems that are apparently inherent in the application of the act, at least at this point in time?

Mr. WILLIAMS. I certainly do. During the debate when I was speaking, I tried to make that as clear I could.

I know of the mistakes that are being made in administering this law. I am not here to defend this administration, because I know where the mistakes are being made. They have a good law to work with, which is being implemented in a way that is causing a great deal of hardship on small business people, particularly. That has to be straightened out.

Mr. RANDOLPH. Mr. President, I appreciate the response of the chairman, who of course has given much thought to this subject. He will recall when we passed, 1 year earlier than the Occupational Health and Safety Act, the Coal Mine Health and Safety Act.

Mr. WILLIAMS. I do.

Mr. RANDOLPH. The Senator will recall also that we recognized, if that act was to be successful, additional qualified inspectors would be needed. No matter how good the law was, if there were not those who could inspect for health and safety, as the miners worked under the earth bringing forth the precious fossil fuel, we could not make it work. Is that correct?

Mr. WILLIAMS. Exactly.

Mr. RANDOLPH. So, as the Senator knows, the implementation of the act took longer than we had anticipated, because of the necessity of not only securing inspectors, but frankly training them for very important work. Is that not true?

Mr. WILLIAMS. It is true.

Mr. RANDOLPH. So we witnessed delays then, because we did not actually have the trained manpower in that instance to do the job. But that was not the fault of the law itself. That was the implementation of the law, which took longer than we had anticipated. And we had oversight hearings on coal mine health and safety. Is that correct?

Mr. WILLIAMS. That is right.

Mr. RANDOLPH. So we can have committee hearings within the Committee on Labor and Public Welfare to bring out these situations that are developing under the Occupational Safety and Health Act as we did for coal mine safety. Have we had such hearings?

Mr. WILLIAMS. We have scheduled formal hearings within our committee.

I would like to go back to the coal mine safety law, which was signed into law at the end of December 1969.

There we had a different situation, and we did something most unusual. We, here in the Senate, legislated the standards.

Mr. RANDOLPH. That is right.

Mr. WILLIAMS. We legislated how much gas could be permitted in a mine, how much air had to come sweeping through and carry the gas out, and how safe the roof or walls must be to prevent cave-ins. We legislated the standards, and did a good job.

Mr. RANDOLPH. That is correct.

Mr. WILLIAMS. In dealing with all of industry, obviously we could not legislate the details of all of industry, so we legislated the authority to the Secretary of Labor to promulgate the rules and standards. And I will say that I can see where the mistakes are made, just by looking over—I can hardly see the Senator from Nebraska, because he is behind the standards that apply to business.

That is wrong. It should be in a form that could be understood. In our coal mining health and safety bill, it was. I can even remember the standards in my head. A coal mine operator knows what is expected of him. But I will say, the way this one is going, it is very difficult.

Mr. RANDOLPH. I agree with the Senator.

Mr. WILLIAMS. Let us straighten that out, rather than remove effective enforcement from the small jobs, where the people have every right, with all other workers, to a safe place to work.

Mr. RANDOLPH. Mr. President, I appreciate the response of the able chairman. It is important that we carefully monitor the implementation of the Occupational Safety and Health Act. The concerns and complaints expressed by many, many small businessmen are very

real. The Congress and particularly our Committee on Labor and Public Welfare have the responsibility of insuring that this act is administered fairly and that small firms and businesses are able to cope with new standards in the occupational safety and health area.

A very large part of the problem, I believe is Government redtape. Over 1,500 years ago a man said of this aspect of government: "If all the seas were ink; if all the needs were pens; if all the skies were parchment; and if all men could write, they still could not match the redtape of this government."

That same redtape exists today.

These problems in the administration of the Occupational Safety and Health Act can be solved. The small businessman can be assisted—and should be. The smaller firms are a very vital segment of our economy. And this job can be accomplished without eliminating effective enforcement of health and safety programs for employees.

In conclusion, Mr. President, I ask the chairman—and I am a member of his committee and serve under him and with him—are we not prepared to move affirmatively in this area in an all-out effort to find solutions to the problems to which the pending amendment is directed?

Mr. WILLIAMS. The answer is unequivocally "Yea," we are prepared, and we are going to do it.

Mr. RANDOLPH. And it will be done promptly?

Mr. WILLIAMS. As promptly as we can. There is a convention coming up, and that is the only thing I can see in the way of going right to this matter.

Mr. RANDOLPH. In a reasonable time, hopefully within this month.

Mr. WILLIAMS. That is correct. It is fixed. Right after we return from the convention distractions.

Mr. McINTYRE. Mr. President, will the Senator yield to me 10 minutes?

Mr. MAGNUSON. I yield to the Senator time on the bill.

Mr. McINTYRE. Mr. President, 14,000 deaths a year and over 2 million serious injuries to workers in this country make not only a strong, but absolute, case that occupational health and safety regulations are essential. This is why I voted for the Occupational Safety and Health Act.

But problems have developed with the administration of this law. Congress has experienced this problem many times before. Well-meaning legislation embodying essential public interest goals often causes reactions which are totally unintended. The enforcement of OSHA regulations have created in some cases insurmountable problems in a crucial area of our business community—the small business sector.

When Congress established the Small Business Administration in 1953 as a permanent agency, it specifically recognized the small businessman's contribution to the free enterprise system and also recognized his precarious state vis-a-vis big business. The Occupational Safety and Health Act also made recognition of the unique status of the small businessman in providing for SBA loans to meet OSHA requirements. The problem, however, is simply not the availability of loan funds, though that is extremely important. The crucial problem, as I see it, is the recognition or lack of it—whichever the case may be—by OSHA officials that there are extreme differences between a vertically integrated conglomerate corporation and a small businessman.

While OSHA regulations may create some problems for large businesses, which I am sure they do, these corporations have the financial resources and the managerial ability to provide in plants and on work sites safety engineers whose sole function is to assure compliance with health and safety requirements. The small businessman, however, is not nearly so fortunate.

The cost of obtaining such assistance and the expertise to make practical application of health and safety technology is quite often far beyond the reach of the small businessman.

While we, in Congress, and in the executive branch have expressed alarmed concern with the state of our economy and have time and again passed legislation aimed at strengthening the American economic system, it seems that too often these measures have little or no impact on the small business sector.

A work survey by the Research Institute of America on the first quarter of 1971 clearly illustrates this point. Earnings of manufacturers with assets in excess of $1 billion increased their earnings by 18.8 percent while during the same period manufacturers with assets of less than $1 million suffered a 40.4 percent decrease in profits. This is a devastating statistic.

Congress must recognize that small businessmen in this country must overcome almost insurmountable problems to remain competitive with big business. And we must make sure that our actions do not unintentionally result in driving thousands of small businesses to the brink of bankruptcy and disaster.

This, I am afraid, may be the unintentioned result of the operation of OSHA if we are not careful. The House Select Committee on Small Business is presently holding hearings on the impact of the Occupational Safety and Health Act on small business, and the Department of Labor in testifying before that committee has stated that numerous mistakes have already been made in applying health and safety standards. But what may be statistics to the Department of Labor is cold reality to a businessman who finds himself unable to continue his business because the regulation as promulgated by OSHA was impossible for him to comply with.

The amendment that we are considering today, however, is not in my opinion the right approach. This amendment would for 1 year deny funds to the Department of Labor for enforcement of OSHA regulations on employers having 25 or fewer employees. Exemptions quite often create more problems than they resolve. One might well ask, why the number "25"? As a general rule, the Small Business Administration's size standards used to determine what constitutes a small business is $1 million gross sales a year or 500 employees. I know the argument is made that you must draw the line somewhere as even the Small Business Administration does in establishing its size standards. The SBA's size standards, however, are for eligibility for financial assistance. The size standard contained in this amendment is for an exemption to health and safety work standards. The difference between these two subjects is obvious.

I am not saying, however, that changes should not be made in the Occupational Safety and Health Act.

Discussions I have had with numerous small businessmen have indicated that substantive changes in the OSHA Act are needed. Small businessmen have told me that they find the regulations issued by OSHA extremely complex and technical in nature and that procedures should be developed to simplify the requirements in a way that small businessmen not having access to technical expertise know what is required of them.

Another complaint often made is that the small businessman in attempts to comply with OSHA requirements can receive no assurances that the safety equipment he purchases conforms to OSHA regulations. This indicates to me that possibly the Secretary of Labor could provide certification as to what equipment or action would meet his agencies health and safety requirements.

I am in the process now of drafting an amendment to the act which would establish a specific small business program which would, first, require that regulations be simplified and technical assistance offered in meeting regulations; second, require the Secretary to provide certification as to what equipment or action will meet OSHA requirements; third, require regulations be applied on an industry-by-industry basis and small business exceptions to individual regulations be granted where appropriate; fourth, maintain close surveillance of effects of regulations on competition to assure that small businessmen are not unintentionally injured economically because of regulation; fifth, require Secretary to certify that regulation can actually be complied with and a finding must be made that regulation will have a positive effect on the health and safety of employees so that needless regulations are not issued; sixth, provide small business recordkeeping procedure to cut down on required paperwork and eliminate needless redtape; seventh, distinguish between different types of business activities such as light and heavy construction; and eighth, provide small business with one onsite inspection without mandatory penalty.

The important thing is to examine the operation of the Occupational Safety and Health Act to assure that regulations and requirements issued by the Department of Labor do not unintentionally adversely affect competition and cause unneeded economic injury to the small business sector of our economy. This, in my opinion, can be done without providing specific exemptions based solely on the number of workers.

I commend my good friend the Senator from Nebraska but I urge the Senate to reject his amendment.

Mr. COTTON. Mr. President, I yield time on the bill to the distinguished Senator from Colorado.

The PRESIDING OFFICER. How much time is yielded?

Mr. COTTON. Five minutes.

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

Mr. ALLOTT. I have 10 minutes.

Mr. President, I join the Senator from Nebraska in support of his amendment. I am not going to say all the things that are wrong with this measure and then say I am not going to support it. I am going to support it. It is long overdue.

I think of all the legislation that this Congress has passed; this particular piece of legislation probably falls as far short of reaching its goal as any piece of legislation we have ever had.

In the first place, I have in my hand an article from Cervi's Rocky Mountain Journal in Colorado in which Mr. Guenther, Assistant Secretary of Labor, was interviewed. Here are two short quotes:

"While these states (Colorado, Wyoming, Utah, Montana, North and South Dakota) have some work to be done, they have an excellent opportunity to assume responsibility for health and safety. This should be a state program."

And then, in another paragraph:

Pressed on the subject of Colorado's relative freedom of occupational hazard, Mr. Guenther said that "while Colorado is one of the smaller states, it has a good basic program."

Now, Mr. President, my files are replete with objections and abuses under this program. I had a man in my office the other day who happens to be a small builder of homes, a small contractor, and he was constructing a small family residence. It was mostly complete except for the installation of the boards in the ceiling and the hot water heaters around the baseboards. While the men were installing the hot water heaters around the baseboards, and the boards in the ceiling had not yet been installed, there was no one working on the ceiling and nothing could happen up there, and while the men were working on the baseboards, the inspector came in and fined the small contractor because the men were not wearing hardhats.

Mr. President, you just simply cannot imagine such a ridiculous thing happening in the United States today, but that is what happens when Congress gets too overzealous in protecting what it thinks are the rights of the people.

We are all for safety. We are all for occupational safety. But we do not serve that cause by running small businessmen out of business.

Here is part of a letter from a sheet metal and roofing company:

. . . when a man can come into our place of business and find equipment faulty that we have operated and used for seventeen years with no injuries, and which will cost us $3,500.00 to repair or bring up to his standards. On top of that, pay a fine or go to Court; this is ridiculous.

They go on to say:

Also, we get cited again for not having a railing around the roof; or my roofers not wearing safety belts and ropes, and a man using my hoist as a ladder. Did you ever try and put on a build-up roof, using 400° asphalt having five ropes fastened to you and try to keep them out of the road, or keep the men from stumbling over these and burning themselves on the hot asphalt? Also, it is discriminating, because we were the last ones on the roof. Before us, there were bricklayers, electricians, carpenters, and plumbers and we were the only ones that were cited.

Mr. President, can you wonder why, in a recent survey, out of 20 occupations in this country, politicians were rated 19th insofar as popularity was concerned.

Mr. President, here is part of another letter. This is from an independent petroleum marketer:

We might point out that the drafters of this bill took the diking requirement from the National Fire Protection Code. In the process they eliminated the final language which states that the enforcing authority will have the discretion to waive the diking requirement. As you can see, this makes the diking drainage requirement mandatory for all wholesale petroleum bulk plants. For the 30,000 small independent oil jobbers across the nation this could mean an expenditure of $300,000,000.00. In Colorado, Wyoming and New Mexico, the cost would range from $50,000.00 to $175,000.00 for each independent petroleum jobber. This will break many of our members. Incidentally, the diking and drainage of storage tanks is primarily an environmental concern and not so much an employee safety matter.

Then, reading from another letter, from a general contractor:

I am firmly convinced that safety—*practical safety*, is a must. Also, I am as firmly convinced, that all of our resources can be expended being super careful.

Thirty-five years of experience, first as journeyman carpenter, and the last twenty-five as a small contractor, indicate to me that the rules as set forth are not practical, and if not modified to meet conditions, will result in bankruptcy for those apprehended, or if a project is found that is without violations, it would have to be on a cost plus job for the Government.

Then he says something in his closing paragraph which is very significant and, Mr. President, I have had actual examples of this called to my attention in Colorado:

Some responsibility for safety must lie with each individual, the statistics that were used to show a need for the various rules were certainly not countered by an evaluation of people not injured as per past practice.

So if the foreman goes off the job for 5 minutes and a man takes off his gloves or if he takes off his safety helmet, and then the inspector comes in and assesses a fine and the employer has nothing to do with it, the employer has—at least in our State and in most States—every incentive for safety. Under our State industrial commission and our workmen's compensation law, the man who fails to provide safety for his employees finds his premium going up at an exhorbitant rate. So from not just a monetary matter, nor a matter of humanity or morality, he has every reason to look after his employees.

I want to read from another letter, which says, in part:

It is our understanding that bill No. H.R. 14032 will soon be introduced as an amendment to relax the strict Occupational Safety and Health Act regulations in favor of companies employing twenty-five people or less. Several businesses of this size have already been forced to close because they could not comply with these regulations.

Then, reading from the final letter I am going to quote from, he refers to the fact that the small businessman is having a lot of problems with OSHA, and says:

It is so complex and the interpretations are so varied. I believe many of our customers will not be able to stay in business.

We have tried to comply with many of these new interpretations, but some are impossible even though we have adequate finances.

Mr. President, I have another example in my mind where a small general contractor was fined by one of these so-called inspectors. He was fined after the inspector had been in that area—he had fined the man two or three times, by the way—and he finally came around after the rest of the contractors had educated the inspector and confessed that he had made a mistake and it was too bad he had not known more about that business in the first place. The trouble is we cannot get inspectors who have a wide knowledge of the occupations they are inspecting.

This act is ridiculous. I should like to call attention to one or two things in the act. First of all, I do object, constitutionally and otherwise, to the fact that any man can come out and fine another man. It is no satisfaction to me that he has an appeal to the Secretary. That does not mean a thing. If one lives within an hour or two of Washington, he can climb on a bus and for $6, the price of the busfare, may be able to defend himself. But if he lives in our area of the country, where the minimum cost to come to Washington is $400, there is darn little satisfaction to a man who is involved in trying to protect himself if he is a small businessman. That is what he has to do under section 10 of the bill, if he wants to get away from the fine.

Probably the most ridiculous part of the bill is section 17 of Public Law 91–596, which provides for a settlement. I ask unanimous consent that the entire section may be printed in the RECORD.

There being no objection, section 17 of Public Law 91–596 was ordered to be printed in the RECORD, as follows:

PENALTIES

SEC. 17. (a) Any employer who willfully or repeatedly violates the requirements of section 5 of this Act, any standard, rule, or order promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, may be assessed a civil penalty of not more than $10,000 for each violation.

(b) Any employer who has received a citation for a serious violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, shall be assessed a civil penalty of up to $1,000 for each such violation.

(c) Any employer who has received a citation for a violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of regulations prescribed pursuant to this Act, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to $1,000 for each such violation.

(d) Any employer who fails to correct a violation for which a citation has been issued under section 9(a) within the period permitted for its correction (which period shall not begin to run until the date of the final order of the Commission in the case of any review proceeding under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties), may be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

(e) Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than $20,000 or by imprisonment for not more than one year, or by both.

(f) Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or by both.

(g) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(h) (1) Section 1114 of title 18, United States Code, is hereby amended by striking out "designated by the Secretary of Health, Education, and Welfare to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act" and inserting in lieu thereof "or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions".

(2) Notwithstanding the provisions of sections 1111 and 1114 of title 18, United States Code, whoever, in violation of the provisions of section 1114 of such title, kills a person while engaged in or on account of the performance of investigative, inspection, or law enforcement functions added to such section 1114 by paragraph (1) of this subsection, and who would otherwise be subject to the penalty provisions of such section 1111, shall be punished by imprisonment for any term of years or for life.

(i) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed a civil penalty of up to $1,000 for each violation.

(j) The Commission shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(k) For purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(l) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office.

Mr. ALLOTT. There are several sections. There are seven ways in which a man may be assessed a fine.

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

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

The PRESIDING OFFICER. The Senator from New Hampshire has 102 minutes remaining.

Mr. COTTON. Mr. President, I yield the Senator from Colorado such time as he requires.

Mr. ALLOTT. Mr. President, I thank the Senator.

The first section provides that anybody who willfully and repeatedly violates section 5 is subject to a civil penalty of $10,000 for each violation.

In the second section it says that anyone who receives a citation for a serious violation is subject to a $1,000 fine for each violation.

In the next section it says that if he receives a citation for a violation of a serious nature he can be fined $1,000 for each violation.

I do not know why they have two of them.

The next one says that any employer that fails to correct a violation can be fined $1,000 for each day for which such failure continues.

I will conclude by reading one of the prize things of all legislation that I have ever heard.

Subsection (f):

Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or both.

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

Mr. ALLOTT. Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I have in my file the copy of a letter written by the area director in the case where a small businessman wrote and asked him if he would come to his place to tell him what he should do to comply.

The area director refused to come and said, "If I come there, I will have to cite you and fine you."

That is the type of treatment the small people get under this act.

Mr. ALLOTT. Mr. President, I am sure it is.

Mr. President, I hope to God—and I mean this reverently—that this Congress never again passes a law which permits any man to go in and assess a fine. I know what we have done with the Federal Trade Commission, and God help us for what we have done. We should never have given them all the power that they have. Nor should we have given all of these people in OSHA all the powers that they have.

Last week the Supreme Court of the United States made the momentous decision that any man that is up for any misdemeanor or felony which carries with it a jail sentence or a prison sentence is entitled to a defense lawyer. The following week we are on the floor trying to defend an act which permits an inspector to come in and levy a fine against a man who may not even know he has violated the law.

I think that the Senator from Nebraska has done a great job. It may be true that in each individual case a man may not have to know what is in all of those volumes on the desk of the Senator. But how in the world is a man ever to know it?

The facts are that this thing was developed and they wanted a great many more inspectors. They cannot get the qualified inspectors because the people who ought to be doing this inspecting, if it is done, should be the very top workmen in that factory or occupation.

Something was said here during this debate with respect to OSHA that, by golly, they ought to straighten up the thing. The thing wrong is that the law is basically unsound. If we want to do something about that, what we ought to do is to sit down and rewrite the whole law and rewrite it on the basis that someone who violates it has a reasonable right to know what code he is violating and what specific things he is doing that he should not do or not doing that he ought to do. He would then have a chance to defend himself in court.

Mr. President, that is all I have to say. While I would agree that we all want to protect the health and safety of our people this amendment is a good place to start. I do think that in places of employment that have less than 25 employees, they do have the matter of personal supervision that is not prevalent in the large corporation.

The second place to start would be to rewrite the whole act and particularly take out these obnoxious and terrible provisions about an inspector being able to come in and assess a penalty when a man has conditions existing which he may not even know exist and which he may not even have the opportunity to determine.

Mr. COTTON. Mr. President, I yield 10 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. HRUSKA. Mr. President, I shall not take the entire 10 minutes. However, I do rise in support of the amendment because it is a good, sound amendment.

Mr. President, I believe that the showing made by my colleague from Nebraska was excellent. It is a sound amendment because it is in the nature of creating a temporary situation, a temporary period during which many abuses can be corrected and perfections can be made in the law, which all of us want. We do want a law which protects the safety and the health of our workers.

It has been said that the employee of a small employer—whether five, 10, 15, or 25—is just as entitled to the protection of the law as one who works for a corporation that has 5,000 or 10,000 employees.

It is not unusual for this body in the opening stages of very significant legis-

lation to create exemptions for smaller sized employers and smaller sized factories.

We all remember when the Senator from Vermont came in here on behalf of Mrs. Murphy's boardinghouse. That had to do with the fair housing law and the civil rights law of 1964 when an exemption was carved out, for four or eight roomers in the boardinghouse. The argument was raised that if it is fair for a hotel, if it is fair for a 500-unit apartment house situation, it is fair for Mrs. Murphy.

The good sense of this body prevailed, and we supported an exception in the case of Mrs. Murphy's boardinghouse.

My mind goes back also to the exemption from the Civil Rights Act of 1964 sponsored by the senior Senator from New Hampshire when he said that the act for Equal Opportunity in Employment should not apply to employers of 25 or less employees. That was the rule for a period of time until that legislation seasoned itself to a point where it was acceptable for those who had fewer employees than 25. That was done. That is what is being done here.

There are many abuses and many features of the present law that need correction. Those abuses and those points that need correction and perfection have certainly been well documented on the floor this afternoon.

One of the things that stand out—and I think it should stand out in the mind of any fair-minded person—is that one of the basic propositions about a law, is that it must be promulgated in law in order to be effective.

How can we say that promulgation of the Occupational Safety and Health Act in such abridged form, in thousands of volumes of only those parts passed by Congress and signed by the President, when there is by reason of incorporation into that law by reference in the regulation of that law a mountainous supply of ordinances, codes, bulletins, statutes, and so forth, that are in the regulation? There is not that degree of promulgation and cannot be because some of the documents referred to have been out of print for 25 or 30 years and are not obtainable except in very few and rare places, and yet they are referred to and made a part of the regulations. The requisite proper promulgation is certainly violated.

Another topic that we like to think of in legislation is due process. How can we have due process here when there is that utter and abject lack of fairness in the administration of this law. The examples of that have been legion in the debate here this afternoon. It is traditional in our system of law that we provide a chance for cooperation and a chance for compliance. We know that to be true in cases of fire inspectors in our communities. The fire inspector does not come in and check a stack of papers near the oil burner of a home and then slap a fine on the homeowner. He goes in and explains to the homeowner the situation and the danger and then comes back the next day to find if it has been corrected. Is that not the proper way to do it?

Imposition of a penalty is not for the purpose of harassing and punishing, but it is to secure compliance. Whether it is food inspection, the building code, or even in the field of the NLRB, we have had exceptions of this kind.

Mr. President, since the commencement of the enforcement of the Occupational Safety and Health Act, hardly a day has gone by that I have not received letters of protest from small businesses in Nebraska and the surrounding States. These letters of protest have ranged in content from inquiries regarding the requirements of the act itself to statements of practices of inspectors which one might expect in a Fascist police state. This law, which received nearly unanimous support of the Senate on its initial passage, has been subverted to the point that small businessmen everywhere wonder if they are the subject of some sort of conspiracy.

What has happened to the basic purpose of the law?

I believe that our purpose in passing the Occupational Safety and Health Act was to provide a safe work place for employees. There can be no question that eminently dangerous working conditions should be abated. Many of the larger businesses in Nebraska hire trained safety advisers and engineers to provide safe working conditions for their employees. Other smaller businesses which are equally dedicated to providing a safe working place for their employees are financially not able to employ highly trained safety engineers due to their limited profit return but, nevertheless, demonstrate as actively and effectively as they can, their concern for worker safety.

My office has received numerous letters, particularly from the smaller businesses wanting to know how they can comply with the law. Under the law, there is no way for a business to invite an inspector to inspect a particular business for the purpose of being advised and counseled as to how he can make changes to be in compliance without subjecting the business to immediate citation for all noncomplying practices. Is this how we encourage compliance with our laws? The small businessman under present law as applied is in the position of being unable to unweave the nearly incomprehensible mish-mash of regulations, unable to employ economically a lawyer or safety director to tell him what he must do to comply, and is afraid of requesting information from the Department of Labor for fear that an inspector will be sent immediately to his place of business to issue fines for noncompliance with regulations which the businessman has never heard of.

Mr. President, I would like to call the Senate's attention to a sampling of the correspondence which I have been receiving over the last several months. A contractor in Nebraska stated that his compensation rating was 84 compared to the national average of 100, that he awarded $2,800 per year as safety incentive awards, that safety inspections were performed monthly, and that he had a part-time safety engineer. After passage of the OSHA law, he added a $12,000 per year safety engineer, sent the engineer to an OSHA training school at a cost of $500, required all supervisors to complete the Red Cross safety program at a cost of $1,200, and spent $37,000 for additional safety equipment. The result of this attempt to comply was that the OSHA inspectors cited this company with two fines. This man requested that his name not be used for fear that the OSHA inspectors would be sent back to finish the job of driving him out of business.

In another letter, a manager of a country grain elevator wrote:

> It is impossible to abide by all the rules in the Federal Register. What small business can afford to spend $10,000 for remodeling and changes, in order to comply. This seems rather silly when our records show there has never been a fatality or even a serious accident in the 100 year history of our business.

A small town grain dealer wrote that he was doing all he could to make his place as safe as possible, but to change all his equipment to meet the new requirements all at one time would put him into bankruptcy.

A lawyer in a medium sized Nebraska town wrote that his clients were complaining bitterly about the OSHA law and its enforcement.

He states that full compliance with the voluminous regulations would force most employers out of business. He describes the enforcer as a former labor organizer and notes that the inspector has taken the place of a judge, jury, and policeman. The law, he states, is the most vicious prostitution of our concept of due process. Another man states that compliance with this law would take months and many thousands of dollars. A rancher from western Nebraska writes:

> After reading through the booklet sent to us by the Department of Labor, we were amazed at the absolute absurdities of some of the requirements. For instance, even a SUNBURN must be reported as an injury and the penalties for violation seem extreme . . . $1,000 for each violation.
>
> Free enterprise should be valued, preserved and strengthened, not choked and harassed until all desire to try to continue is burned out.

An Omaha employer wrote:

> What kind of a monster have you legislators created? A man from OSHA walks into our plant because of an employee complaint, investigates the complaint and says that it is invalid. But while he is there, for the first time, he looks into an area with five employees and fines the company $1,260 for alleged minor violations to the Federal Standards for Health and Safety.
>
> Such unbridled power and its indiscriminate use will force many plants with excellent safety records to close their doors. Please establish control over OSHA.

A manager of a service station relates that if his employees were to comply with the OSHA regulations, it would mean that they would spend two-thirds of their working time putting on and taking off protective clothing. A plumbing and heating man cites the responsibility of the employer for violations of his employee away from immediate supervision and the necessity of passing on the additional costs of compliance as his strongest objection to the law.

And there is the man who was having union troubles which resulted in over a $36,000 fine.

I have heard from many hundreds of other Nebraskans who have voiced shock, disbelief, and amazement at this particular legislation and the Gestapo methods of enforcement. Much of this public distrust and resentment can be attributed to the morass of complicated and confusing regulations and the abandonment of any semblance of due process in the enforcement of this act.

To illustrate how zealous the OSHA inspectors are, the Department of Labor has provided me with these figures. Although field inspectors cited employers with $84,104 in penalties only $17,511 in penalties were actually imposed. This is strong evidence that either the inspectors are so unskilled in their inspections that they are issuing citations for practices which are not in fact violations, or on the other hand, the inspectors for reasons known only to themselves are intentionally harassing employers in order to frighten other employers into compliance.

It is also significant to note that the number of inspections made in Nebraska during the first three quarters of the first year of the law was 166. Of these 166 inspections, inspectors issued 239 citations. This is about three citations for every two inspections. Of the 166 inspections made, only 50 were at the request of employees.

These figures are intended to show the Senate that the issuing of fines under the OSHA law is not occasioned by the discovery of inspectors of safety hazards in some cases. The above-stated figures demonstrate that three penalty citations are issued for every two inspections made on the average.

Is it the intention of the Occupational Safety and Health Administration to issue citations to every employer in the country? It would seem to be the case as they have issued on the average of more than one penalty per inspection so far.

The State of Nebraska is not alone in sharing the frustration and exasperation with this law.

Mr. President, I would like to quote from House Report No. 92–1118, wherein the House Committee on Appropriations noted:

> The Committee recognizes that the law requires the Department to take positive action whenever it determines that a condition exists that is in violation of the law, and it expects that the law be fully enforced. However, the Committee has received many complaints of overly zealous enforcement officers, and other complaints of great difficulty in getting assistance from the Department in interpretation of the standards and regulations in order to determine whether or not a particular workplace is in compliance or what would be required to get it in compliance. The attitude of enforcement personnel is important to the proper administration of this law. The Committee will expect that this be recognized by the Department in the training of new personnel and in the supervision of the program.

Mr. President, at this time, I would like to read into the RECORD statements of our distinguished colleagues in the House of Representatives who gave much serious consideration and debate to these matters which we are here debating today:

Mr. DENNIS. I do not think, Mr. Chairman, that in my brief time in this body I have ever received more mail objecting to an act and to the administration of that act than the Occupational Safety and Health Act has brought forth.

Because of that reaction, along with a great many other Members of this House, I have cosponsored legislation to introduce amendments designed to ameliorate the effect of this act on the small business men and on the farm.

Generally speaking, these amendments would exempt the small farmer from the effect of the act. They would exempt the employer of under 25 people from the effect of the act, and would postpone the effect of the act as to employers of less than 100 people. They would cut down on the arbitrary rulemaking authority of the administration.

I may be wrong, but so far as I can observe, the legislative committees involved are not about to do anything about holding hearings on these amendments in spite of the fact that there is a very widespread demand for them and a very widespread support for them in this House, judging by the people who have introduced legislation.

So, it seems to me that we ought to seize on the opportunity to reduce the appropriation for the enforcement of the act, because that would do several things.

In the first place, it would send a message loud and clear to the legislative committee and to the people downtown that they have got to give some relief to the farmer and to the small business man whom you and I repsent, and who is being victimized, so to speak, under the regulations and the rules of this act.

In the second place, we could save $20 million of the taxpayers' money and let it stay in their pockets, and at the same time that we are sending this message, we would also give them a little of their own money to use and we would take some of these inspectors off their backs.

If you cut it down to the appropriation last year, you would not take $20 million off this appropriation—you would take off $33 million. So I am already providing $13 million more than last year by this amendment.

I think there is a reason for that, because the two things are not quite equivalent. They do have additional duties under the new law; and I am giving them $13 million more to perform those duties under the terms of this amendment. But I do think a $20 million reduction, which would put this down to just about a $50 million appropriation instead of a $69 million appropriation would be a good and beneficial thing.

It would cut some of the fat out of this. It would make it impossible to continue hiring myriad inspectors and other bureaucrats until we find out how many we really need, and how they are going to administer this act.

It would give some relief to the small businessman and the farmer. Here is a practical thing we can do. We talk about giving these people help. We introduce bills, which nobody pays any attention to, but right here this afternoon we can take a $20 million load off the taxpayers, and I do not know how many hundreds of bureaucrats off them also, as a practical relief in their everyday business operations.

I think the people I represent and the people you represent would appreciate our doing just that. So it is a very simple amendment, easy to understand, and its purpose is clear. It provides an opportunity to strike an immediate, although modest, blow for liberty, and I urge support of my amendment.

Mr. SCHERLE. Heated controversy surrounded the Occupational Safety and Health Act when it was first introduced, debated and finally approved. Even before the law went into effect, its checkered legislative history gave some indication of the difficulties it would encounter after passage. The act's intentions are praiseworthy—it aims to insure a safe and healthful working environment for every employee in the country—but, as so often happens, a great gap developed between intention and execution.

Much of the problem lies with the law itself. In an effort to insure strict and swift application of safety and health standards, it adopts a punitive approach to enforcement. Considering the complexity and universal applicability of the regulations—744 columns in the Federal Register—very little time was allowed to familiarize employers with their new duties. Most small businessmen and farmers have never been subject to such regulation before. Faced with a bewildering welter of minutely prescribed safety and health standards, they are at a loss to know which ones apply to them. Big corporations employ professional staffs solely in order to analyze and apply such standards. The small businessman cannot afford to hire a lawyer to interpret the law and an accountant to keep the records it requires. The first time he is even aware of a violation may well be when a Federal inspector slaps a fine on him for noncompliance.

The inspector is not being personally arbitrary when he does this. The law makes it mandatory to impose a "first instance sanction," an automatic penalty for the first violation. This may entail a fine of $1,000, an insignificant sum for General Motors, perhaps, but a serious loss for the small machine shop operator who is subject to exactly the same rules. The law takes no cognizance of the employer's ability to pay the fine or to make the necessary changes in his operations to comply with the rules.

Realizing that the Occupational Safety and Health Act discriminates in effect if not in intention against small employers, Congress is considering a number of amendments to the law. I have introduced or cosponsored three bills exempting nonmanufacturing firms and those with no more than 25 employees, recognizing the difference between heavy and light residential construction, and proposing other changes to make the law more equitable and less onerous. These measures are designed to restore the balance between concern for employees' safety and realistic consideration for employers' problems and responsibilities.

Mr. THONE. The law provides that an OSHA inspector can walk into a place of business, decide that the agency's regulations are being violated and levy a fine up to $1,000 on the spot. He may return the next day and levy another fine. This is the most flagrant violation of the American system of due process of law ever to come to my attention.

The act is written so that every farmer or shopkeeper who hires one part-time helper comes under the same Federal requirements for safety and health as major factories.

The House Special Subcommittee on Labor has not scheduled hearings on any of the many bills introduced to amend this act. Reducing the OSHA appropriations will send a message to the subcommittee that it is time to schedule hearings.

This act is being administered poorly in my opinion. In administering OSHA, the Labor Department has issued a directive that the same regulations shall apply to the builder of one house at a time as apply to the contractor building a giant dam or a high rise office building. Commonsense dictates that they should be different standards for heavy outright construction.

In administering this act, the Labor Department has ruled that when one farmer helps another, an employer-employee relationship exists even though no money changes hands. In other words, the heavy-handed, bureaucratic regulations of OSHA are about to end the centuries-old tradition of neighbor helping neighbor.

In administering this act, the Labor Department has issued volumes of regulations, many of which have no bearing on the health or safety of employees. For example, OSHA has decreed that a toilet seat must not be a complete circle. OSHA proclaims that a toilet seat must be split in the front. Officials of the Labor Department have been unable to explain to me how this contributes to the health and safety of employees.

The Labor Department has been uncooperative in administering the Occupational Safety and Health Act. When a businessman wrote asking that someone come to his shop to explain the law, he received an answer which said that if OSHA officials came to his shop, they would make an inspection and if they found violations he would be fined.

The Labor Department has been uncooperative when Members of the House of Representatives and the Senate have pointed out OSHA regulations that are silly or of no contribution to health and safety. Reducing the OSHA appropriations will send a message to the Labor Department that it is time to revise the regulations of this act so that they make sense.

Mr. McCLURE. Many of us harbored some fears about the OSHA bill when it was before us a year-and-a-half ago, but I dare say that not in our wildest dreams did we envision it becoming the bureaucratic nightmare it is today.

When the Daniels bill was reported out of committee, it was obvious that the Federal Government was about to usurp the safety field once and for all. So, we looked for the most reasonable approach—one that not only assured the worker he was working under safe conditions, but one that assisted—rather than penalized—the businessman.

The most reasonable alternative before us appeared to be the Sikes-Steiger substitute. It has the support of the administration and the support of business. Both the U.S. Chamber of Commerce and the National Association of Manufacturers urged its adoption. A majority of the Members of this body voted to substitute it for the original bill and it was then adopted by a vote of 383 to 5.

We were then told that the conference report was also reasonable. And they said that, after all, this is a reasonable administration, so the law will be administered reasonably too.

Finally, we were told that if it does not work out as planned, Congress can always amend the law. Well, it has not worked out, and we find ourselves virtually helpless. In the intervening months, approximately 75 bills have been introduced in the House, including one of my own, to amend the law, but no action has been taken on any of them.

So my amendment is not offered merely to hamstring the Department of Labor, but rather to get the attention of the administration and to get the attention of our congressional leaders and to say to them, "This law is not working out as planned. Small businessmen are being harassed needlessly. Some are on the verge of closing down. Men will be thrown out of work and the unemployment rates increased—all in the name of safety. And it is wrong.

If the adoption of this amendment forces the administration and the Education and Labor Committee to take the coercion out of the Occupational Safety and Health program, then I say we will have put in a pretty good day's work.

I want to reiterate the fact that I am not striking the funds for the Review Commission. If there is one thing the business community needs now, it is someplace to turn to to try and repair the damage already done. In this connection, I am also introducing today a bill which would help some of these people recover the costs of taking their protests into the court. It makes the United States liable for court costs and attorney's fees to persons who prevail over the Government in actions arising out of administrative actions of Federal agencies.

You all have had the same complaints, the same pleas from small businessmen that I have had. You know something is going to have to be done. The big businessman can probably ride out this act, but the little fellow who has sunk his life's wages into his business probably cannot. There has been enough talk about OSHA. This is the one and only opportunity you are going to have this year to really do something about it. I urge you to join me in taking the first step toward correcting the outrageous administration of this law.

Excerpts from a letter dated March 1, 1972, follow:

"The initial OSHA inspection was made at our plant on December 2, 1971. At that time the federal inspector established certain deadlines to meet all necessary corrections which he felt were necessary. On his subsequent inspection on February 8, 1972, we were found to have complied with all major corrections and most of the minor corrections as identified by this federal inspector.

"On the first inspection on December 2, 1971, we were fined the sum of $500.00 for violations as identified by the federal inspector. On February 8 during his follow-up visit, he found three minor violations which since have been corrected.

"The three minor violations as identified by the federal inspector were:

"(1) One of our receivers had that day, inadvertently dropped a pallet of glue blocks in front of one of our portable fire extinguishers causing an obstruction.

"(2) We had failed to paint the weight load capability on one of our overhead crane assemblies (not that the hoist assembly was insufficient for the loads carried: but that the maximum load weight capacity was not painted in legible figures.)

"(3) We were advised to provide additional water closet facilities for the employees. This we failed to do due to a lack of communication . . . For this we assume total responsibility.

"Our concern is with the severity of the fines for the minor violations. (1) Obstruction in front of fire extinguisher $6,600.00. (2) Weight load not painted on hoist assembly $2,900.00. (3) Fined for not providing water closet facilities, for which we accept responsibility, $700.00. Total fines $10,260.00 plus a $500.00 initial fine on January 4, 1972."

This, I believe, illustrates the exact reason why there are those of us who are willing to take some very drastic steps at this point to get the message to the people who are charged with the enforcement of this act, that they are being unreasonable, arbitrary, and capricious, that their actions are confiscatory and will not result in saving lives but will result in the loss of jobs and the closing of businesses.

I believe it is high time that the Congress spoke up and made itself heard and heard in terms the people downtown can understand. This is the way it ought to be done. I know of no other way in which this message will be given to them downtown.

I have heard it said that the committee has raised some questions and has told them they ought to do better. I ask if there has been one change for the better in the administration of this act since that took place, and the answer, of course, is that there has not.

Mr. RONCALIO. While I want very much for the workers of this Nation to be protected by adequate safety and health laws, I do not believe an additional amount of money to hire more OSHA inspectors within the Department of Labor is going to contribute anything toward the promulgation and enforcement of occupational safety and health standards.

In the committee report on H.R. 15417, it states:

"The Committee has received many complaints of overly zealous enforcement officers and other complaints of great difficulty in getting assistance from the Department in interpretation of the standards and regulations in order to determine whether or not a particular workplace is in compliance or what would be required to get it in compliance."

This describes exactly the occurrences in my State of Wyoming time and time again.

It is for this very reason that I have introduced an amendment to the Occupational Safety and Health Act which would provide for a first-time, on-site inspection by Department of Labor officials for the purpose of giving advice, not fines. It is for this very reason that I have urged the leadership of the House of Representatives to hold hearings on the Occupational Safety and Health Act so that we can take a look at the difficulties faced by small businessmen, farmers, and ranchers in trying to comply with this new law. It is for this very reason that I am opposing any increased funding for the employment of additional OSHA inspectors.

All indications point to the possibility that more Department of Labor inspectors will result in one thing—more harassment for the small businessman, farmer, and rancher.

In my State of Wyoming the Occupational Safety and Health Act has caused nothing but chaos. Businessmen have been besieged with Department of Labor officials who are passing out fines even before owners and managers have received a copy of the 400-plus-page documents detailing the rules and regulations to which they must comply.

Ranchers, farmers and small businessmen are overpowered with the duty of wading through each page and trying to decide which rules apply to his own operation of the hundreds of pages of the Federal Register.

The Department of Labor is not administering the Occupational Safety and Health Act, Mr. Chairman. In addition to a reluctance to provide guidance and information, I have received reports of arbitrary fines, rudeness, and sarcasm on the part of Department of Labor inspectors. The overall effect has been to drive a serious and growing wedge between the public and the Federal Government.

Although I was not a Member of Congress when the Occupational Safety and Health Act was passed, I feel a real responsibility to putting forth my best efforts in helping to bring some justice and equity to the act.

One mistake was made when the Department of Labor was given a free rein on devising rules and regulations regarding safety and health. We would be doubling the injustice to small businessmen, ranchers and farmers if we were to call for more inspectors to cause more harassment, more rudeness, and more arbitrary penalties. Furthermore, we would be failing in our duties of listening to the citizens to whom we are responsible.

Based on past attitudes and activities, Mr. Chairman, the Department of Labor has no right to an additional penny for the promulgation and enforcement of occupational safety and health standards.

I have letters to support my position from employers in Wyoming, of 10 or 15 people or less, saying that they had written to OSHA's Denver office for guidance, but were threatened only with a fine.

This has gone on month after month, and now we expect to give the Department of Labor an additional $20 million to reward them for that type of public service, I submit, is a reflection on all of us. I submit that if Members have a conscience for their duties they will support the amendment.

The gentleman from Texas (Mr. Fisher) joins me in that support, as do the gentleman from Montana (Mr. Melcher), the gentleman from South Dakota (Mr. Denholm), the gentleman from Nebraska (Mr. Thone),

and the gentleman from Kansas (Mr. Sebelius). We have joined four of our colleagues in the other body asking for amendments. But we get vague promises of a hearing. We are not asking that the law be repealed or that it be amended with relation to those employers who employ 25 or less. We are not trying to cut the guts out of the enforcement procedure. We believe that every employer should have safe premises for his employees regardless of size.

The Department of Labor has loused this up so badly sometimes I wonder if this administration really seeks to subvert the entire OSHA program. Instead of giving attention to the places where 14,000 deaths annually occur we find the inspectors determining what kind of restrooms should be provided in barber shops, or telling an automobile dealer that he must put a restroom in his premises for his wife, even though they use the same restroom at home.

Mr. MAYNE. Mr. Chairman, firms employing 25 persons or less do not require the same rigorous inspection for compliance with the Occupational Safety and Health Act of 1970 as the larger firms. I believe the Findley amendment makes good sense and is very necessary. Many of my constituents, both owners and employers of small firms and farms alike, have written my office requesting that they be relieved of the very unreasonable and burdensome regulations imposed on them under the Occupational Safety and Health Act of 1970.

As is so often the case, legislation designed to correct problems prevalent in big business operations has created unreasonable and unnecessary hardships when applied indiscriminately to smaller firms and farms. This has been like trying to shoot a mouse with an elephant gun.

I am deeply concerned about the continuing serious losses, both human and financial, which are occuring due to occupational related accidents, and am for any reasonable steps necessary to protect both agricultural and industrial labor. However, I would like to point to the excellent safety records which have been compiled by small business entities during the years before OSHA was in existence. It was through the application of down-to-earth commonsense, not the unreasonable OSHA regulations, that these small businesses were able to operate safely and economically."

Mr. President, the importance of the recent action of the House of Representatives in adopting an amendment to the Health, Education, and Welfare and Labor appropriations bill so as to provide that:

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing twenty-five persons or less for compliance with the Occupational Safety and Health Act of 1970

It is certainly an achievement which small businessmen nationwide will be truly grateful. None of those distinguished gentlemen in the House who voted for that amendment are against providing safe and healthful working conditions for the employees of our country. They did the most reasonable thing possible under the circumstances. The House in its wisdom has decided to partially relieve small businesses of the unfair burdens of the Occupational Safety and Health Act for 1 year. This will provide their legislative committees an opportunity to reevaluate authority delegated to the Department of Labor under this act, so that the intentions and purposes of that act can be made clear to the Occupational Safety and Health Administration and to the many small businesses across our great country. This interim delay will also afford the Department of Labor ample opportunity to educate and train their inspection personnel. This last point is one which most Senators will likely agree has been brought clearly to their attention by letters from their constituents.

The Senate would be wise to follow the House leadership and adopt the position taken by the House of Representatives in this matter. This reasonable delay would afford our legislative committees sufficient time to review the many weaknesses of the present law and implement measures which would have the support of employers and employees alike, and of large and small businesses alike.

This Senator certainly does not feel that the Occupational Safety and Health Act was a step in the wrong direction. It is my opinion that the Congress, while stepping in the right direction, merely stumbled. It is now time to pick ourselves up and continue to move in the right direction toward a health and safety law which will help employees by protecting them in their work, and by helping employers by protecting their employees upon whom they depend. This can readily be done by the passage of the amending bill now under consideration.

In making its report, the Senate Committee on Appropriations included in its report the following:

The Committee will expect the Department to significantly increase its efforts to inform and assist businesses in the interpretation of standards and regulations to enable employers to determine whether their workplace is in compliance or what would be required for compliance.

The Committee has received a number of complaints from small businesses concerning their inability to cope with new standards and other developments in the occupational safety and health field. It is expected that the Department will assist in every way possible so as to minimize these complaints.

Just as the House of Representatives recognized in scrutinizing their committee's report which contained nearly identical language and then adopted an amendment from the floor to forestall the use of funds to enforce this act against small businesses until the administrative problems could be sharply reduced or eliminated by legislative amendment, so the Senate should take the caveat of our Appropriations Committee and forestall the use of these funds against small businesses until we are sure that such funds will be used wisely to effect the basic intent of the Occupational Safety and Health Act which is to provide safety and health in working conditions for employees. In this way, we can best serve evenly and fairly both employees and employers.

Mr. President, I hope that this amendment is agreed to so that we will have this breathing space in which to hold hearings. They should be extended hearings and held promptly so that we can get to the business of safety and health in the occupations that are affected rather than to have the situation of harassment, confusion, hardship, and deprivation of jobs which is now occurring.

I yield back the remainder of my time.

Mr. COTTON. Mr. President, I yield 5 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, on page 14 of the committee report it is stated:

The Committee recommends $80,000,000, an increase of $10,793,000 over the House allowance and the budget estimate. The additional funds are to be used to employ approximately 400 additional compliance officers, to develop health and safety standards, and to help small business and unorganized employees cope with new developments and standards in the occupational safety and health field.

Mr. President, if I were a small businessman reading that language I would feel almost like the two monkeys en route in the first shot to the moon. One monkey was complaining and the other said, "It sure beats that cancer lab." That is just about the option we present to small businessmen in this country.

The thing that bothers me about the example used by the Senator from New Hampshire of the contractor who came into his office today and said he had 300 employees, and he was opposed to this amendment because he was afraid that subcontractors would be exempt and the rest of his employees would not be, is that in the first place that is not so. Subcontractors would not be exempt.

But I think the real thing that bothers me about that is the fact that the contractor is almost saying in effect, "Do not let somebody bother you. Misery loves company. I have a problem so everybody suffers as well." What he is really saying is if we pass this amendment maybe somebody will not afford him relief.

I listened to the Senator from New Jersey say that he recognized the problem. I am delighted, and I am delighted that he is going to have hearings on the problem. I was somewhat disappointed when he found the problems were all in administration and not the law. I think it is somewhat difficult to accept the premise that the Congress can pass any laws it wants to pass—bad law—and then blame the administration. This is a bad law.

Mr. President, I think you can just marvel to yourself how long Congress can continue to pass laws which delegate power which Congress does not have under the Constitution. That is a unique exercise in legislative logic. That is what we have done in this bill. We have made of these field inspection people policemen, prosecutors, judges and juries, all in the form of one man out in the field, exercising his judgment, his eminent wisdom upon small businessmen who do not know what the regulations are. This is total violation of due process. It is a presumption that small businessmen are guilty until proven innocent.

It is said they have a right to appeal to the Secretary. I say that is specious and ineffective because the Secretary hires the very people who are abusing the process. As far as I am concerned he is as guilty as they are.

The problem is that we have allocated too much power to a bipartisan bureaucracy with a degree of arrogance that seems available only to those whose powers exceed the level of competence. That is the case in this particular situation.

The thing I think most tragic about this violation of the Constitution and due process is that it strikes at such a fundamental part of our system because in our system small business is where we live or die as a society, small business is where the action is, small business is where man can take his first tenuous step in private enterprise, it is where a man can labor and step out on his own and make his own way, and make it or not based on his ability. But all of a sudden we incorporate a factor over which he has no control. We impose upon him, upon this striving young person, a man who has strived mightily and long, conditions which he does not understand and with which he cannot comply, conditions which have nothing to do with the law, which are simply subject to the whim—the arrogant whim—of a person who has been on the payroll 12 months and who has never participated in or belonged to or worked in that kind of business.

That is the kind of law Congress passed. It is not the administration of the law that bothers me—it is the law itself. It is that Congress would deem it proper or wise to pass a law which delegates that kind of authority and power.

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

Mr. COTTON. Mr. President, I yield 2 additional minutes to the Senator.

Mr. BROCK. Mr. President, the essence of this argument is not over due process in the bill, because that is totally lacking. What we are trying to say is, let us make one small step forward by this amendment to afford the young and the old in this country the opportunity to participate in the blessings of a free society and a free economy. Let us give them a chance to compete, to live and make of themselves what they can. Let us afford the people of this country the opportunity to practice their faith in this process of what we call a free economy and a free political system. That is all for this time. We can work on the overall due process question and the constitutional process later, but let us take one small step forward tonight to reaffirm our faith in small business as a fundamental part of a free society.

Mr. COTTON. Mr. President, I yield 10 minutes to the Senator from Colorado (Mr. DOMINICK).

Mr. DOMINICK. I thank the Senator.

Mr. President, I rise to cosponsor the Curtis amendment, and I most earnestly solicit my colleagues in support of it.

When the Occupational Safety Health Act was debated in the Senate originally several of my colleagues and I warned that its purposes could easily be subverted by the unrealistically broad and vague mandate to the Labor Department.

Many of you will recall that I put up an amendment which would have required the establishment of a separate board for establishing rules and regulations for specific types of businesses so that people would know exactly what they were going to be faced with. That amendment, unfortunately, was defeated by two votes on the floor of the Senate, and we went forward with it and we got ourselves into the jam that we are faced with today.

The events since the act was implemented a little over a year ago bear out the warnings we made at that time. Rather than an instrument for the noble purpose of providing a safe and healthy environment for American workers, the act has been a device for the harassment of thousands of already harried small businessmen and farmers.

Those who would disagree should read their mail a little more carefully than they have, because I have received several hundred letters from small businessmen complaining about inadequate notice of new regulations, vague standards, high-handed and arbitrary enforcement officials. I might say, in conjunction with the remarks of the Senator from Tennessee, that I agree with him that, unfortunately in the act, the officials do not have any leeway and therefore are unable to do things many persons would think they should do.

We have also had a lack of cooperation by the Occupational Safety and Health Administration in providing guidance as to compliance with the act, again largely because the administration has been overburdened by requests and the need for trying to police a whole system of business in our country, which encompasses territory all the way from Hawaii to Puerto Rico and from California to Maine to Florida.

One of my constituents, a small businessman, related how he delayed opening his new paint shop for weeks because he could not get advice from the Occupational Safety and Health Administration regarding the minimum size fan necessary to meet ventilation standards. Their only advice was: "Use your best judgment. We cannot certify you. We will decide whether you are in compliance if and when we inspect you." If such an inspection took place, the inspector could say, "You guessed wrong," disapprove the fan, and without notice or hearing, levy an immediate fine on someone who had not been able to get any guidance to begin with. That does not make any sense.

In Nation's Business there is a case which is worthwhile putting in the RECORD, but I will just read a part of it at this time for the benefit of Senators who are present:

Arsene (Blackie) Gadarian has been in the business, at Newport Beach, Calif., a dozen years.

He says his firm, Blackie's Boat Yard, Inc., is "a mom and pop operation."

Actually, it's a little bigger than that—he and his wife have a half-dozen employees. But it's pint-sized, as boatyards go—the smallest of six in Newport Beach.

Mostly, it overhauls yachts owned by wealthy residents of the seaside spa.

So the proprietor was quite surprised last fall when a federal inspector drove up, put on a hard hat and began to tour the yard.

Blackie felt he hardly rated this personal attention from Washington.

The inspector strolled down the pier to a small boat under repair not far from shore. He pointed to a worker crouched in the cramped bilge and asked. "Why doesn't he have a life jacket on?"

"Because," Blackie replied, "he couldn't move if he did."

"What would he do," the inspector persisted, "if he fell into the water?"

"He'd stand up," Blackie said. "The water's only two or three feet deep there."

The inspector went on inspecting.

A $1,000 FINE?

A few weeks later, the Gadarians were notified they had violated OSHA regulations—Section 1501 84. (c) (4). Offenders are subject to fines of up to $1,000.

"They said the rules were that we had to have a ladder nailed to that dock," Mrs. Gadarian says, "so an employee could climb out of the water if he fell into it.

"We wanted to comply with safety standards, and we always have. We have a good safety record. Our workmen's compensation inspector has testified to it.

"But we didn't know what the OSHA regulations were.

We asked the OSHA inspector for a copy. He said he didn't have one on him. We asked the local area office. The director said he didn't have one for us—but was working night and day to get some out.

"So we denied the violation, and asked for a hearing, partly in hope of getting a copy of the law we were accused of breaking."

After the Gadarians said they'd fight, the occupation safety agency proposed a penalty of $16—eventually reduced to $15.

Two weeks later, a 248-page document arrived covering—among other things—safety regulations for ship repairing, shipbuilding, breaking up of ships and longshoring.

"We read practically everything in it," Mrs. Gadarian says. "But it said nothing about ladders on the dock."

The Gadarians again asked the OSHA agency office for a copy of the regulation they allegedly had violated.

"About a month after we were cited," Blackie says, "it arrived." It was a 48-page booklet, a supplement to the 248-page publication they received earlier.

"We found the part about ladders in that," Mrs. Gadarian says. "But it said nothing about one being nailed to the dock. Only that you had to have one near the boat under repair."

THE FULL MAJESTY OF OSHA

Last November, the OSHA hearing was held.

"They rented a meeting room at the Newport Inn," says Mrs. Gadarian, "a very posh hotel."

President Nixon often uses it for press conferences and other meetings. It's about 20 miles from the West Coast White House at San Clemente. Japan's Premier Sata stayed there when he met with the President before Mr. Nixon went to Peking.

Seven federal officials were on hand for the hearing, which took four hours. As the Gadarians pointed out, all the OSHA regulation stipulated was that:

"In the vicinity of each vessel afloat in which work is being performed there shall be at least one portable or permanent ladder of sufficient length to assist employees to reach safety in the event they fall into the water."

Keeping in mind that the water was only 2 to 3 feet deep——

The Gadarians said they had a ladder "in the vicinity" of the boat being repaired, and produced witnesses.

The OSHA inspector contradicted them. The closest ladder, he said, was 400 feet away.

The Gadarians showed that the boat yard was only 200 feet long, including their 66-foot dock. The Occupational Safety and Health Review Commission ruled for the Gadarians.

So they didn't have to pay the $15.

Why did the Gadarians fight a fine the size of a parking penalty?

"That's what a lot of people ask," Blackie says.

"They figure, if all it takes is 15 bucks to get them off your back, let's pay it. But I don t feel that way, if I'm not in the wrong.

"Besides, what about the next time?"

Mrs. Gadarian has carefully hoarded all the citations, summonses and reports, including the 19-page decision that dismissed the charges.

"Some day," she says, "I have to show them to my grandchildren so they can see how 1984 came early to our country."

This is one case. I could cite cases one after another to show the problems that people are having. But I would say that these two indicate pretty clearly why small businessmen are losing their faith in Government.

They pay taxes to establish a large bureaucracy which sets and enforces safety standards, and then they cannot get advice from the very employees whose salaries they are paying as to how they can comply with the standards promulgated. And they struggle under red tape and paper work imposed by the OSHA bureaucracy. They wonder, and I do too, whether the money to establish and enforce, against 2 to 3 employee firms, regulations doing everything from prohibiting ice in drinking water to requiring separate restrooms and split toilet seats, could not be better spent.

I certainly think it could. That is one of the reasons why I urge my colleagues to support this amendment which would prohibit, during fiscal year 1973, the use of Labor Department appropriations for enforcement of Occupational Safety and Health regulations against firms with 25 or fewer employees. This amendment, as I am sure the RECORD shows, passed the House by a vote of 213 to 154.

The appropriations for OSHA last year were $35.9 million. The budget request this year was $69.2 million, and the House recommends that amount. The Senate committee recommends $80 million. OSHA now has 400 and some inspectors. The Senate committee recommendation would be sufficient to more than double the number of inspectors.

I am a cosponsor of Senator CURTIS' bill, S. 3262, which would, like the Equal Employment Opportunities Act, exempt firms with no more than 25 employees, and would give the Secretary more flexibility in enforcing the act. In spite of the tremendous interest expressed by constituents, we have been unable to get hearings on S. 3262. Passage of the pending amendment to the Labor-HEW appropriations bill would give small employers a 1-year moratorium, and would put the Labor and Public Welfare Committee on notice that hearings on S. 3262 are warranted.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COTTON. I yield the Senator 2 more minutes.

Mr. DOMINICK. Mr. President, all I can say at this point is, let us give a break to some of the people who have been surfeited with Government. A great friend of mine in business wrote me just the other day to say he was so busy working trying to comply with the requirements of the Government for which they were paying that he very much doubted he could get a weekend off to join us for a small vacation during the recess. This is the attitude people are having all over the country now, as this thing proliferates.

I ask unanimous consent that the full text of the article from Nation's Business, entitled "Where the Safety Law Goes Haywire," be printed in the RECORD at this point.

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

WHERE THE SAFETY LAW GOES HAYWIRE

"It was a red-letter day for us," says Robert J. Starr, president, Safety and Industrial Net Co., Colebrook, Conn.

His firm makes a patented heavy-duty net used on bridge and high-rise building construction.

Mr. Starr, 67, founded his company about nine years ago, and it prospered.

But it was after April 28, 1971, that sales really took off.

That was when the federal Occupational Safety and Health Act went into effect. It spells out a whole raft of regulations affecting every business and industry.

Its greatest impact, perhaps, has been on the construction industry. It specifies, in minute detail, how a construction job must be run—from dispensing of paper drinking cups to operation of laser beams.

One requirement is for safety nets on high-rise, skeleton steel construction, where planking or scaffolding isn't practical.

"Since then," Mr. Starr says, "our safety net sales have shot up 50 per cent."

His firm's heavy-duty, small-mesh net costs 40 cents a square foot. On a big job, that runs into money.

"Our nets are being used on the Gold Star Bridge at New London, Conn.," he says. "The bridge is about 3,000 feet long. They're using about 250,000 square feet of nets."

Or, $100,000 worth.

"His sales will go up a lot more," says Keith Nystrom, assistant safety director, Brown & Root, Inc., a big Houston, Texas, construction firm.

"Many builders still don't know that, in many cases, they must use nets.

"The nets' use on high-rise steel erection—like boiler structures for power plants—may hike costs 100 per cent or more for that part of the operation. They're expensive to buy and install. And they make it much more difficult, and costly, to hoist up building materials."

Brown & Root, he points out, is all for safety and health. So are other members of the Associated General Contractors, a group which acts as an industry spokesman.

Says AGC President James D. McClary, who is senior vice president, Morrison-Knudson Co., Inc., Boise, Idaho:

"We can't buck the objectives of the safety law. We're for one."

THE RECORD IS GOOD

But how badly does the building industry need the eagle-eyed surveillance of the new Occupational Safety and Health Administration?

Well, its safety record is pretty good.

National Safety Council statistics show it is less dangerous than these industries—coal mining, other mining, meat packing, air transport, transit, lumbering, leather, quarrying, wood products and marine transport. Its accident rate, per million man-hours of exposure, is 13.48.

Mr. McClary says a prime irritant in the many OSHA standards is that they do not fit a construction site, but are more appropriate for industrial plants.

Another prime irritant is what the Act does to costs.

"I've heard estimtes that the law will boost construction costs anywhere from 10 to 35 per cent," Mr. McClary says. "Personally, I don't think it will be as high as 35 per cent.

"But if the standards are applied as they are now, and as the OSHA agency plans to apply them, they could hike building costs 10 to 20 per cent."

Construction is a $100-billion-a-year industry.

A 10 per cent hike would add $10 billion to the price Americans pay for homes, highways, subways, officebuildings, high-rise apartments and other construction.

Waterloo, Iowa, the county seat of Black Hawk County (pop. 76,000) recently discovered what that means.

"We took bids last December on a lift station," says Mayor Lloyd Turner. "It was part of a $3.8 million sewer project. HUD paid half the cost; we paid the rest.

"Our engineer's estimate for the job was $270,000.

"It was made before OSHA became the law of the land.

"When the bids came in, they were staggering—the lowest was $485,000. We held them up several weeks for evaluation. It turned out that the lowest bid was realistic, even though far higher than we expected.

"There were other factors, but about 15 percent of the cost was attributed to OSHA by all the contractors.

"We had to sell another $100,000 worth of bonds this April to pay for the added costs."

HOW'S THAT AGAIN?

Vernie Lindstrom Jr., executive vice president, Kitchell Contractors, Inc., Phoenix, Ariz., explains why OSHA increases construction costs. "Some standards are impractical, costly and complex," he says.

As examples, contractors cite rules like these:

"A fire extinguisher, rated not less than 2A, shall be provided for each 3,000 square feet . . . or major fraction thereof"—even on a steel skyscraper with poured concrete floors. And "travel distance from any point of the protected area to the nearest fire extinguisher shall not exceed 100 feet."

What's a 2A fire extinguisher?

Is a 1A better—or worse? How about a 3A or a 2B?

The 70-page rule book, "Safety and Health Regulations for Construction," doesn't say.

That's spelled out in National Fire Protection Association manuals.

"To understand the ratings, you really should have two NFPA booklets," an NFPA spokesman says: "They're 'Standards for the Installation of Portable Fire Extinguishers,' 36 pages, price $1. And 'Standard on Recommended Good Practices for the Maintenance and Use of Portable Fire Extinguishers,' 33 pages, also $1."

If a builder writes NFPA, gets the booklets and reads them, he'll learn that a fire extinguisher tagged Class 1A isn't as good as one with a Class 2A rating.

But a 3A is better.

And a 2B is for a different kind of fire altogether—one involving flammable liquids and greases.

That 2A extinguisher, required even on a steel and concrete skyscraper, is for wood, paper and cloth fires. Or, OSHA says, you can substitute for it a 55-gallon drum of water with two fire pails.

"Wall openings, from which there is a drop of more than four feet, and the bottom of the opening is less than three feet above the working surface" shall be protected with a guard rail.

What does this mean in plain English? It means, contractors say, that a window with

a sill less than three feet off of the floor must have a railing or other barrier across it. Apparently even after glass has been installed, including thermopane glass that's hard to fall through.

And many modern office buildings have sills lower than three feet.

No detail is too minute for OSHA's attention.

Take drinking water, for example. You can't put ice in it. It's not sanitary.

"That means," a contractor says, "that to give workmen a cool drink of water, you must have a jacketed water cooler. One that plugs into an electrical socket.

"But you don't always find those utilities everywhere on a half-built building."

LOT OF READING MATTER

To comply with the law, a builder really needs more than the 70-page "Safety and Health Regulations for Construction," which is issued by the Labor Department. For starters, he needs the Department's 248-page "Occupational Safety and Health Standards," plus the two NFPA pamphets cited above—and hundreds of other pamphlets.

When OSHA became the law of the land, it blanketed into its code a long list of guidelines drawn up earlier by private organizations like NFPA and the American National Standards Institute, and by some government agencies. For example, the list includes:

"Standards for Protection Against Radiation (10 CFR Part 20)," published by the Atomic Energy Commission.

"Threshold Limit Values of Airborne Radiation Contaminants for 1970" of the American Conference of Governmental Industrial Hygienists.

"Z89.1–1969, Safety Requirements for Industrial Head Protection," drawn up by the American National Standards Institute.

The list could go on and on.

Sen. Carl T. Curtis (R.-Neb.) is sharply critical of the blanketing. He says:

"The Act Congress passed, in effect, made these rules the law of the land without a prior specific review . . . to see what they do how they should be applied, or whether or not they are adequate."

Sen. Curtis has introduced one of a number of bills now on Capitol Hill to modify OSHA. Among other things, his would exempt businesses with 25 or fewer employees from the Act.

A similar bill has been introduced in the House by Rep. Joe Skubitz (R.-Kans.).

The Associated General Contractors gives some idea of the size of the thicket of guidelines, standards and cross-references.

"To get all he needs to be fully informed," an AGC spokesman says, "a building contractor would have to spend about $6,000. And he'd wind up with a stack of documents 17 feet high."

Obviously, few if any builders are familiar with all these binding regulations.

"I think it's true to say they are so complicated and lengthy," says the safety director of a large Eastern construction firm, "that you can find a violation of them on almost any job."

The Occupational Safety and Health Administration's own statistics bear him out. In the first nine months of this fiscal year, its inspectors visited 20,688 places of business. Nearly eight out of 10 were found in violation of the safety law.

BATTLE OF THE BOATYARD

The inspector's word is final—unless the alleged lawbreaker requests a formal hearing. Few win the appeal. One who died was a West Coast boatyard owner.

Arsene (Blackie) Gadarian has been in the business, at Newport Beach, Calif., a dozen years.

He says his firm, Blackie's Boat Yard, Inc., is a "mom and pop operation."

Actually, it's a little bigger than that—he and his wife have a half-dozen employees. But it's pint-sized, as boatyards go—the smallest of six in Newport Beach.

Mostly, it overhauls yachts owned by wealthy residents of the seaside spa.

So the proprietor was quite surprised last fall when a federal inspector drove up, put on a hard hat and began to tour the yard.

Blackie felt he hardly rated this personal attention from Washington.

The inspector strolled down the pier to a small boat under repair not far from shore. He pointed to a worker crouched in the cramped bilge and asked. "Why doesn't he have a life jacket on?"

"Because," Blackie replied, "he couldn't move if he did."

"What would he do," the inspector persisted, "if he fell into the water?"

"He'd stand up," Blackie said. "The water's only two or three feet deep there."

The inspector went on inspecting.

A $1,000 FINE?

A few weeks later, the Gadarians were notified they had violated OSHA regulations—Section 1501 84.(c)(4). Offenders are subject to fines of up to $1,000.

"They said the rules were that we had to have a ladder nailed to that dock," Mrs. Gadarian says, "so an employee could climb out of the water if he fell into it.

"We wanted to comply with safety standards, and we always have. We have a very good safety record. Our workmen's compensation inspector has testified to it.

"But we didn't know what the OSHA regulations were.

"We asked the OSHA inspector for a copy. He said he didn't have one on him. We asked the local area office. The director said he didn't have one for us—but was working night and day to get some out.

"So we denied the violation, and asked for a hearing, partly in hope of getting a copy of the law we were accused of breaking."

After the Gadarians said they'd fight, the occupation safety agency proposed a penalty of $16—eventually reduced to $15.

Two weeks later, a 248-page document arrived covering—among other things—safety regulations for ship repairing, shipbuilding, breaking up of ships and longshoring.

"We read practically everything in it," Mrs. Gadarian says. "But it said nothing about ladders on the dock."

The Gadarians again asked the OSHA agency office for a copy of the regulation they allegedly had violated.

"About a month after we were cited," Blackie says, "it arrived." It was a 48-page booklet, a supplement to the 248-page publication they received earlier.

"We found the part about ladders in that," Mrs. Gadarian says. "But it said nothing about one being nailed to the dock. Only that you had to have one near the boat under repair."

THE FULL MAJESTY OF OSHA

Last November, the OSHA hearing was held.

"They rented a meeting room at the Newporter Inn," says Mrs. Gadarian, "a very posh hotel."

President Nixon often uses it for press conferences and other meetings. It's about 20 miles from the West Coast White House at San Clemente. Japan's Premier Sato stayed there when he met with the President before Mr. Nixon went to Peking.

Seven federal officials were on hand for the hearing, which took four hours. As the Gadarians pointed out, all the OSHA regulation stipulated was that:

"In the vicinity of each vessel afloat in which work is being performed there shall be at least one portable or permanent ladder of sufficient length to assist employees to reach safety in the event they fall into the water."

The Gadarians said they had a ladder "in the vicinity" of the boat being repaired, and produced witnesses.

The OSHA inspector contradicted them. The closest ladder, he said, was 400 feet away.

The Gadarians showed that the boat yard was only 200 feet long, including their 66-foot dock. The Occupational Safety and Health Review Commission ruled for the Gadarians.

So they didn't have to pay the $15.

Why did the Gadarians fight a fine the size of a parking penalty?

"That's what a lot of people ask," Blackie says.

"They figure, if all it takes is 15 bucks to get them off your back, let's pay it. But I don't feel that way, if I'm not in the wrong.

"Besides, what about the next time?"

Mrs. Gadarian has carefully hoarded all the citations, summonses and reports, including the 19-page decision that dismissed the charges.

"Some day," she says, "I have to show them to my grandchildren so they can see how 1984 came early to our country."

The PRESIDING OFFICER. Who yields time?

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

The committee considered this situation, and thought we would simply discuss it in conference. However, after we finished our deliberations and reported the bill, I got back to my office and reviewed my own correspondence, and was amazed and impressed to find out how many people from the small State of New Hampshire had written me agonizing letters on this subject. The only letter I shall refer to is a letter from one individual, a personal acquaintance for whose ability I have great respect, who said this was not a mere case of harassment, but the way this law is administered is a case of implacability. He went on to say, "I suppose it is useless to expect to get relief from Congress, because they will take so long to act."

In the years I have been here, I have never been too much impressed with people who ask me to vote against something I believe in today, with the promise that I will get a chance to vote for it later. Undoubtedly the basic law should be revised. But the amendment offered by the distinguished Senator from Nebraska is one way to answer the man who wrote me the letter. It is one way to do something now.

The House of Representatives has acted, and I hope the Senate will adopt the amendment.

Mr. DOLE. Mr. President, I support the amendment offered by the Senator from Nebraska (Mr. CURTIS) to prohibit the use of occupational safety and health funds appropriated in the pending bill for the inspection of businesses having fewer than 25 employees. The proposed amendment which I have cosponsored, would forestall immediate application of OSHA's arbitrary and confusing regulations against small businesses and provide a 1-year moratorium on enforcement—during which these regulations can be studied and corrected, and Congress can consider amending OSHA to insure its reasonable enforcement at all levels and thus promote the act's goal of

improved job safety and health. This measure is necessary because existing OSHA regulations often have no meaningful application in the small business setting, and the only result of their enforcement will be the demise of any small enterprises.

VITAL ECONOMIC SECTOR

It has long been recognized that small businesses are the backbone of the U.S. economy. They are essential to the Nation's economic health, because their vitality can insure the increased productivity and expanded employment that must underlie the growth and stability on which our social and economic systems depends. Therefore, it seems totally wrong to impose the unrealistically heavy costs of OSHA compliance on small business, since only a doubtful connection can be demonstrated between their compliance with existing OSHA regulations and improved job safety and health for their employees.

In considering this amendment it should be remembered that small businesses are highly vulnerable to the added costs of OSHA compliance, but at the same time they also have inherent factors which promote the OSHA goal of improved safety and health protection for workers.

HEAVY FINANCIAL BURDEN

Financial strains resulting from efforts to comply with OSHA can be overwhelming for small businesses. To begin with, the massive, unindexed volumes of OSHA regulations are overbroad in scope and written in a technical jargon that the ordinary small businessman cannot possibly be expected to understand—especially when even OSHA personnel frequently cannot explain them. So for all practical purposes, the interpretation of the regulations, their application, and the associated recordkeeping requirements necessitate empoyment of additional personnel who are experienced and knowledgeable in this type of work. The resulting increase in salary expenses can be fairly easily absorbed by larger firms, but in a business with four, a dozen, or a score of empoyees, hiring an additional individual to interpret and apply OSHA regulations means a substantial increase in operating expense. This expenditure in many instances might consume a small businessman's profit margin thus converting a successful operation into a failure—and possibly ending the employer's livelihood and all the employees' jobs.

The economic effects of OSHA compliance on small businesses are extremely harsh, but provisions within the 1970 OSHA law for Small Business Administration loans to sooth compliance pains are not the solution. These provisions are for loans, not grants, and if a businessman obtains such a loan it would only mean that the cost would be spread out over a longer period of time—not reduced or eliminated.

OSHA compliance for small businesses often is not only financially unfeasible, but frequently it is also impossible. Copies of regulations are not readily accessible to those affected by them, and when obtained, they are so complicated and vague that their application in a specific situation can only be guessed at. Recognizing this fact, the Occupational Safety and Health Administration is attempting to clarify and amend its existing regulations, but these efforts, though badly needed, make compliance even more difficult and add to the general confusion; for steps that may amount to compliance 1 day may be insufficient or extravagant the next. The result is more confusion, greater cost and little if any improvement in job health and safety.

NO CONFLICT WITH OSHA GOALS

There are many detrimental factors of the OSHA regulations which justify exempting small businessmen from compliance; but we should not lose sight of the fact that OSHA has a valuable purpose: The protection of the American worker from hazardous and unhealthy job conditions. In this connection as we consider exempting small business from OSHA coverage, we should also realize that this action is not inconsistent with the goals of the act. This exemption does not reflect a belief that such employers should not be responsible for the safety and well-being of their employees. Instead, the exemption recognizes the fact that small businesses have, by their nature, built-in factors which promote safety and health protection. The close association between the small business employer and his employees fosters an understanding of mutual needs and expectations. The employer becomes directly involved with his employees as human beings rather than as only statistics on payroll and time sheets. Within this setting, the common benefits of safety and health measures become apparent to both parties, and a much more reasonable basis is established for the formulation and application of safety and health standards than when rules drawn by a bureaucracy are applied. A reliance on this close employer-employee association and upon Kansas OSHA laws has for years provided adequate and meaningful protection for Kansas workers in a framework conducive to the growth of small business. I feel that continued reliance on these proven measures to provide protection in the future to small business employees is entirely justified.

BETTER LAW REQUIRED

Passage of the pending amendment is important, but only as a stop-gap measure to prevent serious injury to a large and important class of businesses which will be most extremely effected by continued application of the existing OSHA regulations. What is needed for the long term is legislation to establish a mechanism for developing and enforcing reasonable health and safety standards; emphasize and encourage cooperation among labor, goverement, and management; and provide shared responsibility for occupational safety and health among these sectors. Such a measure has been introduced, and I would take this opportunity to call attention to S. 3262 now pending before the Committee on Labor and Public Welfare. Today's amendment will provide temporary relief from arbitrary application of OSHA regulations, but S. 3262 is needed to provide a permanent solution for the inequities of the 1970 act and to further the goal of improved occupational safety and health protection for all workers.

Mr. BOGGS. Mr. President, withholding appropriations for the inspection of firms of 25 or fewer employees would be a severe blow to the effectiveness of the Occupational Safety and Health Act.

The Williams-Steiger Act is a landmark piece of legislation. It has been in effect little more than a year. As with all comprehensive legislation—especially legislation that breaks new ground—there have been difficulties in the first year of operation.

Undoubtedly there will be modifications and adjustments in the administration of the act and in the law itself. But any modifications that are necessary in the law should come out of the regular oversight activity of the appropriate committees of the Congress. There should be an ample opportunity for extensive investigation of the operation of the act and for full public hearings. The action of making substantive changes in the administration of the law through the appropriations process subverts the legislative process.

Of course, we should be concerned with the burdens placed on small businesses. But many of the difficulties have arisen from the administration of the act, rather than from the law itself. Better inspectors and better administration will solve many of these problems. Withholding appropriations is a blunt tool that would cause more difficulties than it solves.

If this amendment is adopted, almost 90 percent of the estimated 5 million work places and 30 percent of the currently covered 60 million workers would be exempted from Federal inspection. For these 1 million working men and women, the Occupational Safety and Health Act would cease to exist.

The action of restricting appropriations could bring chaos into the administration of the act. Negligent employers would no longer have an incentive to provide a safe and healthy working environment. The Occupational Safety and Health Administration would no longer be able to bring about compliance with the law, even in very hazardous occupations.

The National Advisory Committee on Occupational Safety and Health has called this proposed action "unwarrantedly discriminatory." The National Safety Council has also opposed this action, saying that—

> Empolyees of small businesses are just as entitled to occupational safety and health protection as employees of larger enterprises.

In 1970, the last year before the passage of this act, 14,200 workers lost their lives on the job. There were 2,200,000 disabling injuries. The Congress rightly decided that this was an intolerable situation. In passing the Occupational Safety and Health Act, the Congress declared its purpose and policy to be "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions." We must not al-

low the difficulties of achieving that objective to undermine the objective itself.

Mr. STEVENS. Mr. President, in 1970 more than 14,000 Americans died as a result of accidents on the job. There were 2.2 million disabling injuries. In the decade preceding 1970, the accident frequency rate jumped nearly 20 percent.

In 1970, the Congress decided that this situation was unacceptable. The carnage had to be stopped. With the passage of the Williams-Steiger Occupational Safety and Health Act, the Congress made a major commitment to assure, so far as possible, every working man and woman in the Nation safe and healthful working conditions.

All of us are aware of the criticisms that have been leveled against the administration of the Occupational Safety and Health Act in its first year of operation. Large businessmen have complained.

Perhaps we have forgotten in the past year just how comprehensive and innovative this legislation is. Can anyone honestly say that there should not have been difficulties in the first year of administering such a major act? Of course, there will be adjustments in the administration in the law. Many adjustments have already been made. Undoubtedly the act itself will be improved and amended in the light of experience.

But the difficulties encountered in administering this new law are trivial in comparison to the great accomplishment of putting the force of Federal law behind the safety and health of America's workers. We must not retreat from our commitment.

Mr. President, what would happen to our commitment if this amendment is adopted? In one rash act almost 90 percent of the estimated 5 million work places now covered by the law would be placed beyond the jurisdiction of the law. Without public hearings, without even superficial investigation of the facts, 18 million workers, 30 percent of those now covered, would be denied the protection of the law.

For 18 million Americans, the law would cease to exist. We would repeal our solemn commitment to provide them with safe and healthful working conditions. Their employers would be placed beyond the pale of law. The responsibility of the employer under this act would vanish.

The implications of this precipitous action would be staggering. Employees working in hazardous industries would have no protection. The administration of the law would be thrown into chaos. The legislative process of Congress, with its provisions for public hearings and responsible legislative committees, would be cheapened.

What should we tell these 18 million Americans if this amendment is passed? Should we tell them that there have been administrative difficulties and, therefore, we have decided to deny them the equal protection of the law? Should we tell them that men and women who work for small firms are less important than men and women who work for large firms? What do we tell them when they ask why they have not been allowed to present their views at public hearings of the Congress? What should we tell these 18 million men and women when they ask to see the evidence on which such a major decision would be made? Where are the studies, the hearing records, the committee reports, the fact and figures we could supply in support of this reversal of our commitment?

It has been said that this amendment would help the small businessman. But what is a small business? The Department of Labor reports that workers in contract construction have an injury rate twice that of workers in the manufacturing field. Yet thousands of construction contractors have fewer than 25 employees. Should we tell the construction worker working for a small contractor that the Federal Government has decided that it can no longer provide him the protection of the law, because his employer would have too many forms to fill out? Mr. President, this action is ill-considered and intemperate. There are proper procedures to consider changes that might be made in this law. To bypass these procedures, to reverse a major commitment of Congress in one rash moment, would be a reckless act indeed.

Mr. COTTON. Mr. President, I have no further requests for time.

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

Mr. COTTON. I yield.

Mr. CURTIS. I ask unanimous consent that the amendment, including the names of all the sponsors, be printed in the RECORD at this point.

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

At the appropriate place in the bill insert the following:

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing twenty-five persons or less for compliance with the Occupational Safety and Health Act of 1970.

LIST OF SPONSORS

Mr. Curtis, Mr. Allott, Mr. Baker, Mr. Bellmon, Mr. Dole, Mr. Dominick, Mr. Eastland, Mr. Fannin, Mr. Hansen, Mr. Hruska, Mr. Jordan, Mr. Pearson, Mr. Thurmond, and Mr. Tower.

Mr. ALLEN. Mr. President, acting for the distinguished manager of the bill, the Senator from Washington (Mr. MAGNUSON), I yield myself 5 minutes. I am instructed to say that at the conclusion of my remarks, the distinguished Senator from Washington is willing to yield back his time on the amendment.

TRIBUTE TO FORMER SENATOR LISTER HILL

Mr. President, it is a happy and beneficent coincidence that today, as the Senate is considering and will doubtless pass H.R. 15417, the Labor-HEW appropriation bill, my distinguished predecessor in the office of the U.S. Senate from Alabama, the distinguished and illustrious Senator Lister Hill is in Washington. He is to be honored tonight at a dinner of the University of Alabama Alumni Association in Washington. For many years Senator Hill was chairman of the Senate Committee on Labor and Public Welfare. Without doubt the greatest monument to the lasting fame of this great Senator is the Hill-Burton hospital program, sponsored originally by Senator Hill and championed by him for more than 20 years. Senator Hill has done more than any man in America to minister to the sick and afflicted and to alleviate pain and suffering among our peoples. His family background, his compassion, and his desire to serve his fellow man led him to his specialty in legislation in the field of medicine. Surely, he is, with every right, called "Mr. Medicine."

The Hill-Burton program lives on and will continue to live on, because it is a program of compassion and of humanitarianism and it helps fill one of the great needs of the people of America—adequate medical care.

Today the distinguished Senator from Washington (Mr. MAGNUSON) spoke of Senator Hill in the highest terms in commenting on the $197,200,000 appropriation contained in the pending appropriation bill for carrying on the Hill-Burton program.

Since the inception of the Hill-Burton hospital program in 1946 through the present fiscal year, Federal Government funds appropriated amount to $3.7 billion and the amount of non-Federal matching amounts to $7.3 billion, for a total of $11 billion for hospitals, clinics, and medical facilities, under Hill-Burton.

I might point out that this $11 billion is in 1940, 1950, and 1960 dollars, which were larger and went much farther, as we all know, than the same amount of money today.

For his great contributions in the field of medicine the name of Lister Hill will live in the minds and hearts of the people of America for generations to come.

IN SUPPORT OF TUBERCULOSIS PROJECT GRANT FUNDS IN LABOR-HEW APPROPRIATIONS BILL, FISCAL 1973

Mr. President, I want to commend the Senate Appropriations Committee and especially the chairman of the Senate Labor-HEW Appropriations Subcommittee, the distinguished senior Senator from Washington (Mr. MAGNUSON), and the equally distinguished ranking minority member, the able senior Senator from New Hampshire (Mr. COTTON) for including $8 million in this bill for the important tuberculosis control program. Like the committee, I am personally convinced that the matter of support for the tuberculosis control program is a critical matter which we must face now or later pay the consequences.

We all know that tuberculosis is no longer the scourge and dread disease it once was. Its decline from the leading cause of death in the early part of this century to its present low mortality rate is so dramatic that one can easily lose sight of the fact that this is still a very serious communicable disease problem. In 1971, 35,217 new active cases of tuberculosis were reported in the United States. Those cases are, in general, concentrated in special segments of our population—usually in the poor areas of our large cities and in specific geographi-

cal areas such as Appalachia and parts of the rural South.

The real tragedy is that any of these cases still continue to be reported, particularly in view of the highly effective drug therapy available which not only can arrest the active clinical disease process, but which also prevents infected persons from breaking down with active disease. These drugs can be used successfully on an outpatient basis although the patient must continue under supervision for some months. The committee, in its wisdom, has recognized the wastefulness of not exploiting this very valuable treatment method by including in this bill project grant funds for case finding, treatment, and investigation of contacts.

Regretfully, in fiscal 1972, the Department of Health, Education, and Welfare did not see fit to support tuberculosis control under the authority available to it in section 317 of the Communicable Disease Act. Some years ago, the Department had cut tuberculosis control off from section 314(e) project grant support under the Comprehensive Health Act, taking the attitude that section 314(d) formula grants would be sufficient to finance tuberculosis control—a naive assumption in view of the facts.

What has happened as a result of these events? During the recent floor discussion of the extension of authority of the Communicable Disease Act, the distinguished senior Senator from Texas (Mr. TOWER) pointed out that lack of project grant money for tuberculosis will mean the closing of clinics in El Paso, Houston, and San Antonio, all of which are cities with considerable tuberculosis problems. Eight clinics in New York City are threatened with closure if additional funds are not forthcoming. My own State of Alabama, one of only 13 States which received funds from the $2 million appropriated in fiscal 1971, because its case rate was so high, cannot function effectively without extra funding; in fact, the need for project grant funds in Alabama has reached the critical stage.

Successful tuberculosis control, like VD control, is predicated on thorough tracing of the active case's contacts and examination of those persons found to be in close association with him. This is a time-consuming practice which demands a well-organized, trained staff. It is the type of operation which, by its very nature, demands sustained support. But the cost-benefit ratio is so tremendous and so impressive that to let these operations falter for want of support would constitute an irresponsible national policy.

The clinics financed by these project funds serve the poor who are unable to find or afford other sources of treatment. Those whose disease progresses because of neglect end up in hospitals, which is a tragedy for the patient as well as an economic hardship for the taxpayer. The tuberculosis control program officials of the Department of Health, Education, and Welfare know where the high spots of tuberculosis incidence are and where facilities are inadequate to cope with the problem. All they need to help States combat their tuberculosis problem is a modest amount of money. The funds being requested in this bill are minimal compared with the vast Federal programs being financed today—many, ironically, intended for the poor, one of whose special problems is tuberculosis.

Again, I want to commend the Senate Appropriations Committee for recommending $8 million for the tuberculosis project grants program. By this action, they have, indeed, become aware of the wastefulness of a national policy which ignores doing something about a dread disease when an ounce of prevention can be so productive.

I know that the Tuberculosis Associations from States throughout the Nation have been in contact with their respective Senators relative to the need for this money item. I have had indications of support from many Members of the Senate but would be remiss in my remarks if I did not especially mention the junior Senator from Hawaii (Mr. INOUYE). It is paradoxical, perhaps, that Hawaii, the Island of Paradise, has the highest tuberculosis case rate of the several States, and I have been grateful to receive the assurances of unstinting support from Senator INOUYE. The senior Senator from Massachusetts (Mr. KENNEDY) and the senior Senator from Texas (Mr. TOWER) and many others are also to be commended for their interest in the tuberculosis project grants program.

Let us not lose our chance to wipe out this disease. Since the Department of Health, Education, and Welfare persists in its disregard for an effective Federal effort in tuberculosis control, Congress must assume the responsibility for continuing national efforts to eradicate this terrible disease.

I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, unless there is someone else who wishes to be heard on the Curtis amendment, I am ready to yield back the remainder of my time.

Mr. CURTIS. I do not have it to yield back, but I yield mine back anyway.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Nebraska (Mr. CURTIS). 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 Indiania (Mr. BAYH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

On this vote, the Senator from Georgia (Mr. GAMBRELL) is paired with the Senator from West Virginia (Mr. RANDOLPH). If present and voting, the Senator from Georgia would vote "yea" and the Senator from West Virginia would vote "nay."

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Tennessee (Mr. BAKER) and the Senator from Utah (Mr. BENNETT) are detained on official business.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 41, nays 44, as follows:

[No. 251 Leg.]

YEAS—41

Allott	Eastland	Miller
Bellmon	Ellender	Packwood
Bentsen	Ervin	Pearson
Brock	Fannin	Roth
Buckley	Fong	Saxbe
Byrd, Harry F., Jr.	Fulbright	Smith
Cannon	Griffin	Sparkman
Chiles	Gurney	Spong
Cook	Hansen	Stennis
Cotton	Hatfield	Taft
Curtis	Hruska	Talmadge
Dole	Jordan, N.C.	Thurmond
Dominick	Jordan, Idaho	Tower
	McClellan	Young

NAYS—44

Aiken	Hart	Muskie
Allen	Hartke	Nelson
Anderson	Hollings	Pastore
Beall	Hughes	Percy
Bible	Inouye	Proxmire
Boggs	Jackson	Schweiker
Brooke	Javits	Scott
Burdick	Kennedy	Stafford
Byrd, Robert C.	Magnuson	Stevens
Case	Mathias	Stevenson
Church	McIntyre	Symington
Cooper	Metcalf	Tunney
Cranston	Mondale	Weicker
Eagleton	Montoya	Williams
Gravel	Moss	

NOT VOTING—15

Baker	Harris	McGovern
Bayh	Humphrey	Mundt
Bennett	Long	Pell
Gambrell	Mansfield	Randolph
Goldwater	McGee	Ribicoff

So Mr. CURTIS' amendment was rejected.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was rejected by reconsidered.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. EAGLETON). The amendment will be stated.

Mr. CURTIS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

At the appropriate place in the bill insert the following:

None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing fifteen persons or less for compliance with the Occupational Safety and Health Act of 1970.

Mr. CURTIS. Mr. President, I should like to state for the benefit of all Senators that this amendment is identical with the last one, except that the small business exemption applies to 15 persons or less instead of 25.

I am willing to yield back my time and have a rollcall vote at this time.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, inasmuch as this matter has been discussed here for some hours now, and inasmuch as the change is only from 25 to 15 persons, which I do not think changes the situation much, I yield back the remainder of my time so that we may have a rollcall vote.

Mr. CURTIS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Nebraska (Mr. CURTIS).

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 Indiana (Mr. BAYH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

On this vote, the Senator from Georgia (Mr. GAMBRELL) is paired with the Senator from West Virginia (Mr. RANDOLPH).

If present and voting, the Senator from Georgia would vote "yea" and the Senator from West Virginia would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The result was announced—yeas 45, nays 41, as follows:

[No. 252 Leg.]

YEAS—45

Allott	Dole	McClellan
Baker	Dominick	Miller
Bellmon	Eastland	Packwood
Bennett	Ellender	Pearson
Bentsen	Ervin	Roth
Bible	Fannin	Smith
Brock	Fong	Sparkman
Buckley	Fulbright	Spong
Byrd, Harry F., Jr.	Griffin	Stennis
	Gurney	Taft
Cannon	Hansen	Talmadge
Chiles	Hatfield	Thurmond
Church	Hollings	Tower
Cook	Hruska	Young
Cotton	Jordan, N.C.	
Curtis	Jordan, Idaho	

NAYS—41

Aiken	Hartke	Nelson
Allen	Hughes	Pastore
Anderson	Inouye	Percy
Beall	Jackson	Proxmire
Boggs	Javits	Schweiker
Brooke	Kennedy	Scott
Burdick	Magnuson	Stafford
Byrd, Robert C.	Mathias	Stevens
Case	McIntyre	Stevenson
Cooper	Metcalf	Symington
Cranston	Mondale	Tunney
Eagleton	Montoya	Weicker
Gravel	Moss	Williams
Hart	Muskie	

NOT VOTING—14

Bayh	Long	Pell
Gambrell	Mansfield	Randolph
Goldwater	McGee	Ribicoff
Harris	McGovern	Saxbe
Humphrey	Mundt	

So Mr. CURTIS' amendment was agreed to.

Mr. CURTIS. 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 to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I call up my amendment No. 1271.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HARTKE. Mr. President, I ask unanimous consent that the amount contained in the amendment be changed to $844,797,000.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The amendment, as modified, was read as follows:

On page 11, lines 8 and 9 strike out "$843,297,000" and insert in lieu thereof "$844,797,000".

Mr. HARTKE. Mr. President, I have discussed this matter with the Senator from Washington.

Mr. MAGNUSON. Mr. President, I wish the Senator from Indiana would use the microphone and explain the amendment. I know what the amendment contains but I think other Senators would like to know.

Mr. HARTKE. Mr. President, this amendment deals with the question of providing additional assistance for migrant workers in connection with health care. At the present time many individuals are not capable of receiving medical treatment simply because they are migrant workers and they do not qualify for medicare or medicaid.

The House asked for an amount equal to $6 million and agreed to $4 million. This would add $1.5 million and it does not come up to the full amount of the authorization.

Mr. President, it is my belief that we should increase the appropriations for migrant health programs by $1.5 million.

Many of my colleagues in the Congress have shown the urgent need for adequate health care of the entire American public. Even more desperate are the health needs of the Nation's 1 million migrant workers who have too long suffered disproportionately because of our neglect. At present, the per capita health expenditure per migrant is less than $9 compared with a national average of $250 per person.

Generally, the migrant worker and his family who follow the crops rarely receive adequate health care. Seldom is the migrant worker eligible for the few local programs available. When he is, his work takes him to new or isolated areas that are without adequate facilities. In fact, most migrant workers are totally unaware of any of the handful of special programs designed for them.

Most tragically, the migrant laborer's living conditions expose him to a wider range of disease than the average American. His life expectancy is 20 years shorter than the average citizen's. His infant mortality rate is 125 percent higher than the national average while his death rate from pneumonia or flu is 200 percent higher than the national rate. His probability of suffering from tuberculosis is 17 times more probable than the average citizen's.

Because most welfare programs do not cover these people, the need for adequate funding of the Public Health Service program for migrant workers is even more desperate. Mr. President, the $1.5 million in my amendment is intended to be used primarily to provide funds to meet the costs of hospitalization of migrant and seasonal farmworkers and their families in those States where hospital services are not covered under other programs. I believe we owe this much to the migrant workers of this Nation and I urge support of my amendment.

Mr. BENTSEN. Mr. President, I commend the Senator from Indiana (Mr. HARTKE) for offering this amendment increasing funding by $1.5 million under the Migrant Health Act.

As the Senator may know, I sent a letter to the Senator from Washington (Mr. MAGNUSON) asking for an additional $6.25 million for this act. It was signed by 21 Senators.

In that letter, I pointed out the inadequate funding for migrant health services, and, in particular, I criticized the Public Health Service for phasing out hospitalization coverage for migrant workers.

The committee bill did add some $4 million to the appropriation and suggested that the additional funds be used for hospitalization.

With the addition of another $1.5 million, as provided by the Hartke amendment, I believe we can cope more adequately with the deplorable health conditions facing migrant workers, and can channel more funds into hospitalization.

I wholeheartedly support this amendment.

Mr. MAGNUSON. Actually for migrant workers in 1972 the amount was $17,950,000. The 1973 budget was $23,750,000. The House allowed that amount, the committee upped that by $4,000,000 and the Senator from Indiana is adding $1.5 million more.

Mr. HARTKE. The Senator is correct.

Mr. MAGNUSON. Hospitalization and other health care costs for migrants of-

ten are not covered under medicaid or other health programs. I am glad to take the amendment to conference.

Mr. HARTKE. I yield back the remainder of my time.

Mr. MAGNUSON. I yield back the remainder of my time.

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

The amendment was agreed to.

Mr. SCHWEIKER. Mr. President, will the Senator from Michigan yield to me for 5 minutes?

Mr. GRIFFIN. Mr. President, on behalf of the distinguished ranking minority member (Mr. COTTON), I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, it had been my intention to offer an amendment that would have granted relief to public elementary and secondary schools, and institutions of higher education that have suffered flood disaster problems from the recent tragedy that befell a number of States. I intended to put money in the pipeline so that, for example, section 16 of Public Law 81–815, would have provided for replacing school buildings. In addition, there is authority under section 7 of Public Law 81–874 for operating funds to schools in disaster areas, and authority under the new Higher Education Act, in part D of title VII, for aid to public colleges to replace or restore their buildings following a disaster.

However, in checking with the distinguished Senator from Washington, I understand that it is quite likely the money already in the pending bill would cover situations like this.

Mr. MAGNUSON. It would. There is a great deal of money in the pipeline or in reserve. There was a reluctance on the part of the Budget on school construction money, although we put it in. There is money there.

Under Public Law 81–815 there is $45 million now. I do not know whether that would be sufficient to do the things necessary in view of this disaster. We may have to find out after we have been able to assess the damage resulting from this great disaster we have had. Then we can get a little closer figure and know what we are doing. We have plenty of authorization in this field, and could handle additional appropriation needs in the first supplemental. I think the Senator would be in a better position to know then what he wants to do and what would be available for high priorities.

Mr. SCHWEIKER. I thank the Senator and inasmuch as the $45 million will be adequate for the interim period, and since the Senator has assured me it would cover flood disaster which befell a number of States, for public elementary and secondary schools, I am willing to withdraw my request and I thank the Senator.

Mr. MAGNUSON. In all these areas such as Pennsylvania, New Jersey, wherever the disaster occurred, I would welcome testimony when we get the supplemental. We would have better figures, and I am sure other members of the Committee on Appropriations would welcome testimony so that we can get into this matter. In the meantime, this should be sufficient.

Mr. SCHWEIKER. I thank the distinguished Senator. I will prepare some information, data, and specifications for the supplemental. Hopefully by that time we will have specific figures available. In view of the fact there is now money in the pipeline I am satisfied.

Mr. MAGNUSON. We have a serious problem because in the school districts that have been involved, everything else was hurt and the tax base has been eroded, to coin a phrase. So in order to get the money, you have to come down and get emergency help.

Mr. SCHWEIKER. Yes. I understand that. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. This is not an amendment.

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

Mr. MAGNUSON. Mr. President, I send to the desk a technical amendment which would substitute "Secretary of the Treasury" for "Department of Health, Education, and Welfare" in making payments to the Corporation for Public Broadcasting. That is the law. It is a mistake in the bill.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 44, lines 10 and 11, strike "Department of Health, Education, and Welfare", and insert in lieu thereof the following: "Secretary of the Treasury".

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

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. GRIFFIN. I yield back the remainder of my time.

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

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 31, line 12, after "1969," insert "as amended,".

On page 31, line 15, strike out "$557,788,000" and insert in lieu thereof "$1,526,500,000, to remain available until expended".

Mr. ROBERT C. BYRD. Mr. President, I offer this amendment on behalf of myself and my colleague, Mr. RANDOLPH. The amendment would provide additional funds to carry out the provisions of Public Law 92–303, the Black Lung Benefits Act of 1972. That law, the chief sponsor of which was Senator RANDOLPH, substantially changes the eligibility requirement for black lung beneficiaries. It also makes certain changes in the method of computing the sum to be paid to beneficiaries. It grants benefits to orphans and children of miners disabled by pulmonary conditions, and brings surface miners, under certain conditions, into the program.

My amendment would include $938 million for benefits to be made in fiscal year 1973 and $30,712,000 for the administrative costs of implementing provisions of the new law.

The President has sent to Congress a budget request for this amount of money. The Office of Management and Budget has also expressed its approval of the amendment, and I am offering it now because the moneys will have to be paid in any event, and action now will save waiting until the supplemental bill comes along. Adoption of the amendment to this bill would enable the Social Security Administration to set up the administrative machinery promptly and, in that way, expedite the flow of benefits under the new law.

Mr. JAVITS. First, why did not the Appropriations Committee act on it at this time?

Mr. ROBERT C. BYRD. The Appropriations Committee did not receive this budget estimate from the President until it was too late to consider.

Mr. JAVITS. And, second, as I was so heavily engaged in negotiations on the black lung bill, does this follow exactly the terms of that bill? Are there any variances? Are there any estimates made in the figure, or is this the administration's figure for that purpose?

Mr. ROBERT C. BYRD. This is the administration's budget estimate.

Mr. JAVITS. I thank the Senator.

Mr. ROBERT C. BYRD. It is the figure that has been submitted to the President by the Office of Management and Budget and, in turn, to the Congress by the President.

Mr. JAVITS. May I say, when we submitted the legislation and the conference report, we made it clear to the Senate that this was going to be an expensive program.

Mr. ROBERT C. BYRD. Yes. I thank the able Senator.

Mr. MAGNUSON. Mr. President, I merely wanted the Senator from West Virginia to explain this amendment. This is a budget item that came to us on June 19. The President asked us to consider a request for appropriations, based on this amendment to the January budget for fiscal 1973.

The amount is large, but the Congress voted the authorizing legislation. It is a mandatory expenditure to fulfill the requirements of previously enacted law. Whether we adopt it now and take it to conference or do it later, the only difference would be that they would have to wait another 3 weeks for the supplemental bill. I would rather take it to conference. If the House will accept it, we will have it out of the way and then they can start the program, rather than wait 3 or 4 weeks for the supplemental bill.

I have discussed the amendment with the Senator from New Hampshire. With that understanding, I am willing to take it to conference. I do not profess to know what will happen to it in conference, because it is a large amount. But it is man-

datory. We are going to have to do it anyway, and the quicker we do it, the better. We know what it is all about. We do not have to have hearings on the program. The law specifies what we have to do, and that is it.

I shall be glad to accept the amendment and yield back the remainder of my time.

Mr. ROBERT C. BYRD. I thank the distinguished manager of the bill.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute on the bill.

I look around. If there is anybody I have not taken care of around here, I hope he will let me know. [Laughter.] But it is still a good bill. I do not make any guarantees about what may happen in conference, but it will be found that the House included some of the things the Senate included last year and that it has always wanted. So we are not too far apart in the conference. I hope when I bring it back Senators will be just as satisfied as they are now. It is a good bill. It is a tough one. I want to compliment every member of the subcommittee and the staff. We heard close to 500 witnesses. I do not know just how I will feel about it next year, but we will see what happens, if I can get through right now to third reading.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections.

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

Mr. CRANSTON. Mr. President, the Senator knows I will not take very much time, but there are a few points I wish to cover, rather briefly, with him.

The PRESIDING OFFICER. Does the Senator from Washington yield some time to the Senator from California?

Mr. MAGNUSON. Mr. President, will the Senator state his request again?

Mr. CRANSTON. As the Senator knows, there are a few matters I wish to cover by way of colloquy with him, if he will yield me 10 minutes.

Mr. MAGNUSON. Yes.

Mr. CRANSTON. Mr. President, I congratulate Mr. ELLENDER, chairman of the Committee on Appropriations and Mr. MAGNUSON, chairman of the Subcommittee on Labor-HEW Appropriations for the most judicious and responsible bill they have reported appropriating funds for fiscal year 1973 in support of the health activities in the Department of Health, Education, and Welfare.

HEALTH

Despite the national concern over the state of the Nation's health system and our obvious inability to respond to the Nation's needs, the President's budget request presented little more than a stand pat position in committing Federal resources to resolving the problems in the health field. The Senate Appropriations Committee has met the challenge for a stepped-up national effort and has recommended realistic levels of funding which experience has demonstrated are vitally needed and can be effectively used.

I would like to point out just a few of the areas where the Senate committee has corrected a situation which would have led to serious cutbacks in health programs which are basic to maintaining our ability to cope with health issues at even less than optimal levels.

First, I am delighted with the strong support provided to training grants and fellowships funded by the National Institutes of Mental Health. The Senate committee action in appropriating $27 million over the administration request and $12 million over the House is deserving of this body's full support. The Senate committee's strong support of staffing grants for community mental health centers will ensure expansion of this critical program to new communities, rather than the minimal growth which would have been permitted under the administration's budget request.

The substantial increase in funds available to combat alcoholism made by this appropriations bill is clearly justified by the enthusiastic response which communities in the Nation have made to the relatively new Federal emphasis in this too long neglected field.

The committee's action in appropriating the full amount authorized for programs related to mental health services for children is one which I am sure all Members of the Senate will applaud and is a position I hope and urge will be sustained in conference.

The recommendation of higher levels of support for medical facilities construction, particularly the very badly needed funding for modernization of facilities, of additional funds for maternal and child health formula and project grants, and additional funding for the innovative National Health Service Corps are actions I applaud.

I am gratified to see that the Appropriations Committee has recommended support of the programs for grants and contracts for family planning services at the full amount requested by the administration.

I have not sought today to increase the level of funding for grants and contracts for the support of family planning service programs. As the Members of the Senate will recall, in April the administration sent up draft legislation recommending an increased authorization for grants and contracts for family planning services.

The Special Subcommittee on Human Resources, which I am privileged to chair, held a full day of hearings on this request and as a result of very forceful justifications presented to the committee by individuals and organizations active in the communities, the committee recommended that the administration's suggested figure be increased by an additional $15.8 million. This suggestion was included as an amendment to the Communicable Disease Act, which has passed the Senate, and is ready for conference with the House.

The appropriations bill before us now recommends a level of support for family planning services at the level recommended by the administration. This is short the $15.8 million added to the authorization by action of the Senate Labor and Public Welfare Committee, in the amendment to the Communicable Disease Act which I authored. The amount authorized by the Senate was based on the amount needed to keep the administration on target of meeting is goal of providing family planning services by 1975 to the 6.5 million women who want them but cannot afford them. This goal is based on a progression of about an additional 800,000 women reached each year, and the administration request would not have been sufficient to meet this level.

While the administration figure appears to indicate an increase of $48 million over fiscal year 1972 it really is half that amount—since it is offset by decreases in support of title V maternal and child health grants of $9 million and in OEO projects of another $9 million, and includes almost $9 million for programs other than services, $6,524,000 for training grants and contracts for education, and for research in methods of delivering family planning services, plus $1,987,000 for direct operations.

Mr. President, I will not seek to increase the level of appropriations now but I would like to ask the distinguished chairman, if when the authorizing legislation is enacted, which I expect will be sometime early this summer, he will be agreeable to giving serious consideration to full funding of this program at the time the first supplemental is considered.

Of course, I am delighted with the increases recommended for the preventive health services, such as disease control, lead-base paint poisoning control programs, and occupational health programs. The committee's eloquent arguments on behalf of higher levels of support for the training and research programs of the National Institutes of Health are fully justified as are the committee recommendations for increased support for each of the Institutes.

The substantial increase recommended for the National Institute of Child Health and Human Development is of particular interest to me and covers medical areas that fully deserve this additional support—research in population, in child health, and in problems related to the aging process, all matters having direct relevance to each individual and his ability to live a healthy and happy life. I had hoped that the amount made available for the Center for Population Research would be greater; I had recommended $75 million in my testimony, but I am pleased that the committee recommended an increase of $13 million over the House figure.

The committee's action in increasing the amounts available for support of health manpower education and training programs was badly needed. Again, the administration has shown its unwillingness to aid the Nation's health education system adequately in its efforts to meet the critical need for trained professionals and paraprofessionals. The President's low recommended level of support coupled with the administration's almost total refusal to grant waivers to health education institutions who stated they

would be unable to meet the stringent requirements for increased enrollments due to inadequate facilities or other relevant factors, would have had disastrous effects on many of these institutions. The Senate has recommended institutional support at 76 percent of the level of authorization, and has increased the amount available for special project grants substantially over that suggested by the administration. I believe these levels are minimal and hope we will be able to sustain this position through conference with the House.

Mr. MAGNUSON. I believe the Senator is correct in his analysis.

Mr. CRANSTON. I have a couple of more points.

Mr. President, I was happy to cosponsor with my distinguished colleague (Mr. TUNNEY) the amendment, adopted by the Senate, to increase by $30 million the amount available for construction of health professional education facilities. The Nation's health professions schools have been drastically affected by the administration's almost total cessation of support for construction programs. Many of the Nation's medical schools have, in response to legislative enactments, entered into major programs of expansion, and many States have responded by establishing new medical schools. California has three new campuses of the University of California, each of them severely hindered by lack of facilities. The medical school at Davis is graduating its first class this year, an outstanding achievement, when one realizes it has been done without a permanent facility. Instruction has been offered in trailers, and clinical experience has been gained from the county hospital in Sacramento, some 25 miles distant. This situation is being repeated across the Nation.

I would like to emphasize the statement made in the Appropriations Committee report regarding the appropriation for construction funds made for fiscal year 1972—that it was intended that these funds be expended—and not be spread over 2 years as the administration proposes—to meet a demonstrated and immediate need.

Mr. President, I have this question to ask: Am I to understand Mr. President, that the possibility of extending expenditures of the funds appropriated in fiscal year 1973 over more than a year's period is again not the intention of the Appropriations Committee; that, on the contrary, the Senate is well aware of the emergency situation affecting construction of health professions institutions and wishes to see these funds applied as quickly as possible to the obvious need of the schools?

Mr. MAGNUSON. That is what we said in the report, or words to that effect.

Mr. CRANSTON. That is fine. I appreciate that very much.

The recommendations for levels of support for scholarships and loans for students are a major improvement over the levels in the administration's budget request. I believe it is still substantially below the level needed, however, and hope that the Senate will withstand any efforts in conference to further dilute this support.

In testimony before the committee, I had recommended substantially higher appropriations for recruitment of the economically and socially disadvantaged into the nursing profession. There has been a very encouraging response to this program on the part of both the nurse training institutions and the students. I view this program as an exciting one which by making it possible for many people to enter a profession for which they have an aptitude and from which they have been barred for reasons other than ability can have a salutory effect on the understanding and responsiveness which can exist between patient and professional. Thus I am disappointed that the administration suggested figure has been accepted by both Houses of Congress.

Mr. President, I have an amendment that I send to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read the amendment, as follows:

On page 17, line 9, delete $897,178,000 and insert in lieu thereof $900,178,000.

Mr. CRANSTON. Mr. President, I have discussed this amendment with the distinguished chairman.

Mr. President, the amendment I offer with the distinguished Senator from New Jersey (Mr. WILLIAMS) would increase the amount available for nurse training schools to recruit and retain students from economically or socially disadvantaged environments. The committee has accepted the administration suggested amount of $2 million which is the same amount as that appropriated last year. I believe the potential of programs supported under this authority is so great and can have such a beneficial effect on opening avenues to careers in the nursing profession to young people with a special aptitude for such service that every effort should be made to utilize this authority to the maximum. In addition, this authority expressly authorizes the publicizing to licensed vocational nurses and other nursing personnel, sources of financial assistance available to nursing students. These skilled individuals present an insufficiently utilized resource for building up our pool of nurses. Many of them with additional training could become nurses and need just a small amount of encouragement to continue their education.

Therefore I am offering an amendment to appropriate an additional $3 million for these purposes.

These funds to encourage students from disadvantaged backgrounds to come to nursing school can be used for:

First, special courses offering special academic assistance and basic science courses prior to entering training.

Second, waiving application fees.

Third, advertising financial assistance available to potential students.

Four, special outreach programs of recruitment in high schools, and through parents groups.

Fifth, special counseling and remedial work during training to help students overcome any social or cultural barriers.

EXAMPLES OF PROGRAMS SUPPORTED

In the southern California region, nursing schools have increased the Spanish surname enrollment of nursing students from 19 to 44 percent. Bilingual programs have been instituted seeking students in high schools and working with them individually to encourage them to pursue a nursing career. One hundred students each year have been recruited through the California State College at Los Angeles foundation.

There are 15 similar programs throughout the country.

The division of nursing has a contract with the National Student Nurse Association to organize 17 target areas to establish programs to recruit students from disadvantaged environments.

The University of Portland has a special program aimed at the northwest region to recruit Indians, blacks, chicanos, and rural students to a nursing career.

The dropout rate of students assisted under these provisions has been very low compared to the record of other students.

It is a highly successful program with a very favorable response, which could easily utilize the full amount authorized effectively. There has been an excellent response from licensed vocational nurses and nursing assistants, who have entered training programs seeking a career as registered nurses.

The PRESIDING OFFICER. Will the Senator yield? The Parliamentarian advises the Chair that the amendment is not in order because the figure has already been amended.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the amendment be considered in order.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN and other Senators objected.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. Mr. President, I am delighted to cosponsor with the distinguished Senator from Massachusetts (Mr. KENNEDY) the amendment to bring the appropriation for formula grants under the Developmental Disabilities Act up to $65 million—only one-half of full authorization figure. This is a figure I had recommended in testimony before the subcommittee and which is critically needed to enable State programs to begin to meet the need. The States have estimated that their actual need is almost double this amount. I feel this amendment represents a modest level of support, which hopefully will enable many of the States to explore means of providing improved services to the developmentally disabled throughout the Nation.

Mr. President, I noted with interest the committee report remarking on the special problems of the Vietnam veteran and his difficulty in adjusting to society, his sense of isolation, confusion, loneliness, and rejection. This is a matter which has been of great concern to me, and, as chairman of the Subcommittee on Health and Hospitals of the Veterans' Affairs Committee, I have held extensive hearings and heard a great deal of testimony which eloquently supports the need

for special attention to be paid to the returning veteran.

I would like to ask the chairman, if in directing the National Institutes of Mental Health, and the Social and Rehabilitation Service to take a lead in finding solutions to this problem, he did not also intend that the Veterans' Administration be deeply involved in these studies and in finding the solutions.

Mr. MAGNUSON. Yes. We certainly believe the VA should have a major role in this. The other agencies should supplement and work with the VA.

EDUCATION

Mr. President, apart from some disappointments in the areas of impact aid programs and the title I compensatory education program, I feel that the committee has done a most laudable job in attempting to meet our Federal commitments to American education.

I am particularly pleased to note that the Senate bill provides nearly $19 million over the Budget request for bilingual education, for a total appropriation of $60 million for fiscal year 1973. The importance of this appropriation cannot be overestimated. It is one more step in the direction of bringing to an end the nightmare of educational neglect we have inflicted upon the Spanish-surnamed children and other bilingual children in my State of California and across the Nation. I have urged this advance since I came to the Senate, and so I am delighted to see, in this bill, that we are moving farther and faster toward the goal of equal educational opportunity for bilingual children.

In the important area of library construction and services, the committee must be commended for putting Federal dollars in the place of administration rhetoric. For library construction grants, the Budget request was zero. The Senate bill provides $15 million for public library construction, to be matched by local and regional resources. The Budget would have cut public library services by almost $17 million. The Senate bill wisely adds over $20 million in excess of 1972 funding levels and nearly $37 million more than the President's request.

The committee has also moved ahead strongly in the area of vocational education, which I feel is a top funding priority. The Senate bill adds some $109 million, over what the President had in mind, for grants to States and for special vocational education programs. A significant increase, also recommended by the House, is in the area of consumer and homemaking education. This is an important recognition of the valuable work these skilled educators perform in the Nation's schools.

For adult education, the Senate bill provides an additional $23 million over the budget request. We are still far from meeting our national needs in this area, but the additional moneys provided in this bill are another step in the right direction.

I am especially pleased to see that the Senate bill provides nearly $20 million in over-the-budget funds for our vital ESEA title III programs in supplementary centers and services. I believe firmly that the title III programs must be continued and strengthened if we are to reach new horizons of educational change.

Mr. President, I have one final question to pose to the chairman.

On pages 25 and 26 of the Senate print, there is a section called educational renewal. As the Senator knows, this proposed program by the Office of Education was the subject of an amendment I authored to the higher education legislation, the Education Amendments of 1972, signed into law by the President last Friday. My amendment, which is now a part of the law, establishes several important considerations that must be made by the Office of Education in carrying out the mandates of education legislation.

The conferees on the higher education bill made it clear in the language of the report that insufficient authority for the renewal program exists at this time, and that no such program should be carried out without submission of new legislation and subsequent action by the authorizing committees of Congress.

It is my understanding, from reading the appropriations report language and discussions with the chairman of the subcommittee (Mr. MAGNUSON), that the term "educational renewal" appears in the bill only to make the bill consistent with the manner in which the administration's budget request was submitted. It is my further understanding that the subcommittee, in its consideration of this bill, in no way gave sanction to the "education renewal" program, and that the programs listed under this heading are programs under existing and unchanged authorities. Am I correct in that assumption?

Mr. MAGNUSON. The Senator is correct.

Mr. CRANSTON. I thank the Senator.

Finally, Mr. President, the Senate has now recognized the urgency of our national literacy problem by approving a $22 million funding of the "right to read" program of the U.S. Office of Education. Typically, the administration funded this program last year by pirating moneys from other deserving programs.

I sponsored and won a Senate amendment to the education amendments of 1972 which would have given "right to read" program the basis in legislation that it needs to protect it from administration whimsy. I regret very much that this language was lost in conference, when it became entangled with the controversial educational renewal program which was the real basis of my amendment.

So I am delighted, Mr. President, to see this $22 million appropriation for Right to Read.

The committee's action on this item is worthy of praise. It is also a tribute to the director of Right to Read, Dr. Ruth Love Holloway, who rescued this program from Office of Education oblivion and turned it into a model of educational achievement and unusual efficiency.

CONCLUSION

Mr. President, overall I believe the Appropriations Committee has done an outstanding job in coming up with the recommendations included in H.R. 15417. I believe they should have our full support and am confident they will, indeed, have it.

Mr. President, in my testimony before the Subcommittee on Labor-HEW appropriations I covered several of the issues in depth, and I ask unanimous consent that the full text of my testimony before that subcommittee be printed in the RECORD at this point.

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

STATEMENT OF SENATOR ALAN CRANSTON REGARDING FISCAL YEAR 1973 LABOR-HEW-OEO APPROPRIATIONS BILL

Mr. Chairman, I am pleased to have this opportunity to present several recommendations to your Subcommittee on the level of appropriations for health programs of the Department of Health, Education, and Welfare.

While in general the overall request of the administration in virtually every program is well below the demonstrated need, I will concentrate on just a few areas which I feel are of critical importance.

HEALTH MANPOWER EDUCATION

One of the most serious deficiencies in the administration's budget requests is in the programs supporting the training of health care personnel. This support takes three major forms: construction grants, institutional support in the form of capitation grants and special project grants, and student support in the form of scholarships and loans.

Construction grants

To date letters of intent have indicated there will be a total of $347.7 million requested for construction grants. Of this amount, I am closely acquainted with five California projects. These projects alone total $53.1 million for the federal share. These grants would provide health science centers at three of the new campuses of the University of California at Davis, Irvine, and at San Diego, as well as providing badly needed teaching facilities for the U.C. School of Dentistry at San Francisco. Another application is pending from the California School of Podiatry, which is one of the few institutions preparing these skilled professions for that seriously short profession today. These applications will be contending for the $162 million which your committee made available for FY 1972 and succeeding years, which the administration does not seek to increase.

The Coalition for Health Funding has recommended that the full amount authorized for construction for both health professions schools and nurse training schools be appropriated. I believe this recommendation is well grounded in actual need and urge your committee to recommend the appropriation of $250 million for construction of health professions schools and $40 million for construction of nurse training schools and urge that your committee encourage the Department to move quickly in determining the allocation of these funds so that the schools may plan accordingly. In view of the two year interruption in the awarding of construction grants, I believe it would be highly justified if the bill included language mandating obligation of these funds in FY 1973.

Institutional supports

Another area of serious inadequacy in support of health manpower programs is the underfunding of institutional support—the capitation grant provisions authorized by P.L. 92–157 and P.L. 92–158.

Considering the really heavy responsibilities we placed upon the nation's health training institutions to increase the number of students, improve curriculums, and undertake innovative programs, I believe we should

provide the necessary funding support to carry out these responsibilities. I urge you to recommend capitation grants for Schools of Medicine, Osteopathy and Dentistry at $213 million, for Schools of the other health professions at $37 million, and for nurse training schools at $82 million.

Special projects

I believe it is essential that adequate support be provided our health education institutions to undertake special projects which will enable them to fulfill these requirements. The Congress authorized generous sums of money for these purposes, commensurate with its belief that many major innovations would have to be adopted by these institutions if our nation is to meet the rising expectations of its citizens for accessibility to health care, and provide the health manpower capable of providing it.

Mr. Chairman, I urge that this committee recommend the considerably higher funding for these purposes recommended by the Coalition—$13,800,000 and $38,000,000 for health professions and nursing schools respectively. These project grants will provide the impetus to the medical schools to initiate new methods of training—in many instances bringing the medical school program into the provision of health care in the community in demonstrations providing needed experience to the medical or nursing or allied health student and at the same time filling a community need. Requests in FY 1972 totalled over $120 million, double the amount available. The need in FY 1973 will be that much greater.

Another authority for support to these institutions is that of grants for financial distress. In the case of schools of nursing the administration has requested only $2 million out of an authorization of $10 million. The Coalition for Health Funding has estimated the full amount is required, and I believe the fact that 144 schools of nursing in fiscal year 1972 applied for financial distress grants totaling $14.5 million indicates the need is real. I urge your committee to recommend the appropriation of $10 million for financial distress grants for Schools of Nursing.

Student scholarships and loans

An area which is of great concern to me is that of the assistance provided our students during their years of training. Student loans and scholarships have been consistently below the need for the past several years. Your committee has each time generously appropriated sums above the administration request. However, the student is especially hard hit in these times of serious inflation and must rely heavily on loans and scholarships to complete his studies. The situation in the nation's schools of health is a very critical one. The Coalition for Health Funding has determined that there is a demonstrated need for $29 million for scholarships for students in the health professions schools and of $58 million for students of nursing. The administration has requested $15.5 million for scholarships for students of the health professions and $19.5 million for scholarships for nursing students. These requests obviously are well below the level needed. With the increased efforts health education schools are placing on recruiting students from the lower income family, the amounts available for scholarships become all the more critical. I urge you to recommend substantially higher levels of funding for scholarships for these students.

Despite the administration's professed preference for student loans as a means of assisting the health care student to complete his studies, its budget request is well below the level which was authorized and which the Coalition for Health Funding recommends.

The administration requests funding for loans at only 80% of the level authorized for health professions students and at 70% of the level authorized for nursing students. I urge, Mr. Chairman, that this committee recommend funding of the student loan program at the full level of authorization, $55 million for health professions students, and $30 million for nursing students.

Programs for the recruitment and retention of financially and socially disadvantaged students

Mr. Chairman, a component of both the Health Professions and Nurse Training Acts is a provision I authored in the Senate for the recruitment and retention of individuals with a high potential for training, who because of economic or socially disadvantaged backgrounds would not without special encouragement seek training in the health professions. The administration has budgeted $2.5 million for these purposes under the health professions legislation and $2 million of the $5 million authorized in the Nurse Training Act. Because of the lanugage earmarking funds for these purposes in the health professions legislation the amount requested by the administration will not severely limit the funds optimally available to the schools but will result in a reduction from the maximum authorized for these purposes. The Administration request for only $2 million for support of these programs in nursing schools would constitute a severe reduction which will seriously affect the nursing school's ability to carry out effective recruitment and retention programs for disadvantaged students. Obviously, the success of these minority recruitment programs cannot be achieved without strenuous efforts and a significant investment of the school's financial resources. I hope that this subcommittee will enable the Federal share of these costs to be an adequate one by recommending appropriations at the authorized level of $5 million for schools of Nursing and by increasing the appropriation recommendation for Health Manpower Education Initiative Awards.

Allied health

While I have spent some time discussing the needs of programs for the training of the traditional health professional and the nurse, there is another category of health personnel which is critically important to the provision of modern health care. That is the allied health professional. With the increasing medical knowledge and development of new techniques and of new equipment, more and more new specialized skills are required. The number of specialities is now at about 200. There is a serious shortage of clinical training facilities and of teachers for these new professions. Funding of the authorities which will provide the tools for the development of these professionals has consistently been well below the need. Two areas of support which are of critical importance to these schools are the Institutional Support Grants and the Special Projects Grants.

The Institutional Support Grants have a total authorization of $45,000,000; however, funding has been $10,000,000 or less each year. Additionally, appropriations in this category have been limited to only the Special Improvement Grant with nothing for the Basic Improvement Grant. Schools will soon be forced to abolish some of their programs in the allied health professions without some type of basic support.

The Special Improvement Grant is needed to continue the development of new and innovative programs if educational institutions are to meet the demands for training personnel for new and emerging professions resulting from new and emerging technologies. Special Improvement Grant authorization is $30,000,000 but the budget request is $14 million.

I urge your Committee, Mr. Chairman, to recommend appropriations at the level of authorization as suggested by the Coalition for Health Funding—$15 million for basic improvement grants and $30 million for special improvement grants.

A second area of critical importance is the continued funding of the Special Project Grant which again helps to develop new programs to meet new social needs. While this category has received some support in the past it never has been funded sufficiently. Authorization for the Special Project Grant is $30,000,000, of which $14,745,000 was funded last year and only $5,000,000 the previous year. I urge a recommendation of $30 million for this purpose.

An area which soon will be of critical importance is that of construction. Construction funds for allied health education have never been appropriated. Until recently there was very little need for such funds inasmuch as programs could be housed in facilities containing related health educational programs. However, the growth of these programs indicates that in the foreseeable future some construction will be needed and thoughtful consideration in this area at this point in time very well could offset some problems that are bound to arise in the next year or so should program growth continue. Authorization for construction is $40,000,000, and the Coalition for Health Funding has determined this amount can be effectively used.

Mr. Chairman, I support the Coalition's recommendation and urge your Committee to appropriate funds at the full level of authorizations.

NATIONAL INSTITUTES OF HEALTH

Since 1970, the research programs of the National Institutes of Health, have done little more than maintain their levels of support in the face of steadily rising inflation. This year, with the increased emphasis placed on research at two of the Institutes, Cancer and Heart, the overall increase in financial support of NIH programs will not enable the bulk of the Institutes to even keep pace with inflation. I certainly do not disagree with the increased support of research into Cancer and Heart Disease—I fully supported and actively participated in the development of legislation which would authorize these increases—however, I would like to see the financial support of the other Institutes increased at levels more commensurate with the need. I fully support the higher figures recommended by the Coalition for Health Funding in each instance. These recommendations were arrived at by highly knowledgeable experts in their respective fields and after cold analytic judgments were made of the potential for positive accomplishments in the specific areas. These recommendations represent an increase of $380,950,000 over the President's budget request.

To illustrate the potential that is being thwarted by the low level of support for NIH Institutes, I would like to discuss just a few areas in more detail.

Reduction in research training grants

A situation which has been of serious concern to me in the last three fiscal years has been the steady reduction in the number of research training grants supported by the National Institutes of Health.

The budget presentation for Fiscal Year 1973 indicates the number of such grants has been reduced throughout NIH by 114 since fiscal year 1971. This reduction is really much more severe than appears on the surface when one takes into account the fact that research training grants supported by the National Cancer Institute have increased from 171 to 215.

One critical decrease which has recently been brought to my attention is that of the number of training grants supported by the National Institute of Allergy and Infectious

Diseases. Of the 151 training grants supported in fiscal year 1971, 24 will be terminated in fiscal year 1972. Six of these are in allergy and immunology.

Given the prevalence of allergies in the population and the impact of the disabilities resulting from allergies on an individual's ability to follow a normal life, such severe reductions in support of training programs in this area would appear to have far-reaching effects.

Allergy-asthma is the leading cause of chronic disability in children; four percent of the U.S. population is handicapped by asthma. Twenty-three percent of the lost days from school have been attributed to absence due to asthma, and over six million work days a year are lost due to asthma.

Funding for research in allergy has expanded only minimally in the past 5 years, and training in research and care of allergic patients has remained stationary. With the annual inflationary increases in funds required to finance committed programs, both new and competitive renewal programs funding must come from an ever shrinking pool of funds—this has resulted in sharp reductions in the number of such programs. Mr. Chairman, I heartily concur in the recommendation made to your Committee that $500,000 be earmarked for this specific area of support and training programs in pediatric allergy.

A specific training program is the Pediatric Allergy Training Program at the University of California, San Francisco, Medical Center. This program is the oldest and the major NIH sponsored training program in pediatric allergy-asthma in the United States. It has produced trainees who have now instituted new pediatric allergy-asthma training programs at six medical schools. This achievement is in addition to the number of patients the training program itself is able to provide with treatment. Unfortunately, the funds allocated to the National Institute of Allergy and Infectious Disease were insufficient to provide continued support of this outstanding program. It is among the 24 which will be terminated. The immediate result will be the return of the Director of the Program, as well as the two trainees currently recruited for the program, to private practice, the abandoning of a special treatment program in San Francisco which serves 2,000 low-income children a year, and the severe reduction of the treatment program at the San Francisco U.C. Medical Center to one fourth of its current capacity to treat patients.

The efforts of the reduction in this program is symptomatic of the effects in reduction of other highly worthy training projects.

I urge that every consideration be given to halting the steady decrease in overall support of training programs by the National Institutes of Health. The failure to maintain these programs at at least current levels will have long term repercussions in terms of severely reducing the number of future faculty members capable of providing training for future health care manpower.

Need for basic research

Another area of far reaching consequences which is affected by the steady decrease in funding support is that of basic research. The Coalition for Health Funding estimates that aside from the cancer and heart disease programs, the Administration proposes only a 3.3 percent increase over fiscal year 1972 for NIH research; yet the annual inflation rate for health research is between five and six percent. This pattern has been followed over the past three years. The result has been a sharp decline in the number of research grants supported from 12,292 in 1966 to an estimated 9,915 in 1971. The percentage of NIH approved applications for research projects which were not funded rose from 28% in 1966 to an estimated 52 percent in 1971. This is an overall percentage—in some Institutes the rate of rejection is much higher. One trend which has developed which I am unable to evaluate is that fewer research applications are approved now. I am unable to judge if this is due to a poorer quality of research being suggested (which seems inconsistent with the quality of work achieved in the past) or is due to the realistic appraisal by the NIH review councils that there will be insufficient funds to fund all applications having merit and that stricter standards should be imposed on those judged to be of high priority. In any event the result of reduced support by NIH is a stifling of research endeavor.

I would like to concentrate on one small area of basic research and attempt to show the implications to all of us of our nation's failure to pursue the possibilities for basic research. This is the area of basic research in genetics, fetal growth, and development. Obviously, these areas of research have profound consequences in any effort to minimize the number of infants born that are brain damaged, have mental retardation, cerebral palsy or other disabilities.

When one looks at the statistics the importance of research in this area is overpowering. Eight percent of the infants born in the United States are judged "premature." The incidence rises to 14% among low income mothers. This is a term for those infants who are born weighing less than four and a half pounds. Basic research is needed to determine what causes the slowness in development of this fetus as well as in what causes the initiation of spontaneous premature labor in pregnant women. The child who is born under these circumstances needs special care, sometimes a special environment. This child often (about one-fourth of premature infants) suffers from a special respiratory disease affecting its lungs. In 10% of the premature infants, it results in death. Other infants suffer from a metabolic blood disorder which leads to cerebral palsy or mental retardation. Others have difficulty adjusting to changes in temperature which severely affect the circulatory system and in some instances results in death. These are problems affecting the so-called "premature" infant.

Basic research is also needed in problems relating to infancy and early childhood.

Another disease which continues to baffle science and to leave behind it not only the death of an infant, but also a severe emotional and psychological imprint on the parent is SIDS—the sudden infant death syndrome. This mysterious malady, or group of diseases, results in sudden death for an estimated 10,000 infants a year in the United States, who were apparently healthy infants before their death. Senator Mondale has taken the lead in developing national concern for this problem, and I have cosponsored with him, as you have, Mr. Chairman, legislation which will focus attention on those areas related to this syndrome in which little is known.

Another problem having fantastic implications is that of the effects of malnutrition in the mother on fetal growth and development. Just a few years ago the question was raised of the effect of maternal undernutrition on the infant of a given pregnancy and the specter of mental retardation was suggested. Recent work now suggests that maternal undernutrition may not only affect the infant of a given pregnancy, but even that of the second generation. Additional research is needed to determine what causes the damage in this second generation.

Studies have indicated that there may be a large group of congenital defects caused by environmental factors such as atmospheric carbon monoxide, lead, or other factors. The implications obviously require additional studies.

I hope these few illustrations I have used have indicated areas of basic research which should be expanded in one small part of one Institute of NIH. This is not esoteric research. It has everyday human applicability. This is representative of the type of basic research that NIH can support, and indicative of the type of research that will not be completed if NIH lacks the resources to support it.

FAMILY PLANNING SERVICES, POPULATION RESEARCH AND POPULATION EDUCATION

Another category of programs in which I am convinced this nation must place a major emphasis, is that of programs affecting our population size. The Commission on Population Growth and the American Future which has recently completed extensive studies on population dynamics and their relationship to the quality of life reached the principal conclusion that we must plan for a stabilized population in order to preserve the quality of life we cherish. The first step essential in effecting such a plan is to provide tools with which each family can choose its size. The three basic tools which would be necessary for realization of a national population policy are sufficient family planning services to all those who want them but are outside the mainstream of health care, research in population which can perfect each individual's means of governing the size of his family, and population education which can make each individual aware of the consequences of unchecked population growth.

Family planning services

Mr. Chairman, the Senate Committee on Labor and Public Welfare has ordered reported a bill which authorizes increased appropriations authorizations for Section 1001 (c) of the Public Health Service Act, authorizing grants and contracts for family planning services.

This action was taken in response to the Administration's request for increased appropriations authorizations of $21.5 million for those purposes. The Senate added increased authorities of $37.5 million, from the currently authorized level of $90,000,000 to $127,300,000 for fiscal year 1973.

The Special Subcommittee on Human Resources held a full day of hearings (April 17, 1972) on the suggested administration increase and received testimony from the Administration, from representatives of organizations coordinating family planning service programs on a nationwide basis as well as directors of programs in local communities which demonstrated that the administration's suggested increase of $21.5 million for PHS Act title X authority project grants was offset almost entirely by an $18 million decrease below Fiscal Year 1972 spending for Social Security Act title V (Maternal and Child Health Project) grants (minus $9 million) and OEO Family planning projects (minus $9 million). Testimony presented to the Subcommittee showed that the administration request was insufficient to keep the Federal programs on target to meet the announced Federal goal of providing family planning services by 1975 to the approximately 6.5 million women wanting these services but unable to afford them.

The $127,300,000 authorization which the Senate has adopted instead will enable the administration to maintain its momentum toward reaching its goal.

Mr. Chairman, I urge your Committee to recommend an appropriation of the full $127,300,000 authorized by the recent action of the Senate under section 1001 (c) authorities, and in addition to appropriate the $19 million requested by the administration

for support of family planning services under title V of the Social Security Act.

Population research

The President's budget request ignores almost totally the population research authorities of the Public Health Service Act, which total some $93 million, $65 million authorized by title X of the Public Health Service Act and $28 million under NIH basic authorities. The President's budget request of $44,040,000 represents substantially less than half of the amount which is authorized and is well below the $75 million which the Department of Health, Education, and Welfare had estimated in its own projections could be effectively utilized in fiscal year 1973 for population research.

Today, there is as yet no completely safe and effective means of contraception available to any woman, rich or poor. Research is urgently required to develop a means of voluntary control of reproduction.

Dr. Richard Blandau, at the University of Washington, an eminent professor of Biological Structure, has stated: "It is not an exaggeration to state that every step in the biology and physiology of reproduction in the human needs an urgent and expanded research effort so that contraceptive methods need not be based on empirical procedures."

In addition to the need for research in the development of contraceptives and in reproduction itself, there is an urgent need for social research in the areas of population dynamics. More must be learned about the social, economic, and personal factors which influence desired family size, about the effects of increasing urbanization on our society, the potential influences on population change created unintentionally by government policies, the social and economic consequences of population change and how to plan for them.

Important to the conduct of this needed research is the development of a sufficient number of individuals trained to conduct investigations in population and related fields. The administration has requested $1,871,000, the same level of funding which was appropriated last year for training grants by the Center for Population Research. Given the increased costs due to inflation, the result will be a reduction in the numbers of training grants supported. Reduction in training programs is a particularly shortsighted approach to the development of scientific technology. For progress to be made there is a need to continuously infuse new ideas and fresh approaches to our body of knowledge. The research of the future will depend on the numbers of trained research workers who are attracted to this field today.

Earlier I expressed my hope that your Committee would recommend that the reduction in research training grants be halted. In the case of Population Research the reduction has very serious implications. I would like to mention at this point the inadequacy of the Administration's request for funds for training grants and contracts authorized by title X of the PHS Act—with $4 million authorized the Administration has requested only $3 million. I urge your Committee to recommend the full amount authorized.

No less important and vital to the development of researchers and population research itself is the establishment of population research centers. The centers accelerate research progress by providing pooled facilities to investigators, and stimulate interest and activity in all aspects of the population problem. The Center for Population Research currently supports four Population Research Centers. Dr. Kenneth Ryan, of the University of California School of Medicine at San Diego, in contributing to the document published by the Population Crisis Committee last year "Mankind's Greatest Need" estimated from 10 to 15 centers were required in the United States to foster interdisciplinary investigation of all aspects of population problems.

When the estimates of the scientific research community are pulled together, the need for population research funding varies from $75 million up to $311 million. The latter figure was recommended by the Committee on Population Research Report to the Department of Health, Education, and Welfare in 1969. The former much more modest sum was recommended by then Secretary of HEW, Robert Finch in 1969 in hearings before the Senate on the Tydings bill, and was repeated again in Departmental projections in developing the Five Year Plan for Family Planning Services and Population Research Programs.

This latter figure of $75 million for Population Research is a very realistic projection of the sum that can be targeted usefully to priority programs in Fiscal Year 1973, and one I urge your Committee to recommend.

Mr. Chairman, the Center for Population Research has mounted a highly effective research program with limited funds and limited staff. The scientific community, the Commission on Population Growth and the American Future, and the public at large have all evidenced a concern that these programs be increased. To mount the program at the level which has been recommended, additional staff will be essential for the Center. The Department's request is very deficient in this area, I would hope that with the increased appropriations recommendations I urge, from 15 to 20 additional individuals can be added to the Center's staff.

Population education

The third base on which a population policy must stand is that of population education. Although I have listed it last, that is certainly no indication of its priority. I feel a comprehensive population education program is vital to the achievement of the objectives of the Tydings bill. A small amount is authorized for these purposes in the authorities of the Public Health Service Act, but even so, the entire amount has never been appropriated, and the amount that has been appropriated has been spent basically for the distribution of family planning information. Last year I held several days of intensive hearings on the issue of population growth and population education in which it was clearly shown that there is a critical need for population education programs. The recent report of the Commission on Population Growth and the American Future certainly bears this out. I urge you to recommend appropriations for population education programs up to the full amount authorized—$1,250,000.

I believe this amount would enable the Office of the Deputy Assistant Secretary for Population Affairs to gather the staff and develop the programs essential to establish adequate population education programs. Funding at this level would also enable that Office to provide the necessary coordination of population education activities of the Office of Education, the National Center for Family Planning, the National Institute of Child Health and Human Development, and other appropriate units within H.E.W.

NATIONAL INSTITUTE OF MENTAL HEALTH

There are four major areas of the national mental health program which are of particular concern to me and to the citizens of the Nation's most populous State. These are: 1) failure to provide support for continued growth and development of the critically important *community mental health centers program* including the special program for services to meet the mental health needs of children, 2) continued efforts by the Administration to totally eliminate Federal support for the *training* of psychiatrists and, for the first time, surfacing of the Administration's intent also to eliminate mental health training programs for other physicians and for nurses, 3) total failure to support the recently-initiated efforts to finally cope with the devastating problem of *alcoholism*, and 4) freezing the NIMH program in basic and applied *research* at the level of the previous year.

Community mental health centers program

The Administration's request for the staffing of community mental health centers for FY 73 is $135.1 million—identical with the FY 72 appropriation. It is estimated that less than $8 million of these funds will be available for the initiation of new projects. This would mean that at the most 20 new centers could be initiated during FY 1973. If this rate of growth of the program were to continue, it would take until the year 2022 before the goal of nationwide coverage by comprehensive community mental health programs could be achieved. Clearly we should not and cannot accept this retreat from the national commitment made to this innovative program by the Congress and by previous Administrations.

Taking into account the "backlog" of approved but unfunded projects for the current fiscal year and the anticipated new projects for the next fiscal year, I would strongly urge that the Senate Appropriations Committee increase the Administration's request for this program from $135.1 million to $200.1 million.

The National Institute of Mental Health, through the actions of the Senate and House Appropriations Committee, was able this year to initiate for the first time the special program under the Community Mental Health Centers Act to provide mental health services for children. The Administration's request of $10 million for this program would allow for the initiation of only 4 new projects during FY 73. The mental health needs of children—in deprived areas as well as in suburbs—are well-known. Problems of drug abuse, of alienation, of antisocial behavior and—less dramatic, but equally important—the loss to the future of the Nation in terms of unrealized potentialities require a significant expansion of mental health programs throughout the country. The Congress, in its Amendments to the Community Mental Health Centers Act of 1970, authorized a program of specialized services for children. For FY 1973 the authorization was $30 million. This amount would permit the development of 60 new programs of mental health services for children during FY 1973. I strongly urge the Senate Appropriations Committee to authorize this full amount of $30 million.

Construction

Finally, where the Congress had authorized $100 million to provide for the construction and renovation of facilities for mental health centers, the Administration has requested no funds at all. Surveys made of the national need for the construction and renovation of community mental health facilities indicate that at a minimum 100 communities require such funds. I hope your Committee will recommend an appropriation of the full amount authorized—$100 million.

Mental health training programs

Last year the President, in his budget request for FY 72, proposed the rapid phasing out of Federal support for the training of psychiatrists. At a time when there is increasing concern about mental health and other related social problems, it appeared ludicrous to remove the major single source which has enabled medical schools throughout the country to strengthen their training programs in this important medical specialty area. Wisely the Congress restored the funds which had been eliminated in the Administration's original request. This year again the President's budget proposes a major cut of $7 million in the psychiatric training program. This cut (close to 24 percent of the

total Federal support for the training of psychiatric physicians) would eliminate over 70 specialized training programs and would result, within a two-year period, in the graduation of 500 fewer psychiatrists. Clearly it is nonsensical to take such a step at this time.

Increasingly, psychiatric training programs throughout the country are preparing young men and women for work in community mental health programs and for work in the specialized areas of child mental health, drug-abuse, addiction, antisocial behavior and aging. Increasingly too, the emphasis is on the preparation of psychiatrists for careers of public service. I strongly urge restoration of the $7 million cut from the NIMH psychiatric training program in the Administration's FY 73 budget request.

The President's 1973 budget request also proposes the virtual elimination of two other key mental health training programs. Through the first of these (undergraduate psychiatry) assistance is provided to medical schools throughout the country to enable them to give basic training in the general area of human growth and development, emotional disorders and psychiatry to all undergraduate physicians.

Since it is well-known that non-psychiatric physicians see many more emotionally disturbed persons than do psychiatric specialists, this training is of key importance. The NIMH undergraduate psychiatry training program thus makes it possible for medical schools to provide classroom and supervised clinical field experience for third and fourth year medical schools in the area of psychiatry.

The President's proposal also includes the elimination of a comparable—and equally important—program of support for undergraduate nurses training in the mental health area. Again this program is geared to ensuring that all undergraduate nurses have some appropriate exposure to and learning experience in working with psychiatric patients. Nurses, both in community health nursing and in hospital bedside nursing, work on a daily basis with very large numbers of patients who have emotional difficulties. Thus, it is absolutely essential that the undergraduate nurse receive some basic orientation to and training in relation to both normal and abnormal behavior.

The President's request for NIMH training programs (excluding fellowships) is $96.35 million. I strongly urge that the Senate reverse the Administration's intent of phasing out the psychiatry residency training program ($7 million) and the intent to phase out the undergraduate training programs ($8 million). In addition a minimum of $15 million is required to enable the Institute to move forward with its recently initiated training programs in the area of new careers. It is only in recent years that it has been demonstrated that a wide range of para-professional personnel can function effectively as part of the Nation's mental health delivery system. NIMH has taken a leadership role in this regard and the nationwide response, particularly in ghetto and Chicano areas—and through the increasing number of community junior colleges—has been dramatic. Finally, because of increasing costs of training programs, an additional $7.5 million are required to enable NIMH to continue its past activities in support of basic training in areas such as psychology, social work, and nursing.

I strongly urge the Senate to add this $37.5 million to the President's NIMH training request.

Alcoholism

It was only through the action of the last session of the Congress that any significant funds became available to implement the landmark Comprehensive Alcohol Abuse and Alcholism Prevention Treatment and Rehabilitation Act of 1970. The President's request for FY 73 for the state alcoholism formula grant is at the same level as was voted by the Congress last year—$30 million. This formula grant program has been the catalyst which has enabled many states, for the first time, to move forward in developing alcoholism programs—treatment and education as well as prevention. The Administration's request for alcoholism project grants in the alcoholism area is slightly over $48 million. While this appears to be an increase of $10 million over the FY 72 figure, actually no new projects can be initiated with these funds because the additional $10 million will be used to pay for the alcoholism projects that are transferred from the Office of Economic Opportunity. The Administration's own figures indicate that fewer than 10 new projects can be established throughout the whole country with the project grant support requested in the President's budget. All 50 states are now engaged in major planning and development activities in the field of alcoholism. I strongly urge the full Congressional authorization of $50 million for this project grant program. In addition, to provide direct assistance to communities for alcoholism treatment and rehabilitation programs, the Administration's request for grants under Section 261 of the Community Mental Health Centers Act should be increased to $80 million. These grants are available for programs to combat both narcotic and alcohol abuse. Appropriations of this amount will allow the establishment of new alcoholism programs in communities throughout the country.

Support of basic applied research

I strongly urge the Senate to add a minimum of $10 million to the NIMH budget for research grants. This would raise this item from $101.4 million to $111.4 million. These added funds would enable the Institute to support over 300 critically needed projects in key areas such as violence and antisocial behavior, child mental health (including the particularly neglected problems of autistic children), drug abuse and alcoholism, and the serious problems currently existing in the provision of preventive and rehabilitative mental health services to minority group individuals and families.

NATIONAL HEALTH SERVICE CORPS

A years ago, Mr. Chairman, I was delighted to cosponsor the Emergency Health Personnel Act, which you had so imaginatively developed. Recently you must have been as pleased as I am to see the assignment of health professionals to 142 communities as a result of this legislation. These communities had been totally lacking medical services previously. Several health professionals have been assigned to my State of California in areas desperately needing services. In each case, the community has banded together to provide the facility and the equipment in a spirit reminiscent of the pioneer days of a hundred years ago. The areas chosen are geographically isolated—one is Mono County on the back side of the Sierras, another is Siskiyou County serving an area of 5,000 people in a rural community up by the Oregon border, and the third is an agricultural community in the Sacramento Delta Region serving a predominantly low income chicano farm population.

The national response to this program has been extremely favorable. Some 700 communities have indicated an interest in participating in the program. In the short time allotted to these communities to prepare the necessary materials and documentation to be eligible for consideration, at least 400 were able to develop sound proposals. Unfortunately the funding is limited, and only a small proportion of these were assigned medical staff.

In Fiscal Year 1973, the situation will be even more restricted. The administration's request is some $4 million less than it was in fiscal year 1972. Given the initial enthusiastic response from the communities, and the short time they were given to develop proposals, the number of requests should be even greater this year. I do not believe there is any question that the full authorized amount of $30 million can be effectively used.

The Office of Management and Budget has determined that some savings should accrue from making the health professional serving in the community an income producing mechanism. In each case, OMB has directed that the community or patients being served reimburse the Public Health Service for the services provided, and estimated that approximately 50% of program costs could be met in this way. This reasoning is not based on the reality of the situation. Many of these communities are made up of primarily low-income families or of individuals not within the scope of third party coverage by medicaid or medicare or private programs. I do not believe the OMB expectations of reimbursements will be realized and that the result will be an inability to support the program at the lower level the administration has planned for.

Mr. Chairman, I feel this program can have a tremendous effect in areas of greatest need. It provides direct tangible medical care to communities which have long been outside the mainstream of health care, and which the nation's health system has been unable to provide for. I hope your committee will recommend an appropriation of $30 million, the full amount authorized.

HOSPITAL CONSTRUCTION AND MODERNIZATION

I would just like to touch upon the very important area of facility construction and modernization very briefly. While we have a great many hospital facilities, many of them are outdated by the development of new technologies, many of them have deteriorated to the point where the provision of quality care is inhibited, and many of them need to be renovated to respond to the increasing demand for outpatient and emergency services. It is estimated that the need by 1973 which must be met if we are to maintain adequate standards of health care is 175,000 beds in long term care facilities, 1,107 outpatient facilities, 897 public health centers, and 377 rehabilitation centers. This is in addition to the estimates for acute care beds and general hospitals.

The administration has quite properly requested the full amount authorized for outpatient facilities and for rehabilitation facilities, and I am delighted with this action on their part. However they have asked for absolutely nothing for experimentation and demonstration grants—critically needed today in light of our rapidly changing society, nothing for construction and modernization of medical facilities despite the rapidly deteriorating condition of many hospitals in our inner cities, nothing for public health centers and nothing for emergency room modernization and construction despite the growing demand and increased reliance of the general public on the services provided in such facilities, and nothing for emergency medical transportation services despite a growing need and demand for support. I believe these are critically needed facilities and urge your committee, Mr. Chairman to be generous in appropriating funds for these purposes.

MIGRANT HEALTH

A particularly disadvantaged group in our nation is the migrant farm worker. In recognition of the responsibility the federal government bears to their well being, Congress has long supported health programs specifically for the migrant farm worker. These programs have provided care to many

who would otherwise have never been exposed to it. However, the programs have always been inadequate to meet the real need. In my state of California, the tuberculosis rate among the migrant workers is very high, malnutrition is frequent. These are illnesses and conditions which could be prevented with adequate health care and health education, they are also conditions which can be alleviated through proper health care. The administration has requested $23.75 million for support of migrant health programs, some $6.25 million short of the full amount authorized by Congress. Mr. Chairman, this amount can provide a substantial amount of care to a group which desperately needs it. I hope your Committee will recommend an appropriation of the full authorized amount of $30 million.

OCCUPATIONAL HEALTH

The rates of death and disability arising from hazards on the job are inacceptable in a society with the technology we possess. Every year almost 15,000 workers are killed on the job and over 2.2 million workers are disabled. Some 400 new substances are introduced into the work place daily. These need to be studied so that any potential hazard can be evaluated, criteria developed, and standards recommended. The training of occupational health personnel is critically needed. The AFL–CIO has recommended that the amount requested by the Administration—$28.3 million be doubled. This indicates the magnitude of the need. I hope your Committee will at least support the figure included in the administration request as recommended by the Coalition for Health Funding.

DEVELOPMENTAL DISABILITIES SERVICES

Mr. Chairman, there is one program closely related to the health programs I have been discussing, which is not organizationally a responsibility of the programs under the Assistant Secretary for Health and Scientific Affairs. These are the programs authorized by the Developmental Disabilities Act which would provide services for those suffering from mental retardation, cerebral palsy, epilepsy or other neurological conditions as determined by the Secretary. The bulk of the ongoing program is a formula grant program to the states and the administration has requested $21.7 million for this purpose in FY 1973, the same amount appropriated last year.

Estimates from the states are that this sum was totally inadequate to their needs. The States are making a strong effort to improve the programs and services for the developmentally disabled within the community and to move away from the traditional institutionalization of these individuals which has in the past resulted in so many tragic abuses. Mr. Chairman, I urge that your Committee recommend that at least $65 million be appropriated for the formula grant program. This is just one half of the amount authorized, and the need is well established.

CONCLUSION

Mr. Chairman, the programs I have concentrated on are just a few of the many vital and important programs which deserve special attention. I know you are going into all the needs in these areas intensively and that your Committee will recommend wisely and well, based on strong evidence of actual need and the ability to effectively utilize funding support.

I appreciate your giving me the opportunity to present my recommendations on some of the areas which I believe are severely underfunded.

Mr. MAGNUSON. Mr. President, one other thing. The distinguished Senator from West Virginia (Mr. RANDOLPH) is unavoidably detained. He would like for me to mention, before the bill is passed, his strong support of the bill, which I am glad to do. He has been very helpful in all of these programs thoughout the years. I imagine there will not be enough votes against the bill to bother.

Also, I think he can take great pride in what the Senate did on the matter of black lung payments, because no one, even his distinguished colleague (Mr. ROBERT C. BYRD) has done more for this. Together they have done more than any other two Senators in the United States, including others from the mining areas. Senator RANDOLPH has been a real leader in this field.

FUNDS FOR SICKLE CELL ANEMIA

Mr. TUNNEY. Mr. President, before we take final action on this appropriations bill I would like to express my appreciation to the members of the Appropriations Committee for acting favorably on my request to increase funds to combat sickle cell anemia from the $15 million proposed by the President to the full $25 million which I asked of the committee on May 23, 1972.

That action by the committee demonstrates most emphatically, I believe, the deep-felt commitment of the Members of the Senate against this tragic disease. And it builds directly upon the impressive actions by both the Senate and the House earlier this year in passing Public Law 92–294, the National Sickle Cell Anemia Control Act, which I introduced last October.

I would hope that this $10 million increase will be retained in conference with the House in order to provide adequate funds to implement this new law.

Mr. President, I ask unanimous consent that my testimony in support of this increase be printed at this point in the RECORD.

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

STATEMENT OF SENATOR JOHN V. TUNNEY

I. SICKLE CELL ANEMIA

Mr. Chairman, there is a blood disease in this country that kills half of its victims before the age of twenty.

Few survive beyond the age of forty and most are crippled long before death.

It was found to be a deadly killer more than sixty years ago.

It is called sickle-cell anemia and it strikes approximately one of every 500 black persons in this country.

Medical researchers estimate that over 2 million Americans carry the so-called sickle-cell trait. And yet the vast majority of Americans have no idea what sickle-cell anemia is; they have never heard of it.

The people who suffer most from this disease do not live in the suburbs; they do not belong to country clubs; they do not go to private schools; many of them do not have family doctors; many of them never receive any adequate health care. They are black and until very recently they have been ignored.

In October of last year thirty Senators joined me in taking a first step toward ending that neglect, the introduction of S. 2676, the National Sickle Cell Anemia Control Act. During the next few weeks, the first hearings ever held in Congress on sickle cell amenia were held by two Senate subcommittees and on December 8, 1971, the Senate voted 81 to 0 to approve it. Similar unanimous action was taken in the House and on May 16, 1972, just last week, the President signed it into law as P.L. 92–294.

As the author of that legislation, I am particularly gratified by the swiftness with which the Congress acted in passing that legislation.

Now we must move with equal speed to provide the full funds needed to implement that law. The suffering and despair of the victims of sickle cell anemia, compounded by tragic ignorance of the disease by many Americans, demands that we fulfill the promises contained in this new law.

Mr. Chairman, during the past year and a half since we began working on this legislation, the public has finally begun to learn some of the facts about this tragic disease. Newspapers, magazines, radio and television programs have begun to focus increasing attention on the nature of sickle cell anemia and the great need for support to combat it.

It has been a long process. You will recall, I am sure, that just one year ago, under the leadership of Senator Kennedy, the Senate attempted to increase funds for sickle cell research only to lose that increase in conference with the House.

Happily, that situation has now changed, I think. In voting 391–0 in favor of the National Sickle Cell Anemia Control Act, the House made it clear, I believe, that sickle cell anemia at last occupies the priority in the Congress that it has long deserved.

And for that reason, I believe we must provide adequate funding for this new law. Its passage has given new hope to the thousands of sickle cell victims throughout the nation. Let us not be a party to dashing those hopes by failing to provide the money to implement that law.

Mr. Chairman, it is clear in my mind that if we had a disease that affected one out of every 500 white children, and that if fifty percent of those children died at about the age of twenty and almost all of them died before the age of forty, with the kind of excruciating pain and complications that occurs with sickle cell anemia, we would have had a massive research effort long, long before this.

Let me give you some examples of the need for funding.

Dr. Roland Scott of Howard University, a man who has dedicated his life for over twenty years to combating this disease, described the efforts at Howard's Center for Sickle Cell Anemia in hearings which I held as chairman of the public health subcommittee of the District of Columbia Committee. Dr. Scott is chairman of the Department of Pediatrics and Child Health at Howard. I might add that at the present time Howard University is responsible for training nearly half of all the black physicians in the United States.

Dr. Scott estimated that the cost of establishing and supporting a full scale program at Howard would cost $4.4 million initially and approximately $2 million thereafter. Last year Howard University spent $200,000 for sickle cell research. *Less than one percent* of that money came from the federal government.

Take another example, the Director of the District of Columbia Health Services Administration testified before my subcommittee that he could not even get $15,000 from NIH last year to piggyback a sickle cell test on an existing program testing children in Washington for lead paint poisoning. All he wanted to do was include a very simple test that would have reached thousands of children for almost no additional cost. But he was told there was no money.

Mr. Chairman, these examples demonstrate two things. First, there is a tremendous need for funds, but secondly, there is a particular need here in the District of Columbia. I can think of no more appropriate place to begin the fight against sickle cell than here in the Nation's capital, the city with the largest

percentage of black population of any city in the country.

But the need is national as well. Dr. Elmer Anderson, Chairman of the Research Foundation for Sickle Cell Anemia in Los Angeles, has testified about the efforts of that foundation in the Los Angeles area. In 1970, he said, the total income for the foundation was $6,000. That amount was equal to the hospitalization cost of just two sickle cell crises for a single patient. Dr. Anderson put it most eloquently:

"So what we are emphasizing, gentlemen, is not the idea that we are asking for $25 million for programs for testing, research, and education; but a chance to get this disease in its right perspective so that we can save lives. We are very late in finally now becoming aware of what we should be doing. I think at this stage of the game it would benefit us all to appreciate the fact that we should stop politicking and devote our energies toward creating centers where these people can go for screening and good definitive treatment and research facilities where they can do research specifically for sickle cell anemia and not as an afterthought while considering another project to work on."

Similarly, Dr. Robert Rhodes of Meharry Medical College in Nashville, Tennessee, a school that has graduated approximately 43 percent of the black physicians practicing in the United States, has summarized the need for full funding in this way:

"In summary, for all too long, sickle cell anemia has been virtually ignored as an important disease among a major segment of this Nation's population. The victim, maligned and used in many instances as only a 'good source of interesting research material.' The time certainly has come to give adequate support to such programs as will provide both care for the victim and continue to expand our knowledge of this patient and his disease. It is hoped that the current spurt of interest in sickle cell disease will remain high and provide the victim with support so long denied."

Dr. Rhodes went on to cite a World Health Organization estimate that sickle cell anemia kills over 80,000 children annually worldwide.

Mr. Chairman, all of those witnesses spoke from sad experience of the need for adequate funds for research, for screening, for counselling, for treatment and for public education. But perhaps the most eloquent statement of the reasons why this Committee should provide full funding for this program was by the mother of a child with sickle cell anemia who testified before the Health Subcommittee:

"Kaaren must have been about eight months old when she had trouble with her elbows swelling . . .

"Shortly after that, Kaaren began to have bronchial infections, which would develop into pneumonia. One night she actually went into a coma.

"We struggled along with this, off and on, for two and a half years, thinking that the child would grow out of it. We had no idea of anything, except that she was weak.

"This is what the doctor said, she was just a weak child.

"In 1947 my husband and I moved to Magnolia, Arkansas . . .

"Kaaren's health began to deteriorate. She was sick most of the time and had to have a blood transfusion about every six to nine weeks.

"She would perk up immediately after the blood transfusion, and then go back down again, so that in approximately two months, she would return to the hospital for another transfusion.

"At this point no one said anything about sickle cell anemia.

"The doctor said he thought she had rheumatic fever. He changed it and said it was malaria . . .

When we moved to Tyler, she became desperately ill, and we knew no doctor. A friend of mine suggested I use her doctor, who incidentally was an internist. I did not know what that meant at the time. It turned out that this man, a Jewish doctor, diagnosed sickle cell anemia. That was the first time we had ever heard of it . . .

"He admitted he knew very little about it. He sat down with us in his office with a textbook, and read maybe ten lines, and that was it . . .

"In 1958, the pediatrician we used tested everyone, all six of us. This is when we learned that I have a trait, my husband has a trait, Kaaren, the oldest child, has the disease, the second child has nothing, the third child has the disease, and the youngest child has a trait . . .

"We were informed she would never live to see womanhood; that if she did, very shortly thereafter she would die, and that there was nothing anyone could do, so, you know, get yourselves together, and ready to face it . . ."

Mr. Chairman, the bottom line is this. The Administration has proposed $15 million for sickle cell anemia for FY 1973. Of that amount, $6 million is to be used for research and $9 million for services, presumably for screening, counselling, public education, and clinical programs. Those amounts are clearly inadequate.

They might be adequate for a token effort, but they fall far short of a national commitment to combat sickle cell anemia. The Congress has called for that national commitment unanimously in both Senate and House. It is now time for us to match the words in the new law with the money to make it work.

Furthermore, despite the clearest possible need for action, the vast majority of the funds appropriated for the current fiscal year have not yet been spent. The latest word I have is that possibly as much as 80 percent of the 1972 funding for sickle cell anemia will not be committed until next month, the last month of the fiscal year. So we have already lost almost a full year in the battle.

Frankly, Mr. Chairman, I would like to see this new law funded at the maximum level. I know the realities in which you operate, and I therefore would ask you simply to do the best possible job. However, I would urge that at a minimum the committee add an additional $10 million to the President's request: $5 million for additional research as provided in Section 1102 of the Act and $5 million for screening, counselling, and public education under Section 1101.

Although far less than the full amount authorized under the Act, these additions would bring the total amount allocated next year for sickle cell anemia to $25 million. Such an addition would in no way be excessive and would go a long way toward fulfilling our commitment to the victims of sickle cell anemia and their families.

MENTAL HEALTH FUNDING

Mr. TUNNEY. Mr. President, I would like to compliment the Senator from Washington (Mr. MAGNUSON) and the other members of the Appropriations Committee for their action in restoring adequate funding for mental health in the budget of the coming year.

The committee has restored in full the funds for psychiatric training grants as I requested in testimony before the committee on May 23, 1972, and has added additional funds for restoration of the program to its 1969 level in order to emphasize new and emerging priorities such as mental health of children.

In addition, the committee has added $20 million for staffing of the community mental health centers.

I think these actions represent an important awareness of the critical need for expanded mental health resources. I hope we will continue that impressive record in years to come.

Mr. President, I ask unanimous consent that my testimony to the Appropriations Committee in support of increased funding for mental health be printed at this point in the RECORD.

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

MENTAL HEALTH FUNDING

Mr. Chairman, on July 13, 1971, I testified before this Sub-committee regarding the effects of crippling cuts in the national mental health program proposed in the Administration budget for Fiscal Year 1972. Through the wisdom of this Sub-committee and its counterpart in the House of Representatives, and with the strong support of a large number of both citizen and professional groups, these cuts were restored last year by the Congress.

In the fall of last year, despite the manifest intent of Congress, attempts were made by the Administration to restrict expenditure of these funds. Again, strong and broad-based popular support forced release of the appropriated funds and the development of the mental health program was allowed to continue.

I am before you today because the Administration's budget for Fiscal Year 1973 again imposes severe restriction on vitally needed programs of mental health research, training, and service. During the year that has passed since my last appearance before you, I have had a chance to gain some familiarity with the status of our efforts toward mental health. I have a few comments which occur to me on some of the major recent accomplishments and greatest unmet needs in our quest for better mental health for all Americans. I have divided those comments into research, training, and service. I would add, however, that these three facets are inextricably linked. To attempt to trade one off against another in some false sense of economy runs grave risks of reducing both the strength and the effectiveness of mental health programs.

RESEARCH

In research, mental health differs significantly from other health areas in that the gap between knowledge and its practical application is far less wide. This results from both the incredible complexities of the human mind and brain, and the fact that only in the past two decades has major research in mental health been undertaken. Productive interdisciplinary research teams have only relatively recently undertaken broad-gaged studies of the factors associated with major mental illness, or the contributions to such pressing social problems as drug abuse, alcoholism, and violence.

Progress has been made. In recent years the effectiveness of lithium in the treatment of the previously difficult to manage manic-depressive psychoses has been well documented by careful research, and it now appears that this drug may also be useful in treating at least some of the 300,000 Americans each year who suffer severe depression.

The use of the drug L-DOPA for relief of the previously severely crippling symptoms of Parkinson's Disease resulted from intensive research, and further studies of this chemical and its relatives promise greatly increased

understanding of the basic biochemical mechanisms of the brain.

Dr. Julius Axelrod, working in the intramural laboratories of the National Institute of Mental Health and winner of the 1970 Nobel prize in medicine, has recently discovered that the human brain has the potential capacity to produce hallucinogenic substances from chemicals normally present in brain fluids. The possible role of this process in the disordered thinking of schizophrenic patients is presently under intensive study.

Methadone appears to offer at least stabilization of a significant number of the estimated 500,000 heroin addicts in the United States, while pharmacologic research holds promise for the development of long-acting true narcotic antagonists. Meanwhile, research is continuing the search for the basic factors underlying addictive behavior.

But much is still unknown. Nearly 40 percent of the hospital beds in the United States are occupied by individuals suffering from major mental illnesses, and it is estimated that one in ten Americans will require psychiatric hospitalization at some time during his life. There are more than five million alcoholics in our country today and an additional four to five million individuals for whom alcohol abuse is a serious problem.

Mental health problems of young people in our society are another major area. Drug abuse among teen-agers is a tragic fact of life for thousands of American families. Death due to over-dose or the physical complications of addiction has become the leading killer of young people between fifteen to twenty years of age in several of our larger cities. The upsurge of violence and crime by young people is also a sad fact. Three-quarters of those arrested for major felonies, larceny, and negligent manslaughter are less than twenty-five years old. Arrest rates are highest for those fifteen through seventeen, and next highest for ages eighteen through twenty. One need not be a psychiatrist to recognize the meaning of those statistics.

None of these problems is simple. None has an easy answer. But whether you measure the cost in either economic or human terms, continued support of both fundamental and targeted research on problems of mental health and illness is an excellent investment. The Administration proposes a budget of 144 million dollars for NIMH research support in fiscal year 1973. This is inadequate to even cover inflationary increases over the past year and would provide no new funds for expanded research efforts. Both the National Association for Mental Health and major professional groups have urged the addition of ten to fifteen million dollars in new funds to support mental health research in the coming year. Even this modest increase would allow the beginning of nearly four hundred new research projects. This support seems to me minimal in the face of past accomplishments, great promise, and overwhelming need.

TRAINING

The United States remains woefully short of professionally trained mental health manpower. While the number of psychiatrists, psychologists, psychiatric social workers, and mental health nurses has increased markedly since the end of World War II, the demand for skilled services has increased as well. Effective treatment programs in drug abuse, alcoholism, crisis intervention, and crime and violence, if they are to succeed, require—in fact demand—skilled professionals. In addition, we must provide mental health care to those for whom it has been only barely available—minority groups, children and adolescents, and those living in rural areas.

I strongly support these new treatment programs. But I would consider it tragic indeed if manpower shortages led to our producing yet another second-class care system for those most acutely in need. Highly trained and skilled professionals are required not only for the development of new mental health knowledge through research, but also for the application of this knowledge to new treatment programs and the complex, but vitally important function of program evaluation.

It has recently been suggested that less highly trained para-professional mental health workers can significantly replace professionals in treatment programs. The usefulness of new kinds of health workers in increasing the effectiveness of professionals has been clearly demonstrated and significant new roles for para-professionals in community mental health have evolved. I think, however, we should be wary about the concept of their fully replacing professionals in the extremely complex task of effective mental health care. The risk of producing a second-class system seems to me to be great.

The public demand for help with psychological and social problems has been demonstrated in California in the very rapid rise in various encounter and other group programs, not infrequently led by individuals with little or no professional training. Recent research has demonstrated that, contrary to popular belief, such quasi-mental health activities are not necessarily harmless and may, in fact, delay the seeking of professional assistance for major mental disorder. Partly because of the effectiveness, of past public education programs, persons in need are increasingly seeking mental health care. It is our responsibility to provide skilled professionals to help them.

As with research, despite a record of accomplishment and a clear-cut need, the Administration proposes to severely restrict the training activities of the NIMH. In this case, a cut of fifteen million dollars from the appropriation for FY 1972 is requested. Of this cut, seven million dollars is removed from funds to train psychiatrists, and the intention is again made clear to eliminate the entire psychiatry training program over the next few years. The profound impact of these cuts on the manpower supply in this essential medical specialty has been pointed out in other testimony before you. I would only like to underline the particular irony that the training programs which would be most severely restricted by such cuts are those based in medical schools and major medical centers. These are precisely the programs which provide training in research, program development, and evaluation, and whose graduates are most likely to enter public service careers.

Even more short-sighted, in my view, is the proposal to cut eight million dollars from the support of mental health training in the core education of health professionals who do not plan to specialize in mental illness. The bulk of mental health care in this country, especially for less severe disorders, will likely always be provided by non-psychiatric physicians, social welfare workers, and others without primary mental health responsibilities. With proper training, these individuals can be tremendously valuable in treatment, early case finding, and effective prevention of more severe disturbances.

Mr. Chairman, there is a terrible irony in the budget cuts proposed by the President. Every member of the Congress knows how deeply every American is concerned about drug abuse. Last year we passed major new legislation designed to combat drug abuse. Yet we are now actually being asked to reduce the production of the very professionals who can provide the key manpower in that effort. I simply cannot understand that logic.

Restoration of the proposed cuts in the NIMH training funds seems to me to be the bare minimum expression of our responsibility to the mentally ill of this country. The National Coalition for Mental Health Manpower, a broad consortium of citizen and professional groups, believes that an additional forty million dollars in new funds could be effectively used in the coming year, and I would support this recommendation.

SERVICES

A final point is services. Quality mental health care is increasingly available to broad segments of the American population. The result has been a decrease in the number of patients in outmoded public mental hospitals. Three state hospitals in California have been able to close their doors in the last year as community-based services have become available. More than three hundred Community Mental Health Centers are currently in operation, offering the potential of comprehensive services to more than 25 percent of the total United States population. These centers are increasingly offering effective services for alcoholics, drug addicts, children and adolescents, and the aged.

The visionary concept of a truly comprehensive community mental health center system, developed during the Kennedy Administration, has allowed us to take major steps toward the goal of national mental health care. That the full implementation of the concept has in some instances proved difficult speaks to the complexity of the problem rather than to fundamental flaws in concept.

In my view, the primary task of the Community Mental Health Centers in the years immediately ahead is the assurance of high quality care to all of those treated. This will require full utilization of the research and training potentials of the Centers, perhaps through closer working relationships with universities and medical centers, and particular attention to program evaluation. To provide the best care, the Centers must have a full complement of professional staff and an atmosphere conducive to open inquiry and thoughtful innovation.

With respect to budget requests for Community Mental Health Centers, it seems to me that the highest priority must be on staffing, especially the provision of adequate professional manpower for those Centers in operation or under development. $140 million should be adequate for this purpose in FY 1973. I would also strongly support a specific allocation of $2 million for evaluation, as recommended by the Council of Comprehensive Community Mental Centers.

Mr. TOWER. Mr. President, I intend to support H.R. 15417, the 1973 Departments of Labor and Health, Education, and Welfare appropriation bill.

In a number of areas the Senate Appropriations Committee has acted responsibly in recommending appropriations for programs that truly deserve congressional support. For instance, the Congress has taken strong action concerning the appropriations for Public Law 874, the so-called impact aid program. There have been some criticism of this program. However, an alternative program has not been enacted and therefore, I believe that the Congress should continue to give strong support to it. I have spoken to many school officials from all over my State and I am convinced that none of the Texas school districts receiving impact aid funds are misusing our Federal tax dollars. In fact, the vast majority of these districts could not survive without this assistance. At a time when localities find themselves hard pressed in financing their local educational systems, I think it is incumbent upon us to adequately appropriate for the impact aid program.

As a sponsor of the Bilingual Education Act, I am pleased that the Senate committee has recommended $60 million to fund this program. There is no program in existence today that has given more hope to the Spanish-speaking population of Texas than bilingual education. All across the Southwest and in many other areas of the country, this program has assisted people in obtaining the educational tools that will better allow them to compete in our society.

I am also pleased that the Senate committee has recognized the need for increased funding of the Migrant Health Act. On May 12, I joined with a number of colleagues in soliciting support from the Senate Appropriations Committee for full funding of this act. The committee's recommendation of $27,750,000, a $4 million increase over the budget, will assist in meeting the health care needs of our migrant population. There are now 19 ongoing migrant health projects in Texas being funded by the Federal Government. Health care is probably the most serious problem facing the migrant and it is essential that these services be provided if these people are to break the migrant cycle.

Further congressional support for medical facilities construction under the Hill-Burton Act is needed to assure our citizens and communities of a modernized health care delivery system. The Hill-Burton Act has been a tremendous success in its 25-year history. Particularly important is the need for new facilities and modernization of established facilities in the rural parts of our country. Small community hospitals have played an important role in the development of our Nation's health care system. This effort must be continued and expanded.

Mr. President, while I have mentioned a number of items in the bill that I feel deserve strong support, we must keep in mind that the Senate committee bill is more than $2 billion over the budget request. I am hopeful that the conference committee on this appropriation bill will keep this in mind and make some cuts in some of the less essential items in the bill. While we would like to see these worthy programs fully funded, such cuts are necessary to insure that the inflationary spiral in our economy is not allowed to resume. Inflation is a menace that should be arrested. It causes the greatest amount of damage to those individuals in the lower income bracket. It is because of my concern that a healthy economy should be our greatest priority, that I urge the conference committee to exercise restraint on the levels of appropriations for this bill.

Mr. MOSS. Mr. President, the Senate Appropriations Committee, and its counterpart in the House, has produced a bill that provides many benefits for the citizens of our Nation. In the beginning of the budget cycle, after the President's requests were received, the picture did not look this hopeful. But we now have before us a bill that has been increased in many important areas and merits our support.

EDUCATION

The President's original budget request would have reduced impact aid for my State by 60 percent. I protested this cut at that time, and gave notice that I would propose floor amendments if these cuts were not restored by the appropriations committees. The House, responding to many similar complaints, restored the funds. The Senate, through the Pastore and Case amendments, has added even more funds for areas where the Federal presence has impacted local districts. With these increases, we can be very sure that school districts will receive at least the same level of funding in fiscal year 1973 that they received in fiscal year 1972, with the possibility of some increases, if the House-Senate conference committee allows these to stand. This will mean an increase of at least $4.2 million in impact aid for Utah.

The same sequence of events occurred in many other education appropriation items. In my statement before the Senate Labor-HEW Appropriations Subcommittee earlier this month, I asked for increases in impact aid, elementary and secondary education, vocational education, education for the handicapped, and library programs. The Senate committee provided additional funds in all these areas, which greatly improved the bill.

HEALTH

Under the increases provided by the Senate committee, regional medical programs will be allowed to develop and spread. Under the President's request, they would have been restricted. The committee has also provided $112 million in construction funds for Hill-Burton hospital programs. None had been requested. Community health centers, psychiatric training programs, neighborhood health centers, and migrant worker programs all would have been underfunded if the appropriation committees in the House and Senate had not provided additional funds. I urged this action, and am now happy to find these increases contained in the bill before us.

CONCLUSION

The bill that eventually passes the Senate will be well above the President's budget request. This is not, however, due to overspending by Congress; it is due to inadequate budget requests that would have done serious damage to the quality of education and health in this country. The bill does not contain "fat" added by Congress. It contains necessary improvements added to cover serious deficiencies, and should be supported heartily by the Senate.

Mr. SCHWEIKER. Mr. President, I want to commend the distinguished Senator from Washington (Mr. MAGNUSON), chairman of the Appropriations Subcommittee for Labor, HEW, and Related Agencies and the members of the committee for recommending the essential financial support of our Federal health programs. Senator MAGNUSON's leadership in this area is acknowledged by his colleagues and I want to add my voice to those of the other Members of the Senate who have expressed support for his efforts. Also, the distinguished Senator from New Hampshire (Mr. COTTON), the ranking Republican on the subcommittee is to be commended for his significant role in bringing this bill to the Senate.

Mr. President, the pending appropriations bill provides an increase of approximately $4 million for the National Eye Institute for diabetic retinopathy and vascular diseases of the eye. According to the Institute, the multifaceted nature of vascular diseases of the eye, of which diabetic retinopathy is one of the most prevalent, has led the Institute to take a cross-categorical approach to their eventual control and prevention. Thus, funds for research on several eye disorders will be applied to those funds specifically designated for this problem in the Institute's program for diabetic retinopathy.

Mr. President, diabetic retinopathy is one of the leading causes of blindness in the United States. It is expected in the near future to become the No. 1 cause of blindness. Based on current data, by the year 2000 the number of persons blind or severely visually impaired by this disease will be greater than the number blind from all causes today. A study prepared last year by the Harvard School of Public Health estimates that compared to the current 154,700 persons blind from diabetic retinopathy, by the year 2000 a staggering 573,000 will be blind. Unfortunately, this growing health problem is presently receiving negligible research funding.

Diabetic retinopathy is a complication of diabetes. All stages of diabetes are associated with widespread vascular abnormalities which involve capillaries and other small blood vessels throughout the body. In the retina this vascular disease is diabetic retinopathy. According to the National Eye Institute:

> The exact mechanism causing this disorder is unknown, but it is a frequent complication of long standing diabetes. An estimated 75% of all people with diabetes for 15 years or more will suffer some degree of retinopathy.
>
> Paradoxically, the increasing prevalence of diabetes is the result of medical progress, for insulin first used in the 1920's has enabled patients to survive the years necessary for the development of the retinopathy that causes blindness. Moreover, insulin has enabled diabetics to live, have children who in turn have diabetes (since diabetes is an heredity disease) and develop retinopathy. Blindness from diabetes, already a major catastrophe, may be expected to increase even more.

In a survey made from July 1964 to June 1965 the Bureau of the Census found there were then 2,385,000 people in the United States in whom a diagnosis of diabetes had been established. On the basis of a population of 200,000,000 it is estimated that in addition to 2,800,000 known diabetics there are at least 1,600,000 unknown diabetics, totaling a diabetic population of approximately 4,400,000 people.

Each year 325,000 Americans learn that they have diabetes; therefore, nearly 1 million additional diabetics are diagnosed during each 3-year period. The

Committee on Public Education and Detection of the American Diabetes Association believes these estimates are minimal.

As I have indicated, the complication of blindness in diabetes is a function of the duration of diabetes. The longer the diabetic lives the greater the chance that he will develop diabetic retinopathy. At present we can anticipate a growing number of diabetics and thus an increase in the blind population. Current figures show that the prevalence of diabetic retinopathy has increased tenfold since 1942 as insulin, good metabolic care, and antibiotics have prolonged the diabetics' life.

There is no cure for diabetic retinopathy. Current therapy must still be considered stopgap and experimental. Those involved in this health problem acknowledge that a primary objective of disease prevention remains unrealistic. All emphasis has been on maintaining good control of diabetes.

Nevertheless, the situation is not hopeless. There are several therapies and clinical methods to deal with diabetic retinopathy. However, the problem of blindness due to diabetic retinopathy must be met by a broad scale attack by many institutions, many teams. There should be more and better centers organized to diagnose and treat diabetic retinopathy. Knowledge of such therapy as is currently available should be disseminated.

It is clear that additional funds must be allocated for the training and research related to this problem. The National Eye Institute has allocated $1.28 million for the current fiscal year for this disease. In testimony before the Appropriations Subcommittee for Labor/HEW I recommended an increase in funding of $4 million.

The National Eye Institute, the Federal focus for vision research, has developed plans for an expanded program of research dealing with diabetic retinopathy. Building on research already underway, the Institute will initiate a multifaceted research program involving all aspects of the Institute's activities.

The Institute will develop and conduct a special emphasis research program in diabetic retinopathy. The program will involve the expansion of existing efforts and the initiation of new projects to add to basic knowledge and speed clinical applications. This will involve the training of additional researchers as well as the establishment of an intramural research program in Bethesda plus the utilization of grants and contracts to support fundamental and applied research studies.

Mr. President, a frightening number of Americans are threatened by blindness due to diabetic retinopathy. The numbers are growing at an alarming rate. For nearly 4 million Americans this blindness or a severe loss of seeing ability is inevitable. The increase in the funds appropriated for the National Eye Institute in order to enlarge the research effort on this disease is certainly welcome.

Inasmuch as the ultimate elimination of diabetic retinopathy will depend on our efforts to understand and prevent diabetes, it should be noted that the committee has authorized the initiation of six regional diabetes research centers throughout the Nation. Our knowledge of diabetes has been pitiful to date and the millions of people who suffer from this metabolic disorder feel neglected. They are justified. Up to now we have not had a single research center devoted to diabetes. I am pleased that we are facing up to this problem and I am hopeful that these new diabetes related research efforts can begin as soon as possible. The elimination of diabetes will mean an end to its dread complications, one of which is diabetic retinopathy.

Mr. President, I applaud the Senator from Washington, the Senator from New Hampshire, and the other members of the Appropriations Subcommittee on Labor, HEW, and Related Agencies for restoring or supplementing funds for a number of health programs that otherwise would have gone underfunded in fiscal 1973.

One example of the committee's extra attention is the National Health Service Corps, established by the Emergency Health Personnel Act of 1970. The purpose of this corps is to correct the maldistribution of health personnel by bringing professionals and services to isolated rural areas.

The administration, as well as the other body of this Congress, recommended a budget of less than $9 million for the corps, even though $30 million is authorized for fiscal 1973. The Senate committee, quite properly, added slightly more than $11 million to that request, thus raising the total to $20 million. This increase will provide for an additional 550 health personnel to be placed in approximately 140 areas having an average population of between 7,000 and 10,000. Surely this is money well spent. In Pennsylvania nine locations have been designated critical health manpower shortage areas and have been assigned medical personnel from the National Health Service Corps. However, other areas of the State are in need of the health care services provided by the corps.

There are those who feel that the National Health Service Corps should become self-supporting. The committee emphasizes, on page 32 of its report—No. 92-894—that whatever fees are collected from third parties under this program should be repaid to this program for its expansion, but that the growth of the corps should not be based on the collection of such fees. I agree with this proviso in the legislation.

Again, I commend the committee for restoring needed funds.

Mr. BENTSEN. Mr. President, I want to commend the distinguished chairman of the Labor-HEW Appropriations Committee for bringing H.R. 15417 to the floor in the present form. He has the difficult task of sifting the requests of literally hundreds of individual constituents and he must report out a bill which gives everyone concerned a reasonable slice of the available funds. I believe that he has been eminently fair.

I just want to take note of three or four items in this massive bill, items upon which I have expressed my views to the committee.

The first is funds for implementing the Migrant Health Act, the primary legislative program for health services to migrant workers. In May, I authored a letter, signed by 21 of my colleagues in the Senate urging an increase in migrant health funds over the $23.75 million requested by the administration. In that letter I pointed out that the migrant has a life expectancy 20 years less than the average American. His infant and maternal mortality rate is 125 percent higher than the national average. His death rate from influenza and pneumonia is 200 percent higher than the national rate.

In the face of these alarming statistics, the administration has taken what I consider to be an irresponsible action in phasing out hospitalization coverage for migrant workers, coverage which is specifically mentioned in the authorizing legislation. It has been claimed that inadequate funding for the program is a cause.

I was pleased to see, Mr. President, the Appropriations Committee recommend $27.75 million, a $4 million increase over the budget request. The committee report, moreover, contains this significant passage:

> It is intended that the increase be used primarily to provide costs for hospitalization and seasonal farm workers and their families in those states where hospital services are not covered under the Medicaid program.

I believe the Public Health Service should be on notice that this Congress intends to see that hospitalization funds continue to be provided under the Migrant Health Act, and I, for one, will be watching this program carefully to see that the intent of Congress is implemented.

Another item concerns funds to be used to enforce the Age Discrimination in Employment Act. Along with the distinguished Senator from Idaho (Mr. CHURCH), I urged the committee to provide an additional $1 million to enforce the Age Discrimination in Employment Act of 1967. That increase is provided for in the committee bill.

On March 9, I introduced a bill which would extend coverage of the age discrimination legislation to Federal, State, and local employees, all of whom are presently excluded from the benefits of the act. On March 23, the President, in his message on aging, made substantially the same suggestion. Yet the President failed to amend his budget request to provide for the increased caseload that these provisions would entail. In fact, the administration this year requested only $1.4 million to administer the act, roughly the same amount as last year, and this modest sum would allow an equivalent of only 69 staff positions nationwide to monitor instances of age discrimination.

In my view, the President's proposals, without adequate budget requests, constitute another instance of rhetoric without any hard commitment to the finances to make these programs work. I believe that the committee's action services no-

tice that the Congress wants action, not merely words, to cope with discrimination in employment for America's older workers.

Another item of some significance was the committee's appropriations of $75 million under the Adult Education Act. Last year, only $51 million was appropriated under this legislation, despite authorization figure nearly five times that high. As a consequence, many programs allowing adults to continue their education past primary school were necessarily discontinued. My State of Texas and other States in my section of the country were singularly disadvantaged.

Mr. President, the importance of adult education cannot be overestimated. A recent report prepared for the Senate Select Committee on Equal Educational Opportunity noted that our failure to provide basic and advanced educational skills for older Americans is resulting in a loss to our economy of billions of dollars a year, not to mention the human tragedy of thousands of elderly individuals unable to find adequate work because they lack the skills. I believe that the committee's appropriation, while not as high as we would wish, constitutes a significant step forward in adult education.

And finally, Mr. President, there is the question of fundamental research into the aging process, a program which is currently under the control of the National Institute of Child Health and Human Development. I mentioned this as an area of critical importance in a speech to the Senate in January of this year.

A recent article in Time magazine notes that:

> The biology of aging is no better understood today than was the circulation of the blood before William Harvey.

The consequences of our relative neglect into the aging process are profound. Dr. Gerald LaVeck, Director of the National Institute of Child Health and Human Development, told Congress last year that advances in aging research could be expected to build body resistance and measurably reduce the incidence of chronic diseases such as arteriosclerosis, cancer, and arthritis.

And there are other benefits to aging research as well, most notably the opportunity our generation has to extend vigorous and productive life by an additional 15 to 20 years by studying the normal body processes that contribute to deterioration.

I noted my concern on this subject in a statement to the Appropriations Committee on March 22, and at that time I urged that funds be specifically earmarked for aging research. I was pleased to note a significant increase in appropriations for the National Institute for Child Health and Human Development and an earmarking of $5 million of that increase for aging research. Moreover, I am heartened by the following statement in the committee report:

> The committee heard testimony from experts in the field that few areas of scientific activity offers as much promise for mankind as does research on aging . . . The committee considers this area of research to be of utmost importance and directs that $5 million of the increase be devoted to research on aging.

These items, Mr. President, do not add up to much when we consider the imposing dimensions of this legislation; yet each one is of vital importance to the poor and the elderly in this Nation.

Once again, I want to congratulate Senator MAGNUSON and the members of his subcommittee for their tireless work on this bill.

I urge its passage by the Senate.

GERMAN MEASLES, MENTAL HEALTH, AND CLINICAL RESEARCH

Mr. HARTKE. Mr. President, I would like to thank the distinguished chairman of the Labor-HEW Appropriations Subcommittee (Mr. MAGNUSON) and the membership of his committee for their support for three programs whose importance, I believe, should be emphasized with increased Federal assistance.

GERMAN MEASLES

Although as many as 2,000 babies are born each year with mental and physical defects because their mothers contracted rubella during pregnancy, the administration has actually requested a decrease for immunization funds over fiscal year 1972. The level of immunization against rubella is the lowest of all communicable diseases in this Nation.

I am, therefore, pleased that the appropriation committee has accepted my proposal for additional funds for the rubella immunization program by adding $6 million to the administration request. This money should be adequate to bring the level of immunization up to close to 80 percent of all school children between the ages of 1 and 4.

MENTAL HEALTH

Nearly 5 years ago, Congress voted funds to establish university-affiliated mental health centers throughout the Nation. It was the purpose of these centers to train workers who would then go out into the community to assist in the training of mentally retarded children. Although funds for the operation were authorized at the same time, none were ever appropriated. Last year, in the face of the neglect of this program by the administration, I sponsored an amendment to the Labor-HEW bill which resulted in the appropriation of $4.25 million for the operation of university-affiliated centers.

Because the needs of the centers are so great, and because Congress originally authorized $20 million for their operation, I proposed a substantial increase in the budgeted operating funds for fiscal year 1973. In response to my proposal, the Labor-HEW Appropriations Subcommittee, recommended the $14.25 million appropriation for university-affiliated mental health centers. I believe that this level of funding will make it possible for the centers to operate more effectively and better serve the mentally retarded of this Nation.

CLINICAL RESEARCH

I am also pleased that the appropriations committee has approved my proposal for additional funds for the clinical research centers program by adding $3.6 million to the administration request. This program enables clinical investigators throughout the Nation to make use of the resources and facilities necessary for intensive clinical research. The centers focus on crippling diseases in an effort to find improved methods of treatment and cure.

Mr. President, each of these three programs has a special importance to the State of Indiana. Indiana is currently one of the five States with the lowest level of immunization protection against rubella. The additional $6 million contained in the bill before the Senate today would help to end this deplorable statistic. One of the 24 university-affiliated mental health centers in the country exists in Indiana University in Bloomington, Indiana. The additional $10 million in the Hartke amendment which was approved by the Appropriation Committee will enable this center to operate far more effectively. Approval of the Hartke proposal to add $3.6 million for clinical research means that Indiana University in Indianapolis will have an opportunity to make application for a clinical research center. I, therefore, commend the distinguished chairman of the Subcommittee (Mr. MAGNUSON) and the hard-working members of his committee for the fine work which they have done on this bill. Both I and the people of Indiana are most grateful for their support of these three vital programs.

SENATOR RANDOLPH SUPPORTS FUNDING FOR OCCUPATIONAL SAFETY AND HEALTH

Mr. RANDOLPH. Mr. President, the chairman of the Appropriations Subcommittee on Labor and Health, Education, and Welfare (Mr. MAGNUSON) and the members of the subcommittee have reported to the Senate a constructive and realistic bill, one which shows concern for the needs of people. There are many significant provisions in this measure.

I call to the attention of my colleagues two particular aspects of this appropriation bill—funding for black lung clinics and research, and funding for occupational safety and health.

On May 19, 1972, the President signed into law an historic measure for the relief of disabled coal miners, their families, and their survivors. It was my privilege to sponsor that legislation, known as the Black Lung Benefits Act of 1972, will bring urgently needed assistance to miners disabled due to pneumoconiosis, to their wives and widows, and to their children and their orphans.

I am gratified that the Appropriations Committee has acted so quickly to fund programs authorized under the Black Lung Benefits Act of 1972. Specifically, that law authorizes $10 million for each of 3 fiscal years for the construction, purchase, and operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners. The measure under consideration fully funds this necessary program.

In addition the new black lung law authorizes such sums as are necessary for research, through the National Institute for Occupational Safety and Health, for the purpose of devising simple, effective tests to measure, detect, and treat coal

miners' respiratory and pulmonary impairments. This appropriations bill provides $4 million for such research. It provides another $6 million for research and development and demonstration grants to develop methodology for physical rehabilitation of coal workers with respiratory diseases, emergency medical care services, and training. The committee report states that—

This action will allow the National Institute for Occupational Safety and Health to assist, to the maximum extent possible, those presently suffering from black lung disease and to insure that no miner will be denied his deserved black lung benefits because of inconclusive diagnostic procedures.

I concur in the committee's assessment, and commend them on their decision to fully fund these provisions.

The committee also has recognized the need to accelerate the standard setting efforts of the National Institute for Occupational Safety and Health by providing an additional $11 million for this purpose. The bills adds a total of $10.8 million over the budget request for some 400 compliance officers, development of standards, and education and training.

It is my belief, Mr. President, that this funding for the National Institute for Occupational Safety and Health will provide important impetus to the development of health standards and programs to benefit our American work force.

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 amendment of the Senate to the bill (H.R. 14108) to authorize appropriations for activities of the National Science Foundation, and for other purposes, requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and that the House had appointed Mr. MILLER of California, Mr. DAVIS of Georgia, Mr. CABELL, Mr. BELL, and Mr. ESCH managers of the conference on the part of the House.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 15417) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1973, and for other purposes.

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 for a third reading and the bill to be read the third time.

The bill was read the third time.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President——

The PRESIDING OFFICER. Who yields time to the Senator from Virginia?

Mr. HARRY F. BYRD, JR. Will someone yield me 5 minutes?

Mr. MAGNUSON. I yield 5 minutes to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, may I ask the distinguished manager of the bill just what is the cost of the bill as now amended on the floor of the Senate?

Mr. MAGNUSON. The bill is not much different from the way the committee reported it except for the additional amounts added on the floor today for different programs.

Mr. HARRY F. BYRD, JR. So far as one Senator is concerned, even though it is late at night, I would like to have some figures as to how much we are voting at this point.

Mr. MAGNUSON. Well, I can figure that up very quickly, using the committee report. In arriving at the total in the bill as it stands now, with the Senate amendments—the amount of the bill passed by the House was $28,603,179,500, and the bill as reported by the committee to the Senate was $29,464,035,500, and we have added—we are adding up the Senate amendments now. The total in the bill would certainly be over $31 billion.

Mr. HARRY F. BYRD, JR. While the Senator is getting up the figures, as I understand this, the committee reported to the Senate a bill which is $2,047,000,000 over the estimates for 1973.

Mr. MAGNUSON. That is right.

Mr. HARRY F. BYRD, JR. And is $2,320,000,000 over what was spent last year.

Mr. MAGNUSON. That is right. And the Senate amendments would be added to that.

Mr. HARRY F. BYRD, JR. And the Senate added additional amounts to those figures?

Mr. MAGNUSON. They are figuring it up right now. Of course, this last amendment was for $968,712,000 but it is a budget request.

Mr. ELLENDER. We have a budget estimate for that.

Mr. HARRY F. BYRD, JR. Is there a budget estimate for that last figure?

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. That is not over and above the budget estimate, then?

Mr. MAGNUSON. No, that is not above the budget. I have not figured them up as we went along.

Mr. HARRY F. BYRD, JR. There is so much money involved, I think it is worth while to figure it up.

Mr. MAGNUSON. With the Senate amendments, including the last one, the bill will total about $31.1 billion.

Mr. HARRY F. BYRD, JR. How much did the Senate add?

Mr. MAGNUSON. The Senate added $1.7 billion to the $29.4 billion that was reported, of which $331 million is unbudgeted. That is because the last item was a budgeted item.

Mr. HARRY F. BYRD, JR. The total, then, is $31.164 billion?

Mr. MAGNUSON. Yes, that is correct. $31.134 billion is the new total.

Mr. HARRY F. BYRD, JR. $31 billion; and that would be $4 billion over the 1972 appropriations?

Mr. MAGNUSON. It would be approximately $3.7 billion over comparable appropriations for fiscal year 1972.

Mr. HARRY F. BYRD, JR. Over comparable appropriations for 1972?

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. But we are preparing to appropriate right now, tonight, $31 billion.

Mr. MAGNUSON. That is correct.

Mr. HARRY F. BYRD, JR. Which is $4 billion more than appropriated last year, and in spite of that, there is already a lot of money, the Senator says, in the pipeline unspent.

Mr. MAGNUSON. This being 1972, they are releasing a lot of the money now that they had frozen.

Mr. HARRY F. BYRD, JR. I notice on page 4 of the report——

Mr. ROBERT C. BYRD. Mr. President, may we have order?

Mr. PASTORE. May we have order, Mr. President? We cannot hear the Senator.

The PRESIDING OFFICER. The 5 minutes of the Senator from Virginia have expired. Who yields time?

Mr. MAGNUSON. I yield the Senator such time as he requires.

Mr. HARRY F. BYRD, JR. I thank the Senator from Washington.

In order to understand this, on page 4 of the report——

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. HARRY F. BYRD, JR. As much time as the Senator from Virginia requires has been yielded to him.

On page 4 of the report, it says, "Total, budget requests not considered." What does that mean?

Mr. MAGNUSON. That means those budget estimates listed were not considered by the committee because most of them were not authorized, and the big item was higher education, $1,476,000,000, which was not considered because we had not authorized or passed the new higher education bill. That was just signed the other day, after the committee acted and reported this bill.

Mr. HARRY F. BYRD, JR. But may I ask this question: The figure of $31 billion is not all that is going to be appropriated, I assume, if we are going to come back and pick up many or all of these items mentioned on page 4. Am I correct in that assumption?

Mr. MAGNUSON. Yes, the Senator is correct in that. They will come up in a supplemental.

Mr. HARRY F. BYRD, JR. So there is approximately $5 billion——

Mr. MAGNUSON. $4.9 billion that had not been considered when the bill was reported.

Mr. HARRY F. BYRD, JR. Almost $5 billion that has not been considered?

Mr. MAGNUSON. That is correct.

Mr. HARRY F. BYRD, JR. So that when we compare this figure of $31 billion with the comparable 1972, it will be greater than before.

Mr. MAGNUSON. It will be approximately $9 billion more if we appropriate all these things that have not been considered. Pardon me, that would not be correct because——

Mr. HARRY F. BYRD, JR. It will be $9 billion more than last year.

Mr. MAGNUSON. The difference from last year's comparable appropriation is $3.7 billion—and it will be a little larger after the supplemental.

Mr. HARRY F. BYRD, JR. Mr. President, I have never voted against an appropriation bill. I was in the Virginia Senate for 18 years and never voted against one. Since I have been in the U.S. Senate I have never voted against one. I approve of most of the things in this bill. But it seems to me that this is going to an extreme. Here we are tonight, $4 billion over what was spent last year, and there is another $5 billion that has not even yet been considered.

Mr. MAGNUSON. We did not consider them because they have not been authorized.

Mr. HARRY F. BYRD, JR. I am trying to get them clear with respect to last year. They were included last year, were they not?

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. So the figure is more than $4 billion over the comparable 1972 appropriation.

Mr. MAGNUSON. Depending upon what we consider.

Mr. HARRY F. BYRD, JR. That is correct.

Mr. PROXMIRE. If the Senator will yield, I think there is confusion here. It is not clear. Page 1 of the report shows the amount of comparable appropriations in 1972—$27 billion. So that the amount the Senator from Virginia is talking about, the additional $4.9 billion, was not included in either figure.

Mr. MAGNUSON. That is correct.

Mr. PROXMIRE. So that it is not $9 billion more. It is substantially less than that.

Mr. MAGNUSON. Yes.

Mr. PROXMIRE. My point is that while there may be $36 billion all together for 1973, the 1972 appropriations would not be $27.1. They would be substantially higher than that, so the difference would not be $9 billion but $5 billion or $6 billion.

Mr. MAGNUSON. Yes.

Mr. HARRY F. BYRD, JR. So, according to the Senator from Washington, the minimum as compared to last year is $3.7 billion over and above last year—the minimum, because that is what we are doing tonight; and according to the senior Senator from Wisconsin, it is $5 billion or $6 billion over, and it could run up well over that. Certainly, it is a tremendous increase over last year.

Are we justified in sitting here tonight, not knowing the comparable figures because no one in the Chamber seems to know the comparable figures?

Mr. MAGNUSON. I can get the Senator the information as to what we appropriated last year.

Mr. HARRY F. BYRD, JR. Let us go through this line by line and see what was in here last year and what was not.

Mr. MAGNUSON. Last year's comparable appropriation bill included $27,403,058,000.

Mr. PASTORE. Mr. President, this is an unfair comparison. The fact still remains that many of the large items included in this bill on the floor were items that ordinarily would go to the supplemental bill. The reason why they were brought up is that certain Senators—the chairman of the Committee on Finance and other chairmen—brought in these big blocks of bills that amounts to almost a billion dollars each; and they were adopted because the argument was made that unless we put it in this bill, it would go in the supplemental.

If we take all the supplemental of last year and put it with the regular bill, I think the comparison would show a fairer picture. I am not saying that it would be the same. It would not be the same, because even the administration is asking for more this year than last year; and it sent up some budget estimates recently that were included in this bill and not considered by the House that ordinarily would go in the supplemental bill.

So we begin to take the total figure of last year's bill as against this year's bill, I think it is an unfair comparison, although the bill this year is larger than last year.

Mr. HARRY F. BYRD, JR. I am reading from the official report.

Mr. MAGNUSON. There is no dispute about the fact that the bill is larger than last year, and there is no dispute about the fact that the items that we did not consider are going to be sent up in the supplemental.

Mr. HARRY F. BYRD, JR. I note that on page 1 of the report it says "amount of comparable appropriations"—plural. Does not that include the supplementals?

Mr. MAGNUSON. Generally, no.

Mr. HARRY F. BYRD, JR. The question is, How does this bill compare with last year?

Mr. MAGNUSON. It is about $3.7 billion higher for the same programs.

Mr. HARRY F. BYRD, JR. I do not want to impose on the Senator. I am trying to get it clear in my mind. This is a gigantic sum of money we are appropriating here tonight.

Mr. MAGNUSON. No one knows it better than the Senator from Washington. It is higher than last year, and the budget recommendation was up from last year—very high. The House upped the budget, and we upped the House.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. BROCK. Is it not a fact that the budget estimate was up only approximate $300 million?

Mr. MAGNUSON. $273 million is the exact figure.

Mr. BROCK. That is a 1-percent increase. The increase in this bill, as now presented to the Senate, is up a minimum of $4 billion, which means that we are increasing it more than 15 percent. The budget increase request was 1 percent.

Mr. MAGNUSON. Of course, that is not a fair comparison, either, because some of the items that were put in tonight have to be added to the original budget because the Budget asked for it.

The PRESIDING OFFICER. All time of the Senator from Washington has expired.

Mr. COTTON. All my time has not expired.

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

Mr. COTTON. I yield time to the Senator from Washington.

Mr. MAGNUSON. The Budget has sent up two requests totaling—I will get the exact figures—so what the Budget has asked us to appropriate—some of the comparisons are made on the original budget which was sent up here in March. In the meantime, they have sent us other budget estimates. We have had two supplementals which the Budget has sent up—estimates—four of them in here. We adopted one to the tune of $968 million——

Mr. BROCK. That was black lung, which passed this body.

Mr. MAGNUSON. Yes. And the other one was the program that Senator LONG and Senator TALMADGE had—the work incentives program.

Mr. PASTORE. That was a quarter of a billion dollars.

Mr. MAGNUSON. Four hundred and forty-five million dollars was the budget request. So there is $1.4 billion that was up here from the budget, that is right. But we are $2.3 billion—and we will put all those figures in at the end—$2.3 billion over what the Budget estimated and has asked Congress for. They will ask—on page 4—to come up here and request another $4.9 billion—less the amounts for black lung and work incentives which we took care of today.

Mr. COTTON. But we do not know that.

Mr. MAGNUSON. That is right, we do not know that, but that is what we anticipate because they will ask for Headstart, and then they will surely ask for the $1.4 billion or thereabouts for higher education, for which there is no money in here for the new bill that we passed.

Mr. COTTON. Mr. President, the fact remains that we do not have to appropriate everything that the Budget happens to approve. On the $4,900 million, as I pointed out this morning, this is what the Budget has approved, we could not appropriate, because it has not been authorized. The authorization bill has not been passed. Since we reported the bill, or since it came from the committee to the Senate, the President has signed the higher education bill which, for a period of 3 years, covers $21 billion. The fact remains, budget or no budget, the House committee added to the recommendations of the Budget, for that portion of the budget they could recommend—a half billion dollars.

Mr. BROCK. One and five-tenths billion dollars.

Mr. COTTON. Wait—the House committee added about $1 billion—and then on the floor of the House they added nearly $400 million more. So that the House increased it nearly $1,500 million. Then the Senate committee raised almost everything by adding $860,856,000, which crowds $1 billion. Then we came on the floor, after we had appropriated

all this money, and we called attention to the fact that there were items that we did not even consider, because they had not been authorized, that amounted to nearly $5 billion.

Both the chairman of the committee and the ranking minority member earnestly expressed the hope, on the floor of the Senate today, that we would go sparingly in loading up the bill. We have gone sparingly in loading up the bill, by loading it up to the tune of $1.7 billion, which is a preposterous bill. It is a good bill. Much of it is good. Thank God we are now appropriating more for human needs than for the military, and this is now the biggest money bill. Of all these slices we are now appropriating, it is far more than we are appropriating for the military, but, nevertheless, in spite of the fact that it is for humanitarian purposes, we have loaded up the bill until, in my humble opinion, it is a preposterous bill and, if not reduced substantially in conference, I would expect we would run into trouble.

I find it hard, in view of what has taken place in the Senate today, to go on record—I hate to vote against the handiwork of my own subcommittee—but I find it hard to vote for the passage of this amount of money at this time.

Mr. MAGNUSON. Mr. President, one thing I want to mention, we will put in the RECORD a long sheet of many pages—we always do—with the comparable amounts. We are $2.3 billion over the budget.

Mr. COTTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. WILLIAMS). All time has now been yielded back.

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 Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The result was announced—yeas 72, nays 11, as follows:

[No. 253 Leg.]

YEAS—72

Aiken	Ervin	Muskie
Allott	Fong	Nelson
Baker	Gravel	Packwood
Beall	Griffin	Pastore
Bellmon	Gurney	Pearson
Bentsen	Hartke	Percy
Bible	Hatfield	Proxmire
Boggs	Hollings	Schweiker
Brooke	Hruska	Scott
Burdick	Hughes	Smith
Byrd, Robert C.	Inouye	Sparkman
Cannon	Jackson	Spong
Case	Javits	Stafford
Chiles	Jordan, N.C.	Stennis
Church	Jordan, Idaho	Stevens
Cook	Kennedy	Stevenson
Cooper	Magnuson	Symington
Cranston	Mathias	Taft
Curtis	McClellan	Talmadge
Dole	McIntyre	Tower
Dominick	Metcalf	Tunney
Eagleton	Mondale	Weicker
Eastland	Montoya	Williams
Ellender	Moss	Young

NAYS—11

Allen	Byrd, Harry F., Jr.	Hansen
Bennett	Cotton	Miller
Brock	Fannin	Roth
Buckley		Thurmond

NOT VOTING—17

Anderson	Hart	Mundt
Bayh	Humphrey	Pell
Fulbright	Long	Randolph
Gambrell	Mansfield	Ribicoff
Goldwater	McGee	Saxbe
Harris	McGovern	

So the bill (H.R. 15417) was passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COTTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I move that the Senate insists on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. STENNIS, Mr. ELLENDER, Mr. BIBLE, Mr. ROBERT C. BYRD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. COTTON, Mr. CASE, Mr. FONG, Mr. BOGGS, Mr. BROOKE, Mr. STEVENS, and Mr. YOUNG conferees on the part of the Senate.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1972

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 3010, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 3010) to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

The Senate resumed the consideration of the bill.

RESUMPTION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of the period for the transaction of routine morning business with statements limited therein to 3 minutes.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks announced that the House had passed the following joint resolution in which it requests the concurrence of the Senate:

H.J. Res. 1234. A joint resolution making continuing appropriations for the fiscal year 1973, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 6666) for the relief of Maj. Michael M. Mills, U.S. Air Force.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 1234) making continuing appropriations for the fiscal year 1973, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

APPROPRIATIONS FOR DEPARTMENTS OF LABOR AND HEW

Mr. HARRY F. BYRD, JR. Mr. President, for the first time in 24 years, almost 25 years, in legislative work I have voted against an appropriations bill. Never before have I ever done that. I did it as a protest.

Mr. President, this Congress, this administration, the people in official Washington are living in a fool's paradise in regard to Government finances.

This appropriation bill is loaded down with more and more Government spending. It has gotten out of reason; it has gotten out of hand. I approve of much of what is in this bill. I voted for the authorization bill with the hope that the Congress would show some discretion in the handling of tax funds. This Senate shows no discretion in the handling of tax funds.

I notice a lot of presidential candidates running around the country saying they want reforms. The best place they could start reform is in the Congress itself, in the appropriating process.

I say this Congress needs reforming. It needs reforming in the way it handles the tax funds of the people of the United States.

There is only one place that money can come from. Congress does not realize it, the administration does not seem to realize it. But there is only one place money

can come from and that is out of the pockets of the hard working wage earners of this country.

Oh, it is fine to let every pressure group come up here and then give them whatever they want.

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

Mr. ROBERT C. BYRD. Mr. President, if the Chair will recognize me I yield my 3 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. HARRY F. BYRD, JR. Mr. President, I think it is tragic what is happening to this country financially. It is tragic, because it is going to happen to the people themselves.

In 4 years, from 1970 through fiscal year 1973, this Government will have compiled a deficit of $113 billion, an unbelievable figure. Yet no one cares.

Few seem to care about what is happening to the American wage earners taxes and dollars.

The value of the dollar is declining every day. It will continue to decline.

The best way Congress can help the working people of this country is not to shovel out more money as we are doing every day through these vast bureaucracies that have gotten too big.

Washington has gotten too big. The Senate cannot control it; Congress cannot control it.

We are making it worse by these huge expenditures without any real thought at all for the people who have to pay the bill.

I say when the politicians spend, the wage earner pays, and he pay in one of two ways: Either by more taxes or by more inflation. It is as simple as that. Somebody has to pay for it.

The money has to come from someplace. Those economists, who say you can get something for nothing, those economists who say you can spend yourself rich—I do not have any confidence in that philosophy or that way of thinking.

I dislike very much to vote against this appropriation bill tonight. There are so many items in there that I approve of strongly. There are so many items in there that are important and desirable.

However, Mr. President, some way or another official Washington—meaning both the executive branch and the legislative branch—has got to come to its senses in regard to the handling of public funds. There never has been such fantastic deficits as have been run in recent years.

The only way it is going to be controlled, as I see it, is by both the Congress and the President working together and sincerely wanting to put the Government's financial house in order.

In my judgment, that is the No. 1 problem facing our Nation today, and the longer we put it off, the more bitter is going to be the pill for the average American citizen.

That is what it gets back to. He is the one who pays the bill—the average American wage earner.

There are many people running around the country saying, "Well, soak the rich. That will do it." What are the facts about that?

Anybody who will take the trouble to get the figures—and they are easy to get—will find that if the Congress and the President were to confiscate all incomes of $50,000 and over—$100,000 on joint returns—the additional revenue obtained would run the Government for exactly 5 days. It is the average citizen, the middle-income group, the lower-middle income group, who are hardest hit by taxes.

That is inevitable, because there are more of them, and they are the ones who suffer the most when inflation rages, as it is now.

It is going to continue to rage until the people of this country rise up and demand, on the part of their representatives in the Congress, in the White House, and in the executive branch, that some consideration be shown to the wage earners of our Nation, who pay the bulk of the taxes.

I say again, I regret having had to vote against this proposal, because there are so many items in it that I favor and support, but I think the Senate and the House have gone to extremes.

When the bill is analyzed, it will be found that the bill is at least $4 billion over what was spent last year. It could not be analyzed on the floor tonight. As the Senator from Washington, the chairman of the subcommittee said, he had stacks of papers and books, from which that information could be dug out, but it could not be done here in a short period of time. If you ever get to the bottom of this, you will find this bill is $6 or $8 billion over what was spent last year. The brakes must be applied.

The way Congress is going and the way official Washington is going, the American taxpayers are going to be in a very sad state, in my judgment, when the year 1973 rolls around.

In election years, everyone wants to shovel out money.

You do not raise taxes in election years, just as you do not go to war in election years. You raise taxes after the election, and you go to war after the election.

This country is in either for a smashing tax increase, or new taxes, or both, when we are shortly into the new year of 1973.

I for one feel no obligation to vote new taxes. I voted against that foolish tax reduction bill of last December. Taxes were reduced by $15 billion, hardly helping anybody. We reduced taxes by $15 billion at a time when the Government was running a deficit of $32 to $37 billion, thus adding to inflation.

Mr. President, I regret taking so much time of the Senate. I feel very keenly that something must be done about Government spending.

I cast my vote tonight as a strong protest as to the way the tax funds of the American wage earners are being thrown around by the Senate of the United States, by the House of Representatives of the United States, and by the executive branch of Government.

I say again, it is time to apply the brakes to Government spending.

Mr. THURMOND. Mr. President, I happen to be one of the 11 Senators who voted against H.R. 15417, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

Mr. President, I regret that I could not vote for this bill, as it contains many meritorious and worthwhile programs; but the report on this bill to the Senate shows on its face what a large deficit is created by this one piece of legislation.

The report, entitled "Calendar No. 854," shows, on the first page, amount of bill passed by House, $28,603,179,500. Amount added by Senate, $860,856,000. The total as reported to the Senate is $29,464,035,500.

This report further shows the amount of comparable appropriations for 1972, $27,143,860,000. Budget estimates, 1973, $27,416,788,500.

So, Mr. President, the bill as reported to the Senate, according to this report, was over the comparable appropriations for 1972 in the sum of $2,320,175,500, and over the estimates for 1973 in the sum of $2,047,247,000.

In addition to that, Mr. President, the Senate added about $2 billion to the bill on the floor of the Senate, which makes the first figure over $4 billion more than the comparable appropriations for 1972, and the $2 billion added to the estimates for 1973 makes that figure over $4 billion more.

Mr. President, I am deeply concerned about the spending that has taken place in this country since I have been a Member of this body. In the last 30 years, I believe the record will show, Congress has balanced the budget only seven times. No corporation, no association, and no individual can remain in business, in my judgment, which does not balance its books more often than that.

I realize this is the Government and it is in a different situation, but, Mr. President, in my opinion the Members of this body have a duty even higher in this Government than they would have in handling their own finances.

This is a public trust. In my judgment, we should balance the budget here every year, unless in time of war or other emergency that would otherwise prevent it.

I am convinced that we cannot continue as we have been doing for the past 30 years. There are only two sources of money available. One is the money that comes from the taxpayers. The other is the money that we borrow from the next generation, and that is what we have been doing for 23 out of the last 30 years. We have been borrowing money, issuing bonds and notes, and putting it on the backs of our children, their children, and their children. Mr. President, this practice should come to an end.

Yes, I have been right interested to see that some of my colleagues who have been speaking about defense, and who are now opposed to the President's program of defense and going ahead with the B–1 bomber, the Trident program,

and other programs recommended by the administration, voted for this bill here tonight. It is very strange that they are willing to cut the defense program, which provides for the security of this country, which provides for the protection of the citizens of this Nation, and turn around and vote for a bill of this kind, which will result, in my judgment, not only in the more than $4 billion over the budget which I have just pointed out, but other items which will have to come in later in a supplemental bill, which, as I understand, will amount to about $5 billion more, which will make a deficit for appropriations alone growing out of the Department of Health, Education, and Welfare and related agencies for which this bill appropriated, of about $9 billion.

The PRESIDING OFFICER (Mr. GRIFFIN). The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the limitation on time be waived.

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

Mr. THURMOND. I thank the distinguished Senator from West Virginia.

Mr. President, it is my hope that the President of the United States will see fit to veto this bill. I think it would be one of the most wholesome steps he could take. Because when an agency of the Government, regardless of what agency it is, comes in and receives appropriations of about $9 billion over the budget, it seems to me that Congress has gone entirely too far in appropriating that kind of money for any agency of the Government.

I feel that if the President sees fit to veto this bill and it comes back to us for reconsideration, we can reduce the bill—and it ought to be reduced to come within the budget.

Yes, it is nice to have everything we want and every program in this bill. It is nice to have everything we want in every other program that comes before Congress. But, Mr. President, we do not have the money to do it, and Congress so far has not shown the courage to put on the taxes to do it. As the able and distinguished Senator from Virginia has said this evening, last year taxes were even cut $15 billion.

Mr. President, the time has arrived in this country for us to exercise fiscal responsibility. The time has come for us to stop spending more than we take in. The time has come to balance the budget. The time has come to stop putting a debt on the future generations of this country.

Again I express the hope—and even have a belief—that perhaps the President will veto this bill. I think it would be very advantageous to this Congress to know, if he does so, that we have a President who is willing to stand up for fiscal sanity, to stand up for fiscal responsibility, and not to allow bills billions and billions of dollars over the budget to pass and given them his approval by signing them.

Mr. President, I would like to see some legislation enacted here which the late Senator Harry F. Byrd, Sr., introduced years ago, and which the Senator from Arizona (Mr. FANNIN) has introduced in the last 2 or 3 years, in which I joined them as a coauthor, to demand that expenditures stay within the budget, and to make it unlawful to spend more than the budget provides. If at any time any amount is spent above the budget, I feel it should be made up the following year.

In South Carolina our constitution prohibits spending more than we take in, and if it turns out there is a deficit one year, there have to be taxes put on immediately to to meet that deficit, in order to keep the budget balanced. As a result, South Carolina today has a three-star rating—one of the best in the whole Nation. As a result, South Carolina today can borrow money at a very low rate of interest.

I see no reason why the Federal Government cannot follow some sound policy. Certainly somebody in this body, some of the able Senators here, can come up with some recommendations and take some action that will help to keep this budget balanced.

If we do that, I think we will be rendering as great a service as by anything we could do on behalf of this great Nation.

Mr. HARRY F. BYRD, JR. Mr. President, I admire the courage of the distinguished senior Senator from South Carolina. He has stood boldly and firmly in behalf of a sound fiscal policy. I associate myself with his remarks and commend him again on his courage.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Virginia, and I congratulate him on his outstanding leadership in the matter of financing. If this country would follow the leadership of HARRY F. BYRD, JR., we would have no deficits.

Mr. ROBERT C. BYRD. Mr. President, I wish to say to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), and to the distinguished Senator from South Carolina (Mr. THURMOND) that I admire both of them for not only expressing the courage of their convictions, but also voting the courage of their convictions. They are certainly entitled to their viewpoints, and both Senators have my respect. However, I do want to express appreciation to the distinguished senior Senator from Washington (Mr. MAGNUSON), the manager of the bill, and to the distinguished ranking Republican member of the committee, the senior Senator from New Hampshire (Mr. COTTON), on behalf of the Senate for the good work, the hard work that they performed in conducting the long drawn out hearings, listening hour after hour to the outside witnesses, and in marking up this difficult bill and floor managing it during the lengthy debate today.

The list of witnesses in connection with this bill is always very long. This is, in many ways, one of the most difficult appropriation bills that we have to consider. It has in it many appealing items. It has programs which contribute to the good health of the American people, which contribute to the better education of the American people, which benefit the workers of America, and which, in many, many ways, affect the entire American population, old and young. It deals with manpower training services, unemployment insurance, occupational safety, public assistance, and many other important programs which touch the lives of all Americans living today. The medical research programs that are funded in this bill are costly but will be a blessing even to future generations. So it is a big bill, an important bill, a difficult bill to manage. The Senate today spent almost 10 hours in the debate on this measure. All Senators have a great interest in the bill. Many Senators are interested in particular aspects of it. It is always a bill which attracts a plethora of amendments from Senators who wish to add programs or increase funds, and it is very difficult for the manager of this bill to oppose some of those amendments because not only are they appealing, but they are also justifiable, in most instances.

The amendment I offered, adding money for the black lung benefits program, is a case in point as to justification. That amendment was not an unbudgeted item. It involved an item recommended to the President by the Office of Management and Budget, and then to Congress by the President, in the wake of the passage of the new black lung benefits law. So, while it was over the budgeted amount as shown in the committee report, the item was nevertheless a budgeted item; and the manager of the bill and the ranking Republican on the committee very wisely, I think, accepted the amendment, because it was something that would have to be paid sooner or later. Congress has passed the new law, and the supplemental appropriation bill will be coming along in August or September.

As I say, the item was budgeted; it would have had to be appropriated in the supplemental late this summer. But by appropriating the moneys now, the administration will be able to proceed with establishing the proper administrative machinery so as to expedite the payment of benefits to the children and the orphans of miners; the surface miners who, under certain conditions, will be brought under the law; and the other miners and their beneficiaries who qualify under the new act. This was just one of the items. There were many others. But this was the largest single addition.

I again salute those who, because of their convictions, strongly held to their viewpoints and conscientiously cast votes against the bill. At the same time, I would not want the record to be closed without congratulating the manager of the bill (Mr. MAGNUSON) and the ranking Republican member (Mr. COTTON)—saluting them and thanking them, on behalf of the Senate, for the work they have done and for the benefits that will accrue to many millions of Americans as a result of their efforts. They have worked hard, and they are entitled to a lot of credit.

ORDER FOR RECOGNITION OF SENATOR METCALF TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately following the

remarks of the distinguished Senator from Wisconsin (Mr. NELSON), and prior to the period for the transaction of routine morning business, the distinguished Senator from Montana (Mr. METCALF) be recognized for not to exceed 15 minutes.

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 9 a.m.

Following the recognition of the two leaders or their designees, the distinguished junior Senator from Wisconsin (Mr. NELSON) will be recognized for not to exceed 15 minutes, after which the distinguished junior Senator from Montana (Mr. METCALF) will be recognized for not to exceed 15 minutes, after which there will 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 routine morning business, the Chair will lay before the Senate the bill making appropriations for the Department of the Interior, H.R. 15418. On that bill, there is a limitation of 2 hours, and of course a time limitation on amendments thereto. Undoubtedly, there will be at least one rollcall vote, especially in connection with the final passage of the bill.

Upon the disposition of H.R. 15418, the Department of the Interior Appropriation bill, the Senate will resume consideration of S. 3390, the unfinished business, the Foreign Assistance Act Amendments. The pending question will be on the adoption of an amendment to be offered by the distinguished Republican leader, Mr. SCOTT, and the distinguished manager of the bill, Mr. SPARKMAN. There is a limitation on that amendment—the so-called Bahrain amendment—of 1 hour and 30 minutes. There will undoubtedly be a rollcall vote on that amendment.

Upon the disposition of the amendment by Mr. SCOTT and Mr. SPARKMAN, unless there are further amendments to S. 3390 at that time, ready to be called up, the Senate then will temporarily lay aside the unfinished business and will resume consideration of S. 3010, the OEO bill. Undoubtedly, there will be rollcall votes on that second-track item tomorrow.

The leadership would express the hope that Senators would be ready promptly to call up their amendments thereto, and would also express the hope that the bill can be disposed of tomorrow. It is the intention of the leadership to continue action on that bill until a reasonably late hour tomorrow evening, if need be, in order to dispose of it.

Only 2 days remain, following tomorrow, if the Senate is to hope to complete its business on Friday of this week, and much remains to be done. The debt limitation bill will be coming over from the other body presumably tomorrow morning. It is necessary that the Senate complete action on the debt limitation bill before it adjourns for the holiday and the Democratic Convention. The public works appropriations bill will be before the Senate on Friday. Conference reports will also be coming along and may necessitate yea and nay votes.

Senators have been alerted to the necessity of the Senate remaining in session on Saturday in the event action on the debt limitation bill is not completed by the close of business on Friday. Therefore, the Senate will come in early and will stay in late daily, in an effort to complete its work and, hopefully, still adjourn at the close of business on Friday, as previously stated.

Mr. President, I repeat: There will be several rollcall votes tomorrow. It cannot be estimated exactly, but the first rollcall vote could come—depending upon whether or not an amendment is offered to the Interior appropriation bill, there being a limitation of time on amendments—as early as 10:30 a.m., 11 a.m., or 11:30 a.m.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and at 8:56 p.m. the Senate adjourned until tomorrow, Wednesday, June 28, 1972, at 9 a.m.

NOMINATION

Executive nomination received by the Senate June 27 (legislative day of June 26), 1972:

DEPARTMENT OF COMMERCE

Robert J. Blackwell, of Virginia, to be Assistant Secretary of Commerce for Maritime Affairs, vice Andrew E. Gibson.

EXTENSIONS OF REMARKS

DREXEL UNIVERSITY GRADUATION "PEOPLE ARE IMPORTANT"

HON. HUGH SCOTT

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Monday, June 26, 1972

Mr. SCOTT. Mr. President, on June 3, Gen. George A. Lincoln, the distinguished Director of the Office of Emergency Preparedness, addressed the 1972 graduating class of Drexel University, in Philadelphia.

In his speech, appropriately entitled "People Are Important," General Lincoln urged the graduates to avoid the easy pitfall that views the problems of our society with an attitude of cynicism. Instead, he encouraged members of the graduating class to face, as real, the problems which confront us, and to welcome crisis in the light of "challenging opportunity for improvement."

As General Lincoln himself concedes, graduation speakers are expected to talk of "challenge." Yet few addresses which I have read do so with the perspective and persuasion embodied in this speech.

Because I believe General Lincoln's comments will be of widespread interest, I ask unanimous consent that excerpts from his address be printed in the RECORD:

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

PEOPLE ARE IMPORTANT

(Graduation Address by Honorable G. A. Lincoln)

President Hagerty; Distinguished Members of the Board of Trustees of Drexel University; Distinguished Guests; Members of the University Faculty and Staff; Graduating Class of 1972; Parents; Relatives and Friends.

We are here to do honor to and to mark a special and unique occasion in the lives of many people present today—you of the graduating class, your parents and your faculty. We especially honor you graduates who are Drexel's input this year to the essential flow of leadership for our complicated society. I note that this input goes beyond our own country, and that Drexel contributes to foreign lands as well.

Those here, including myself, who are, or have been, faculty know that our monuments, our successes, our disappointments, are embodied in each graduating class. The annual class represents the tangible product of each year of effort. Having come to know the objectives, the pattern, and ways of education and development of our—for it is now mine also—university, I share with confidence the feeling that you of the faculty have built well with these young men and women for the years ahead.

Mine is a sobering responsibility to speak to the thousands of people here present. I am going to talk principally about people rather than policy—for policy exists only to help people.

Graduations should be, and are, principally personal occasions for the graduates and those personally associated with them and their institution. Words spoken formally are not essential to the day, but hopefully can be helpful to the audience. My words are directed centrally to you of the graduating class.

While I am going to speak briefly on at least one of the great problems with which you must live and grapple, my main point is a simple one. In our lives, whether they are oriented toward hardware, or management, or government, or housekeeping—or in some other direction—in this existence, only people count. People are really the aim and the goal of our efforts. And, only through and with people do you get things done. The art of getting things done is called "management" by some; the military people call the art "leadership;" there are occupants of some buildings in Washington who call the art of getting things done "politics." Whatever it might be called, it is only people that can make it happen, and